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NALEVINGSEXPERTISE

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T11 Info

The 'Table of Eleven'
A versatile tool

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Preface

In 1994, the Dutch Ministry of Justice studied the possibility of periodically monitoring the level of compliance with legislation. It was during that project that the 'Table of Eleven' originated¹. The 'Table of Eleven' is a model based on behavioural sciences, consisting of eleven dimensions. Together, these dimensions are decisive for the level of compliance with legislation. The eleven dimensions are formulated with a view to as high a practicability as possible in the fields of policy-making and law enforcement. The dimensions provide criteria with which we can assess whether or not it is possible to enforce draft legislation. These criteria, however, can also be used to evaluate existing legislation. In the following years, the 'Table of Eleven' was refined and improved. In addition, we gained the necessary experience in using it. These days, the 'Table of Eleven' is a household name among policy-makers, jurists drafting legislation, supervisors and enforcers within the Dutch government. However, that does not mean that the 'Table of Eleven' has reached its final version and cannot be further improved. New knowledge on compliance and insight into the application of the 'Table of Eleven' also result in the model being adjusted all the time.

The Law Enforcement Expertise Centre² (LEEC) of the Ministry of Justice co-ordinates the use and development of the 'Table of Eleven' within the Dutch government. Since its creation, several tools were developed around the model. One of the simplest applications was the so-called "Checklist for the Legislator", a questionnaire with yes/no answers, quickly giving the legislator an impression as to whether it is possible to comply with a new rule for the purpose of the obligatory Practicability and Enforceability Test. The Compliance Estimate is a quantitative estimate (based on several steps) of the compliance behaviour of target groups. The 'Can a Rule be Complied With Test' is a frequently used tool by enforcing bodies in order to make an estimate of the dominant compliance and non-compliance motives.

Another use is the so-called Compliance Monitor: a sophisticated system for a major study with a survey to be held among the target group with regard to the level of compliance and the way of enforcement. This monitor is often used for the formal evaluation of legislation.

1. Introduction

1.1 What is the 'Table of Eleven'?

The 'Table of Eleven' is a list of factors, which are important to compliance with rules. The 'Table of Eleven' can help map the strong and weak points of enforcement of and compliance with such rule. The 'Table of Eleven' consists of eleven dimensions, which together decide the extent to which legislation is complied with. The eleven dimensions are formulated with a view to as high a practicability as possible in the fields of policy development and law enforcement.

1.2 Why use the Table?

The government wants to make changes to society by influencing the behaviour of citizens and businesses. One of the policy tools, which the government can use to achieve this, is legislation. With the aid of rules, the government can create limits as to what citizens and businesses can and cannot do.

Legislation, however, also assumes some level of compliance with it by the target group. Non-compliance decreases the chance of realizing the policy objective. Moreover, legislation is also meant to be complied with: compliance maintains the legal nature of society, and non-compliance affects that nature.

The 'Table of Eleven' is an aid making it possible to determine and improve compliance with rules, and in particular legislation, in the following manners:

The 'Table of Eleven' helps to give a more accurate and well-founded estimate of the level of compliance of future legislation than just off the cuff. To that end, we developed estimation techniques that have a strong relation with the 'Table of Eleven';

With the help of the 'Table of Eleven', it is possible to systematically analyse the enforcement efforts³ of any enforcement body. It is also possible to estimate the potential effects of compliance.

With a checklist based on the 'Table of Eleven', it is possible to increase the quality of policy rules and legislation in the development stage.

The 'Table of Eleven' can be used for setting up and evaluating enforcement.

1.3 What is the origin of the 'Table of Eleven'?

The Table was developed during a project studying the possibility of a monitoring tool that should provide insight into the level of compliance with legislation. In doing so, the question arose as to whether the questionnaire could also include causes of non-compliance. During the analysis of the various causes, the 'Table of Eleven' was created. The 'Table of Eleven' was not only used during this study to estimate the level of compliance, it also proved a suitable instrument to get a structured image of causes of compliance or non-compliance within a specific legislative area. In this monitor, the 'Table of Eleven' was applied in a number of ways:

- As a basis for the questions in the survey (face-to-face interviews with the target group)
- As arrangement of information on law enforcement
- As an assessment tool in expert sessions.

Based on the 'Table of Eleven', we created compliance profiles of the target group, making it possible to compare enforcement and compliance information. Gradually, we found that the 'Table of Eleven' could be used in many different ways.

1.4 By whom can it be used?

The 'Table of Eleven' can be used by policy-makers, jurists drafting legislation, executive staff, enforcers and consultants. It can be an aid in scientific studies, in assessing the effects of a policy or enforcement, in preparing and evaluating policies. Each of these options for use requires its individual method: the study group meeting in the form of an expert session, or methods that are quantity-oriented, such as the survey. Sometimes, quantitative data is available from some dimensions of the 'Table of Eleven'. In that case, the 'Table of Eleven' can be used to organize this data and make it ready for comparison.

2. THE DIMENSIONS OF THE 'TABLE OF ELEVEN'

General premise

When analysing the compliance behaviour with the aid of the 'Table of Eleven', it is important to have a clear idea of the target group and the legislation to be tested. With target group, we mean the persons or organizations (businesses) that must abide by the rules. The legislation to be tested, however, may be applicable to several target groups. For the practicability of a 'Table of Eleven' analysis, we recommend that you opt for one target group and one or more core violations of the legislation to be tested. We interpret core violations as violations which constitute the heart of the legislation and which may undermine the policy objective of the act if they occur on a large scale. The 'Table of Eleven' comprises eleven dimensions for compliance with legislation; they are divided into two groups: the spontaneous compliance dimension group and the enforcement dimension group. The choice for this division has been made, because it is easiest to recognize the groups from the perspectives of compliance and enforcement. Here, '*enforcement*' means any government activity aimed at encouraging compliance with legislation.

With the 'Table of Eleven' idea, the user applies the broad definition of the enforcement concept, which does not only relate to the government carrying out inspections and imposing sanctions (enforcement in the restricted sense). Other activities, such as providing information and organizing informal control structures are named in the 'Table of Eleven'. They directly anticipate the spontaneous compliance dimensions and thus are very important for the purpose of preventative enforcement.

2.1 The spontaneous compliance dimensions

1. Knowledge of rules

a. familiarity with rules

b. clarity of rules

Definition: The familiarity with and clarity of legislation among the target group.

Explanation: Unfamiliarity with the rules may result in unintentionally violating them. By lack of clarity or complexity of legislation compliance mistakes (unintentionally) may be made. A number of aspects can be distinguished:

scope of legislation: on account of the fact that a great number of rules apply (or because one amendment to the law follows the next quickly), it may be too much to ask from those involved to know them all.

Vagueness of legislation: definitions and stipulations may be open to more than one interpretation. Complexity of legislation: the rules cannot be understood, for example, unless one has technical or legal knowledge.

Knowing a rule well, however, does not automatically lead to good compliance.

Knowing the rules well in some cases also means that one knows better how to commit fraud or dodge the law (think for instance of subsidy and tax rules).

Lack of knowledge, on the other hand, does not always lead to violation of the rules. Sometimes people comply with the rules (accidentally) by adapting to their environment (as in the case of traffic rules) For example: Being unaware of new traffic legislation or city ordinances. Being unable to read a traffic sign. Remember that there are still illiterates and foreign nationals who have not yet mastered the language. In other words, it does not go without saying that everybody can understand the language and thus the law.

Some legislation can be quite complicated. Compliance with environmental laws often requires a high level of knowledge (chemistry) from the target group, which may be an impediment for compliance.

Improvement opportunities: Consider more (specific) information in general, more information by word of mouth or even in translation. Disseminate information through general mediums (newspapers, magazines, radio, television and the internet) or, if it concerns a clear target group via more specific media (professional journals, a special website) or by tendering advice, if need be via pressure groups. Consider education too. Keeping a policy/rule as simple as possible (for instance by limiting the number of exemptions) may also contribute to better compliance.

2. Costs/ Benefits

a. financial/economic costs and benefits

b. intangible costs and benefits

Definition: The tangible/intangible advantages and disadvantages arising from compliance or non-compliance with the rule(s), expressed in time, money and effort.

Explanation: This concerns all financial/economic and intangible advantages and disadvantages of compliance behaviour. They can be expressed in terms of time, money and effort. We can distinguish four different categories:

Cost of compliance.

Cost of violation (violation threshold).

Benefit of compliance.

Benefit of violation.

Intangible costs and benefits, such as maintaining a sound image, are also included in this dimension. The costs and benefits due to inspection, investigation and sanctioning, both tangible and intangible, are not covered by this dimension. Often, the benefits of a violation correspond to the cost of compliance and a violation threshold often corresponds to a benefit of compliance.

Example: Time-consuming and costly procedures to be followed (such as applying for and fulfilling conditions for environmental licences) can be regarded as *costs of compliance*. In many cases, tax legislation causes heavy administrative burdens.

An *advantage of compliance* could be being granted a subsidy or businesses keeping their good reputation. Withholding data is a form of non-compliance, which does not require much effort. It is quite easy to speed over slow ramps, but it probably causes inconvenience to the passengers and damage to the car. Those are clearly *costs of non-compliance*. *Benefits of non-compliance* can often be found in the financial realm, such as receiving subsidy without officially being entitled to it.

Saving effort, time and money by illegally dumping refuse rather than recycling it to an environmentally friendly product can be regarded as an *advantage of violation*.

Improvement opportunities: Compliance can be encouraged by making a subsidy available, extra levies or price regulation. Other options are publishing 'black lists' (of organizations not abiding by the rules), certification and statements regarding one's good behaviour.

3. Extent of acceptance

a. acceptance of the policy objective

b. acceptance of the effects of a policy

Definition: The extent to which the policy and legislation is considered acceptable by the target group.

Explanation: Acceptance relates to the reasonableness (as experienced) of the policy intended by the government and the standards arising from it. Acceptance may relate to a target group's judgement of a rule in general, but also to the judgement of the implications of such rule in one's own specific situation. The manner in which a policy is implemented may also play a role. Sometimes, there is a tier between the government and the citizens (professional group / implementing body) which is essential for the design of the policy and thus of the acceptance of the rule. The extent to which a target group feels responsible for the realization of the policy, for that matter, is also an indicator of the extent of acceptance.

Example: A low level of acceptance of a policy can be found among young people who all must wear a helmet on their moped or scooter under the traffic laws; only few of them are of the opinion that it is a useful rule. The authorities also came up against a brick wall and resistance when so-called hobby hens (the owner has no commercial purposes for them) were culled during a fowl pest crisis. Some speeders do not break the law, because they are in a hurry, but because they disagree on principle with speed limits (specific or general).

The extent of acceptance may also depend on the judgements of the need for a rule or the scope of the damage caused.

The manner in which a policy is fleshed out may, at times, be decisive for the acceptance of the legislation. This is in particular true for so-called *middelvoorschriften* (a rule telling you how to achieve something rather than what to achieve), the purpose of which the target group may endorse, but not the manner in which.

Improvement opportunities: Involve pressure groups and influential members of the target group, implementing and enforcing bodies in the policy to be developed. Make the target group partly responsible for the success of the policy by way of self-regulation.

4. The target group's respect for authority

a. official authority

b. competing authority

Definition: The extent to which the target group respects the government's authority.

Explanation: Some people just do what the government tells them to do or what the law says. This sub-dimension concerns the target group's respect for authority in general. This respect for authority is sometimes linked to the authority of the implementing or enforcement body. The sub-dimension *Competing authority* does not deal with the target group's attitude towards respect for the official authority, but with respect for their *own* standards and values, which may relate to their religion or habits. These may be in conflict with the government's intentions.

In general, it is true that this dimension has a more basic and continuous character than acceptance of policy. It relates to the more or less stable attitude of the target group towards the government.

Example: Respect for authority may be found, for example, in a specific target group that willingly pays taxes to the state, or, more specifically, who are unwilling to do so. Other target groups test new legislation first for compatibility with their own religious provisions, such as orthodox Christians who refuse to have their children inoculated, women who are not allowed to become a member of a political party or immigrants who believe that they can rely upon grounds for exemption from criminal liability because of their cultural background (e.g. avenging the family honour).

Improvement opportunities: It is very difficult to influence this dimension. Upbringing plays an

important role and education is possibly conducive to compliance.

5. Non-official control (social control)

a. social control

b. horizontal supervision

Definition: The risk, as estimated by the target group, of positive or negative sanctions on their behaviour other than by the authorities

Explanation: Non-governmental control may be informal control in respect of the standards set or a formal kind of control by the target group or professional group of their own members. The latter is referred to as horizontal supervision.

Social control also takes place by the community, inside or outside the target group: relatives, friends, colleagues, internal or external auditors, nearby companies, competitors. The following aspects play a role in social control:

- the perceived risk of a violation being detected;
- the extent to which the community disapproves or approves the violating behaviour;
- the extent to which the community then feels responsible and takes action (social sanction).

Horizontal supervision is a form of formal social control: non-official control aimed at improving the quality of products and services within specific professional groups or industries. Consider for instance professional codes of conduct, certification and quality marks.

Example: Horizontal supervision is for instance an audit of the books or by a certifying institution.

Improvement opportunities: Giving information to the people around the target group, so that they will be better equipped to detect violations. Promoting self-regulation, certification and quality marks issued by the trade association.

2.2 The enforcement dimensions

6. Risk of being reported

Definition: The risk, as estimated by the target group, of a violation detected by others than the authorities, being reported to a government body.

Explanation: This concerns the perceived risk of a violation being revealed without the intervention of government supervision. Consider for instance tipping off, coincidence or complaints. Here, several aspects mentioned in the non-official control section (T5) also play a role.

Example: The risk of housing benefit fraud being revealed through anonymous tips or the "tipline"; of the complaints number of the Dutch Inspectorate for Health Protection. Tips (which may be prompted by the attraction of a possible reward from the Ministry of Justice) may result in the discovery of violations.

Improvement opportunities: Setting up tiplines and improving the general availability of supervisory bodies and encouraging people to report offences.

7. Risk of inspection

a. records inspection

b. physical inspection

Definition: The risk, as estimated by the target group, of an inspection by the authorities as to whether rules are broken.

Explanation: The risk of inspection is determined by the inspection density: the number of inspections per, say, 100 target group members per year. The objective risk of inspection will in practice differ from the subjective risk of inspection for several reasons, such as knowledge of inspection policy and the visibility of inspections. The subjective risk of inspection is decisive for the extent of compliance. Often, a distinction can be made between different kinds of inspection (e.g. records inspection or physical inspection).

Example: The inspection density in taxation, at least those concerning records inspections, is very high; in principle everybody will be inspected. Continuous speed control on the Dutch motorways meant a considerable increase in the inspection density. The perceived risk of inspection was further increased by advertising it nationwide.

Improvement opportunities: When the objective risk of inspection is higher than the subjective risk of inspection (the target group believes that the risk of them being inspected is lower than the actual risk of inspection), it is wise to publish information on the risk of inspection. In addition, the risk of inspection can be increased by carrying out more inspections by making available more manpower for inspections. Finally, the inspection powers can be widened. In that case, it is advisable to communicate this to the target group.

8. Risk of detection

a. detection in a records inspection

b. detection in a physical inspection

Definition: The risk, as estimated by the target group, of a violation being detected in an inspection carried out by the authorities.

Explanation: The violation will have to be detected in different forms of inspection. This will depend on the kind of violation perpetrated and the depth of the inspection. In some cases, it is easy to detect a violation, while it is difficult to trace the perpetrator. The objective risk of detection is the ratio between the number of violations detected and the number of violations actually committed (which number usually is unknown). Therefore, it is an estimate of the effectiveness of the means of inspection.

Example: When an inspection is held as to whether the provisions of herbicide/pesticide legislation are complied with, it is worthwhile to note whether illegal chemicals are present in designated storage places, however, their use is also illegal, as well as keeping them in other places. It is difficult to reveal such actions; they are not tied to a specific time or place. Cases of oil pollution, for instance, are often quickly detected, but it often requires a great deal of effort to trace the perpetrator.

Improvement opportunities: When a new policy leads to an extra burden on the enforcement capacity, extra resources (e.g. for extra staff or additional training courses) will have to be made available. Consider also allocating extra powers, applying a sophisticated technique, comparing and exchanging data files and using combined investigation methods (records inspections and physical inspections). Supplying information on the 'high' risk of detection applies in this case as well.

9. Selectivity

Definition: The perceived (increased) risk of inspection and detection of a violation resulting from the selection of businesses, persons, actions or areas to be inspected.

Explanation: This concerns the extent to which inspectors manage to inspect those violating the rules more often than those abiding by the law. In principle, the quality or effectiveness of this form of selective inspection (possibly based on risk analysis or crime analysis) can be measured by the ratio of the number of perpetrators in selective inspections and random inspections. Selection increases the risk of perpetrators being caught. This dimension is mainly important to analyses of enforcement; the target group will probably set off this effect in T7 and T8.

Example: Some characteristics of the target group can be linked to potential violations (offender analyses). Inspecting a (known) group of recidivists, for example, will often lead to a higher number of people being 'caught' than a random inspection.

Improvement opportunities: Examine which persons in the target group have a higher risk of offending, so that investigation activities can be focused on those people.

10. Risk of sanction

Definition: The risk, as estimated by the target group, of a sanction being imposed if an inspection reveals that a rule has been broken.

Explanation: Once a violation is detected, a sanction may be imposed by a special investigating team, the police, the public administration or the court. However, not every violation will make it to that stage. The policy for dismissing charges, whether an offence can be proved and the policy of the legitimate non-enforcement policy of the public administration, are important in this respect. So, it concerns the target group's expected chance of some sort of punishment.

Example: The perceived risk of a sanction concerns the estimate of the target group that the inspection and detection of a violation will actually be followed by a sanction. Compliance will not be encouraged if the target group knows that it is not easy to handle the relevant violation administratively, that it does not have a high priority at the Public Prosecution Department and/ or if the courts' capacity is inadequate.

Improvement opportunities: When a new policy leads to an additional burden for the judiciary and the prison system, extra resources will have to be made available. Make sure that the new policy is a priority of the investigating teams, the Public Prosecution Department and the public administration.

11. Severity of sanction

Definition: the severity and nature of the sanction associated with the violation and additional disadvantages of being sanctioned.

Explanation: The severity of the sanctions concern the duration of detention, the amount of the penalty or the effort needed to repair the sustained damage. Legal fees may also play a role. The sanctioning process may also have additional, intangible disadvantages such as the loss of respect/reputation as a consequence of coming into contact with justice system. The severity and seriousness of the different types of sanction will not have the same impact on all offenders/target groups. The speed and certainty of sanctioning may increase that impact (tit-for-tat approach) and is possible discounted in T10.

Example: Legislation regarding the deprivation of illegally obtained gains from criminal activities aims at a more serious disadvantage to the person concerned. Sanctioning a business under the criminal

law system may affect the good name and reputation of that business.

Improvement opportunities: increasing the sanction, higher penalties or longer prison sentences. Immediate sanctioning (tit-for-tat policy) will have more effect than postponed sanctioning.

3.1 Compliance

with legislation: cause and scope

When the government asks questions concerning the scope of compliance and non-compliance, it usually couples that question to the wish to realize the highest possible level of compliance. If the compliance level is too low, the result may be an improved provision of information, an adjustment of the government policy in question, more inspections or more enforcement efforts. Apart from information on compliance as such, it is also interesting for the government to gain insight into the factors that explain the level of compliance found; i.e. the causes. That creates the possibility of intervening in those causes of poor compliance, if any, and that is, of course, better than treating the symptoms. Law enforcement through government supervision is one of the reasons why people abide by the law, but there are many more, as you will have read in the preceding chapter. The eleven dimensions of this Table together determine the extent to which an individual Act or series of Acts is complied with. They are the compliance causes or motives. Apart from causes, the government is often (although at other times too little) interested in the number of compliant/non-compliant people. That is very difficult if not impossible to measure with the 'Table of Eleven'. However, the 'Table of Eleven' can be used for quantitative studies to estimate the levels of compliance in a better-founded manner. The added value of the 'Table of Eleven' is on the one hand the fact that it allows the user to divide a group into different sorts of non-compliant and compliant people (the so-called Compliance Estimate) and on the other hand that a 'Table of Eleven' analysis gives a systematic overview of the compliance and non-compliance motives, so that a slightly more objective estimate can be made. These quantitative methods can be used best in ex ante evaluations of compliance behaviour, which by definition is surrounded with uncertainties. In that situation, the 'Table of Eleven' contributes to reducing the number of uncertainties.

3.2 Coherence between the different dimensions

The 'Table of Eleven' is made up of eleven dimensions, and is not based on a single theory or theoretical notions. Several theories and theoretical notions have been used as a source. A list geared to practicability was the main objective in developing the tool and selecting just one theory was incompatible with that objective. Fishbein and Ajzen's theory of reasoned action from social psychology, for example, could have served as the basic theory. We decided against an explicit application of it, although elements of that theory (and those of kindred authors) can definitely be found in the 'Table of Eleven'. The causal links between the different dimensions emphasized by Fishbein have been abandoned here. We use, for example, the opportunity theory in the dimensions covering spontaneous compliance and several enforcement dimensions, while the notion of the correlation between severity, certainty and speed of sanctioning (in the sanction sections T10 and T11) can be pointed at for determining the impact of sanctioning.

As an extension of the question on what theory the 'Table of Eleven' is based, there is the question as to what the correlation between the dimensions is. The eleven dimensions of the Table are divided into two groups:

- Spontaneous compliance dimensions, consisting of the target group's decisive motivations to comply with a rule, if no government control were to take place;
- Enforcement dimensions, which determine the risk of being caught in a government control and which determine the government's sanctioning policy; the perception of both influences the compliance behaviour.

The dimensions are categorised according to type of contribution towards compliance: voluntary compliance on the one hand and compliance that is more or less compelled on the other hand. The starting point is that the dimension groups each have their own effect on the inclination towards compliance, as do the independent dimensions. Apart from the fact that the dimensions have a direct effect on the inclination towards compliance, the groups also influence each other. That is in particular true for the enforcement dimensions. The questions regarding sanctioning (T10 and T11) increase or reduce the questions regarding inspection (T7 and T8) and in most cases cannot exist without these inspection dimensions. After all, people can only be sanctioned if they were found guilty of a violation during an inspection.

Then, the eleven dimensions are put in order. That means that the assumption is, that each of the dimensions directly influences the inclination towards compliance. All the same, there may be a link between the various dimensions. One dimension may influence another one. We have already pointed out that there is a correlation between the different inspection dimensions (T7 and T8). It is difficult to gauge the relationships between the dimensions (the relative importance of each dimension to compliance) and may differ from one law to the other, or from one target group to the next. Moreover, the relationship may change over time. The advantage realized with violating the refuse legislation may be bigger in three years time, because processing refuse in a legal way has become more expensive. That means that it is difficult to gauge or estimate the actual influence which each of

the dimensions has on compliance. The 'Table of Eleven' therefore is suitable for making a qualitative compliance analysis (strengths and weaknesses), but is less suitable for serving as calculation model for the quantitative estimate of compliance and non-compliance behaviour.

3.3 The 'Table of Eleven' in practical research and management processes

The government wants to make effect changes in society by influencing the behaviour of citizens and businesses. With the help of rules, the government can create limits as to what citizens and businesses can and cannot do.

Legislation, however, also assumes some level of compliance with it by the target group. Non-compliance decreases the chance of realizing the policy objective. Moreover, legislation is also meant to be complied with: compliance maintains the legal nature of society, and non-compliance affects that nature. Part of the target group will spontaneously comply with almost every regulation.

If this is not the case, the government will attempt to influence the target group's behaviour. Enforcement – any government activity aimed at encouraging compliance with the rule in question – may contribute to compliance.

The 'Table of Eleven' can be used to illustrate the compliance behaviour, per core rule and per homogenous target group, concerning said regulation. Based on an estimate of the eleven dimensions and the step-by-step compliance estimate, it is possible to make an estimate of the level of spontaneous compliance, the required enforcement efforts and the effectiveness of enforcement in respect of new and existing legislation.

Weak scores in the 'Table of Eleven' provide policy-makers and enforcers information on the dimensions, which are potentially linked to violation of a rule and therefore should be "developed" by the government. Enforcement activities (in the wide sense) have a potential effect on those dimensions.

4. CHECKLIST FOR POLICY, LEGISLATION AND INSTRUMENTATION

The 'Table of Eleven' may be used as a supportive checklist in the legislation making and policy-making process. This is especially true when the *behaviour* of people is a contributing factor in the policy objectives to be achieved. The 'Table of Eleven' can be applied to a large part of the policy-tool legislation and also to some parts of criminal law. The checklist (T1 to T11) lists points of attention (in the form of questions). The answers to those questions give an indication of the extent to which the rule can be complied with. It also lists several points of attention, which could help remedy aspects, which are weak/vulnerable in terms of compliance, if any.

4.1 Spontaneous compliance dimensions

1. Knowledge of the rules

Familiarity and clarity of legislation among the target group

a. Familiarity

Does the target group know the rules?

Do they only need to make limited efforts to find out about the rules?

Is the legislation not too elaborate?

b. Clarity

Are the rules formulated in such a way that the target group can understand them easily?

Is the target group actually capable of understanding the rules?

Is it sufficiently clear to the target group what the rules apply to?

Is it clear to the target group what rule applies?

Points of attention

Use of extra educational materials

Use of general media (radio, TV, newspapers)

Giving advice through workshops, and trade organisations

Setting up a Helpdesk for questions

Providing information in other languages

Increase technical means to heighten visibility and simplify usage

2. Cost/ Benefits

The tangible/intangible advantages and disadvantages of breaking or complying with the rule, expressed in time, money and effort

a. Financial/economic

According to the target group, does complying with the rules cost relatively little time, money or effort?

Do they think that breaking the rules will yield little or no advantage in terms of time, money or effort?

Do they think that breaking the rules could yield any disadvantages?

Do they think that complying with the rules could yield any advantages?

b. Intangible

Does the target group believe that complying with the rules yield emotional or social advantages?

Does the target group believe that breaking the rules yield emotional or social disadvantages?

Points of attention

Inspection pressure from the government (burden) can be diminished if the rules are abided by.

Competitive advantages and profit can be emphasised, as well as gains in efficiency.

Financial rewards for compliance.

Extra effort or costs for non-compliance.

Physical barriers, such as fences and slow ramps.

Emphasising good reputations or making them visible (quality marks)

Publish bad reputations (black lists).

3. Degree of acceptance

The degree to which the target group regards the policy and the rules as acceptable

a. Acceptance of policy objective

Does the target group regard the policy (and the principles it is based on) as reasonable?

Does the target group feel it shares responsibility for putting this policy into practice?

b. Acceptance of effects of policy

Does the target group regard the way the policy objective is being put into practice as acceptable?
Do they regard the resulting rules that follow from this policy as acceptable?

Points of attention

Correct any wrong perception of reality among the target group.

Support among target group, trade associations, executives.

Explanation on the underlying objectives, the means used to achieve those objectives, the gravity of the problem, the considerations made and the issues which the government should and should not interfere with.

Reasonableness of the punishment.

Take account of possible arguments put forward by the target group: defending their own property, privacy, right to work and income, rights of the environment, judgement of seriousness of offence or damage caused, division of power and money in society, right of the weaker opposed to the stronger, political beliefs, religious conviction.

The target group's participation/involvement (interactive) in the policy-making process.

4. Target group's respect for authority

The extent to which the target group is willing to respect governmental authority

a. Official authority

Does the target group generally abide by the rules?

Does the target group generally have respect for authority?

Does the target group respect the judgement of those responsible for law enforcement?

b. Competing authority

Are the target group's own values in line with legislation?

Points of attention

Education

Attention to standards and values

Emphasize respect for official authority

5. Non-governmental control (social control)

The risk, as estimated by the target group, of positive or negative sanctions on their behaviour other than by the authorities

a. Social control

Does the target group feel that any violation would soon be noticed by its community?

Does the target group community generally disapprove of such violations?

If so, does the community try to correct this behaviour in some way or other?

And does this social sanction have an impact on the target group?

b. Horizontal supervision

Is there any horizontal supervision, e.g. financial auditing, disciplinary codes, auditing for certification?

Does this horizontal supervision contribute to better compliance with the standard in question?

Does the target group see this horizontal supervision as an additional form of control?

And does this horizontal supervision have an impact on the target group?

Points of attention

Inspection possibilities by the target group or professional group

Visibility of violations for passers-by, stakeholders, trade associations

Possibilities of informal sanctions: status, image, rejection from the group

Loyalty of inspectors or inspecting bodies towards those inspected.

Possibilities of (legal) pressure

Possibility of social control in effect encouraging violations

4.2 Enforcement dimensions

6 Risk of reporting

The risk, as estimated by the target group, of a violation detected by others than the authorities being reported to the authorities

According to the target group, is its community generally inclined to report detected violations to the authorities?

According to the target group, are those exercising horizontal supervision generally inclined to report

detected violations to the authorities?

Does the target group think that people generally know which government department to report detected violations to?

Points of attention

The nature of the violations: not covering one's tracks, detection only possible by catching someone in flagrante delicto, can the violation be proved, c.f. also dimension 8.

Interest of those detecting the violation in reporting it to the authorities.

Fear of those reporting a violation of an (angry) reaction from the perpetrator.

Encourage reporting by tip money or opening a tipline or complaints service

7. Risk of inspection

The risk, as estimated by the target group, of being inspected by the authorities for possible violations

a. Records inspections

Is there a major objective risk of records inspections?

Does the target group think that there is a major risk of records inspections?

b. Physical inspections

Is there a major objective risk of a physical inspection?

Does the target group think that there is a major risk of a physical inspection?

Points of attention

Actual objective risk of inspection (number of inspections per year or per person/business, number of inspections per violation or per member of the target group)

Subjective risk of inspection and difference with the objective risk (depends on visibility of inspections, knowledge of inspection policy, prior experience with inspecting bodies, experiences of others, ideas on government activities and the impact of inspections)

The accuracy of the inspecting body, response time of inspectors, impact of inspections by using auditing powers, show of strength, such as visibility of inspections, use of uniforms

"Reward response" from the authorities: compliance is rewarded with fewer inspections (and vice versa)

Inspection burdens may invade one's privacy, serious delays, costs to be borne by the person inspected.

Ensure that inspections are always unpredictable (or else people will behave accordingly) by differentiating supervision and inspections (in the fullness of time) in terms of (1) frequency, (2) time, (3) depth and (4) place.

Always hold a number of random inspections. That keeps them unpredictable, but is also ensures that everybody always runs the risk of being subjected to an inspection. Moreover, random inspections produce objective input on the degree of compliance, contrary to selective inspections, where usually relatively more violations are detected.

8. Risk of detection

The risk, as estimated by the target group, of a violation being detected if the authorities inspect

a. In a records inspections

Is all the data being checked in a records inspection?

Is it easy for the inspectors to detect violations?

Is it difficult to falsify records?

Is there a major objective risk of detection in a records inspection?

Does the target group think that there is a major risk of detection in a records inspection?

b. Physical inspections

Is everything being checked in a physical inspection?

Is it easy for the inspectors to detect violations?

Are violations restricted to a particular place and/or time?

Is the inspection technology used sophisticated enough?

Is there a major objective risk of detection in a physical inspection?

Is the objective risk in a physical inspection large?

Points of attention

The nature of violations (not covering one's tracks, detection only possible by catching someone in flagrante delicto)

Camouflaging violations (by screening off, hiding, changing the composition of indications of a violation, by misleading the inspector)

Possibilities of tracing whom the actual perpetrator/responsible person is (consider legal structures, making the actual perpetrator not the legal addressee, the causal link between the violation and perpetrator is missing).

The capacity of the investigating body: special expertise of techniques, which they need, sufficient

resources available at investigating body.

9. Selectivity

The perceived increased risk of inspection and detection of a contravention resulting from selecting the businesses, persons, actions or areas to be inspected

Do offenders have the impression that they are always inspected more frequently than those who comply with the rules?

Do selective inspections find more offenders, relatively speaking, than non-selective inspections?

Does the target group believe that the enforcement agency is capable of 'separating the chaff from the wheat'?

Points of attention

Targeting

Violation ratio in random and selective inspections

Cost of the discovery of a violation

Possibilities of setting up databases

Possibilities of linking files from various enforcement organizations

10. Risk of sanction

The risk, as estimated by the target group, of a sanction if a violation is detected in an inspection

Is there a major objective risk of a sanction being imposed once a violation is detected?

According to the target group, is it easy to prove a violation?

Does the target group estimate the risk of a sanction as a result of a detected violation as being high?

Points of attention

Lack of capacity

Lack of evidence

Social relevance of the offence (policy to dismiss charges)

Legitimate non-enforcement policy of the enforcement body

Errors in the implementing or enforcement bodies.

11. Severity of sanction

The severity and type of sanction associated with the violation and additional disadvantages of being sanctioned

a. Severity of sanction

Does the target group know what sanction they face in the event of a violation?

Do they regard it as severe?

Is the sanction imposed quickly (tit-for-tat)?

Does the enforcement of the sanction have any additional tangible or intangible disadvantages for the person concerned?

b. Damage to reputation as a result of sanction

Does the target group mind that it becomes known that have been sanctioned?

Points of attention

Disadvantages of sanction for the person concerned

Types of sanction: penalty, damages, goods seized, deprivation of illegally obtained profits, imprisonment, restore to legal situation, alternative punishments, withdrawing rights and favours, bringing business operations to a halt, etc.

Additional disadvantages of enforcement

Social status, reaction of community, court fees, legal fees, costs of furnishing proof

Financial capacity of perpetrator

Psychological effects, such as the manner of presentation and public nature, speed with which a sanction is imposed, the "appearance" of the sanction system applied: criminal law, disciplinary rules, administrative law, private law.

Possibilities of alternative sanctions.

4.3 Golden rules of the 'Table of Eleven'

1. Compliance behaviour is determined by a few core dimensions rather than by the correlation of all dimensions: 80% of compliance behaviour is determined by 20% of the dimensions (those are the core dimensions, which may vary from violation to violation). Try to find the core dimensions for the legislative area in question that can influence your organization.
2. Properly filling in the dimensions requires knowledge of the target group: the relevant background characteristics must be mapped.

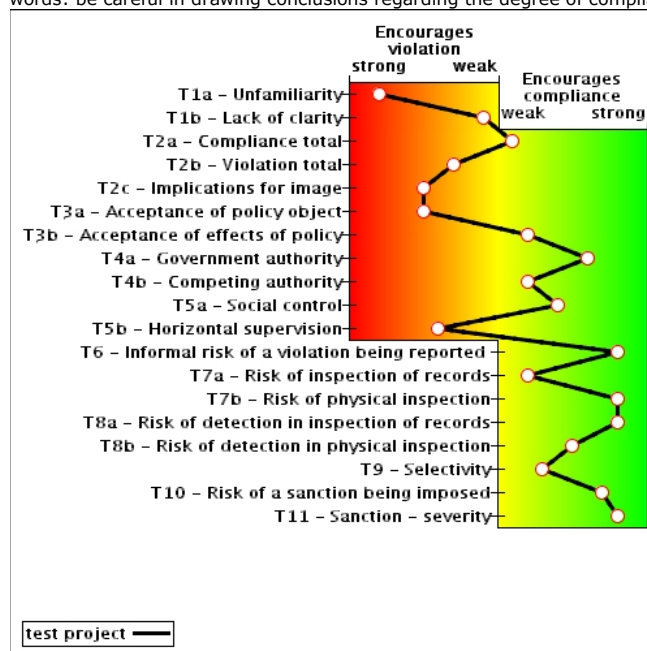
3. A cause for non-compliance may be found in the discrepancy between the objective values of dimensions (such as the actual risk of being caught) and the subjective judgements in the target group. Therefore, it is important to make that distinction and know the difference.
4. Influencing one dimension in order to increase the degree of compliance will usually *not* be successful. Effective behavioural changes normally require influencing all core dimensions. Thus, opt for an integrated strategy.
5. Dimensions may be “averaged” among the whole target group. On the other hand, there may also be various sub-target groups, with each sub-target group giving the dimensions a different valuation. In that case, you will need to tailor the use of preventative or punitive instruments.
6. Target groups are dynamic and change in the course of time. Compliant people may slip into the category of (potential) perpetrators due to the blurring of moral standards. Fighting that situation requires presenting the compliant people and non-compliant people alike with a form of “confirmation of standards” every now and then. That means that part of the inspections must always be random.
7. The manner in which implementation and enforcement issues are introduced in the policy-making process determines for the larger part the practicability and enforceability of legislation. Therefore, it is important that those issues are discussed as early as possible in the policy-making process.

5. 'Table of Eleven' Compliance Profile

To estimate the weak and strong points of compliance of a rule or policy (whether existent or future) with the help of experts, a Compliance Profile can be drawn up. In that case, the dimensions of the 'Table of Eleven' are divided into dimensions promoting violation or encouraging compliance. Some dimensions may have both an encouraging effect on violation and compliance. This depends on the target group on which the rules have a bearing. Therefore, it is always necessary to carefully define the 'target group' and the 'rules' in question before drawing up a Compliance Profile.

The Compliance Profile shows the strong and weak points of the 11 dimensions. Dimensions with a strong score in the compliance profile encourage violations; those with a weak score do not promote compliance. Dimensions, which fall in those zones are vulnerable and require extra attention in the policy-making and legislation-making processes. Dimensions, which score low on encouraging violations and strong in promoting compliance, are (relatively) safe dimensions.

In general, many vulnerable dimensions will be an indication of a high percentage of perpetrators and many safe dimensions will indicate a high level of compliance. However, this does not always apply! The importance of a single safe dimension may sometimes outbalance many weak ones. In other words: be careful in drawing conclusions regarding the degree of compliance.

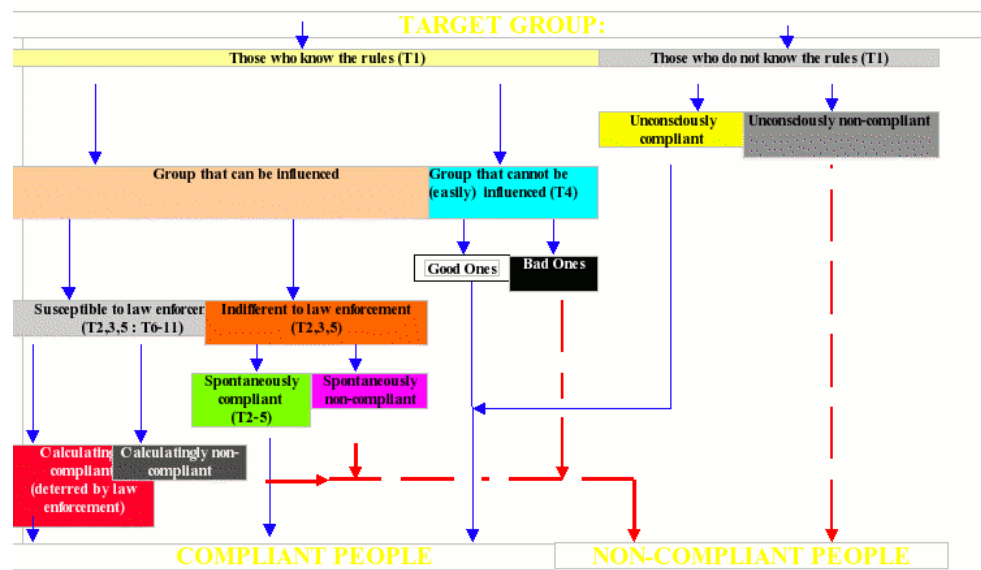


6. Compliance Estimate

The so-called Compliance Estimate has been developed to get a better-founded insight into the potential number and types of people complying or not complying with the rules. With this method the target group is divided step by step into a number of different kinds of violating and complying people. It is for instance possible to distinguish people into different groups:

1. **Unconsciously compliant people:** those who do not know the rules very well and who unknowingly comply with them (for instance, because they copy other behaviour, such as people do in traffic)
2. **Unconsciously non-compliant people:** those who break the rules because they do not know the rules well.
3. **Spontaneously compliant people:** those who know the rules and would comply with them off their own accord, even if (in theory) there were no enforcement whatsoever.
4. **Spontaneously non-compliant people:** those who know the rules and would always break them spontaneously, regardless of the risk of inspection, the risk of detection, the risk of punishment or the severity of the potential punishment.
5. **People deterred by enforcement or calculatingly compliant people:** the people who know the rules and who would break them, but rather decide against it with a view to enforcement activities.
6. **Consciously or calculatingly non-compliant people:** those people who knowingly break the rules and consciously accept the risk of being caught.
7. Next to these, there is a group that will not be influenced, or is very hard to influence, this group can be either very respectful to authority (**the good ones**) or very disrespectful to authority (**the bad ones**).

For an overview, consult the organisational chart. The chart, however, is not complete. All motivations from the 'Table of Eleven' that can explain compliance are included, but some disturbing variables can occur between the *intention* to comply with rules and the actual compliant *behaviour*. These variables can also be linked to a specific situation (e.g. physical barriers, chance opportunities) or may have to do with irrational actions (violating a rule by accident, not being accountable for one's actions). Therefore, it is conceivable that the outcome of the estimate has to be adjusted for these variables. The chart could make this visible by adding arrows, which enable 'cross-fertilization' between those ultimately violating rules and those complying. A person can, for instance, violate a rule knowingly, but ultimately comply with it, and vice versa. These complicating factors have been left out for reasons of clarity.



The basis of the Compliance Estimate now is to unravel the relationships in the chart by answering a number of specific questions. This technique, however, is complicated and asks a lot from the respondent. The compliance estimate technique is processed in a computer system, making it better and easier to use.

The result could for instance be as follows:

