'Smart Enforcement: How to Target Environmental Law Enforcement in Times of Crisis'
EFFACE Mid-term Conference

Ensuring Compliance with Union Environment Legislation

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Better Implementation and Enforcement as a Priority

2012 Commission Communication on Implementation and 7th Environment Action Programme set priorities:

Improve and actively disseminate knowledge on implementation and enforcement

Extend requirements on environmental inspections

Improve access to justice and complaint handling

Enhance cooperation at EU and international level between networks of environmental professionals

Context

1. Diversity of legislation

   Water, Waste, Air and Industrial Emissions, Chemicals, Nature, Impact Assessment - over 40 directives and regulations

2. Many duty-holders

   Large industries, SMEs, municipalities and environmental utilities, farmers and landowners, hunters and recreational users etc.

3. *Various categories of obligations*

   Prohibitions, restrictions, permit and procedural requirements

4. Diversity of responsible bodies

   Specialist environment agencies, local authorities, police, prosecutors, customs etc.

5. EU-wide and geographically limited problems

   e.g. waste and wildlife trafficking, illegal water abstraction

Limitations of the current framework

☹ *RMCEI limited in scope and content, non-binding and mainly focused on industrial and some other fixed facilities*

☹ *Existing sectoral binding provisions limited in scope. Not covered for instance are: illegal activities in relation to EU nature legislation, illegal water abstraction and waste shipments, trade in endangered species*

☹ *Need for effective co-ordination within and between individual MS not adequately addressed*

☹ *Large disparities concerning capacity, organisation and functioning of national inspections systems*

☹ *Poor levels of follow-up of environmental inspection reports in some MS*

☹ *Lack of capacity and resources; weak performance evaluation*

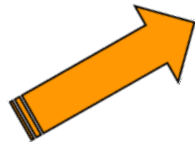☹ *Role of the Commission not properly defined*

How to ensure environmental compliance: the compliance assurance chain

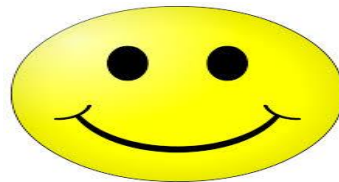*Environmental inspections have 3 key tasks:*

- Detection of non-compliance

- Characterisation of non-compliance

- Identification of offenders

Inspections are part of the compliance assurance system
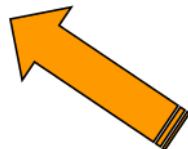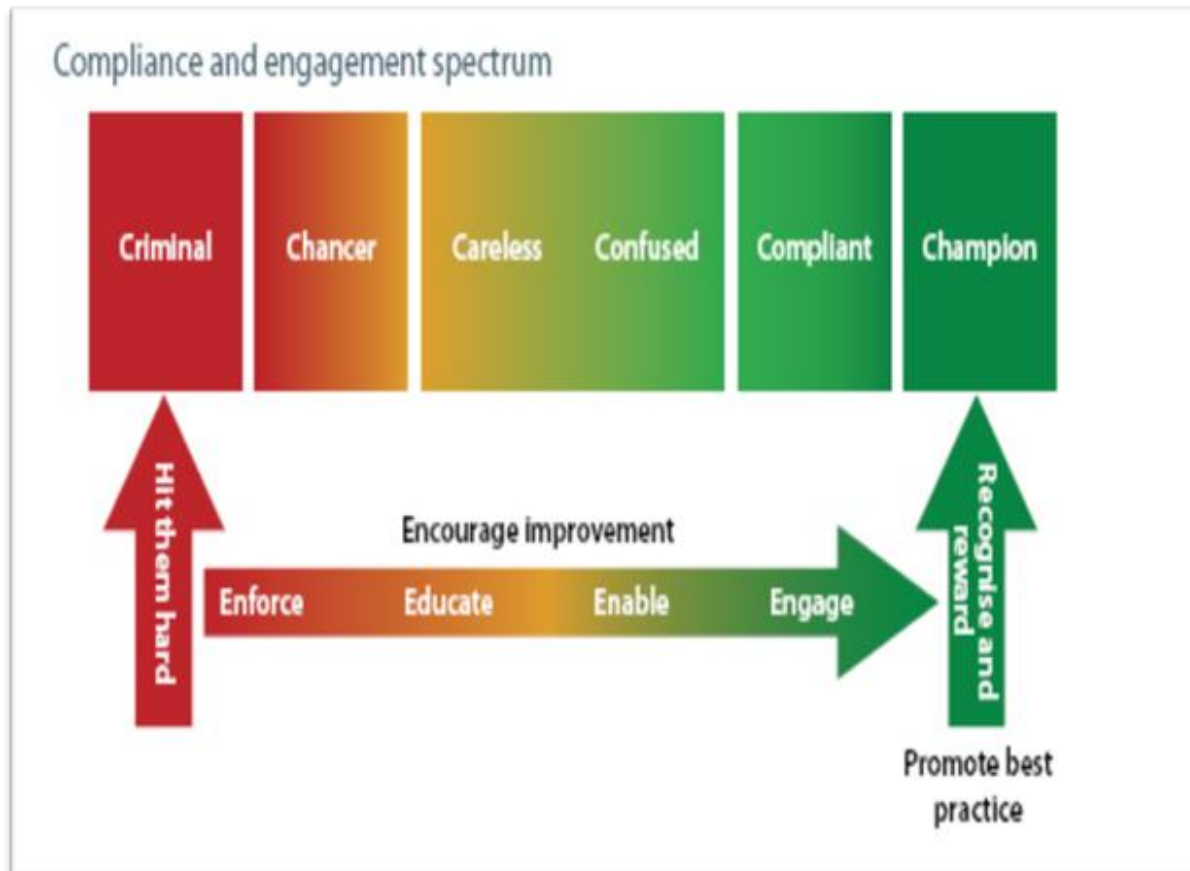
Compliance promotion

Goal of compliance

Enforcement

Inspections

Model used by Scottish Environmental Protection Agency (SEPA)

Main concepts for upgrading the current framework

Horizontal and strategic approach

Main goals: greater environmental compliance and level playing field for businesses

Risk-based approach, flexibility and streamlining of inspection work

Transparency

No new substantial obligations for duty holders

Ensuring proportionate response to different types of non-compliant behaviour

Strategic and operational risk assessment

Strategic level

Risks of non-compliance

Impacts of non-compliance

Overall strategy for tackling compliance problems

Operational level

Planning and targeting of inspections

Random inspections necessary too?

Factors to be considered; self-monitoring just an element amongst others

Possible elements of COM initiative on environmental inspections

Basic requirements for inspection and surveillance systems (independence, impartiality, coordination, etc.)

General strategy for compliance assurance, i.e. links to compliance promotion and enforcement

Maintain dual approach to inspections: routine, non-routine

Use of risk assessment to prioritise most serious forms of non-compliance; inspection planning

Co-operation and co-ordination within Member States and across Member States

Governance and transparency (complaints, public participation, data collection and evaluation)

EU level (peer reviews, possible Commission powers)

Governance

Complaint handling: *registration, confidentiality and feedback*

Public consultation *on prioritisation strategy*

Data collection and management: *electronic records, spatial information*

Active dissemination of enforcement information

Periodic evaluation *of effectiveness and efficiency of compliance assurance work*

Importance of network cooperation and dialogue with the regulated community

Complementary roles of compliance promotion, inspections and enforcement

Added value of network cooperation

Role of business associations

Self-organisation and self-monitoring

Thank you for your attention!