

Compliance program as a legal instrument to achieve competitive advantage for private organizations*

Programa de compliance como instrumento jurídico na consecução de vantagem competitiva para as organizações privadas

Programa de cumplimiento como instrumento jurídico en la consecución de ventaja competitiva para las organizaciones privadas

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Abstract

In light of the Anti-Corruption Law, No. 12,846, of August 1, 2013, the compliance program or integrity program can be considered an indispensable tool for a private organization that aims to obtain a competitive advantage since it aims to guarantee higher legal reliability and higher quality in the development of activities and savings in human and pecuniary resources. This article aims to carry out a critical analysis of the use of such a program as a legal instrument of competitive prominence by organizations. The aim is to identify whether the implementation of such a legal program, applied to the management of Brazilian companies, has a positive impact on their governance, bringing them benefits compared to others. To this end, the qualitative-deductive methodology of bibliographical research, doctrines, and laws will be used.


Keywords: Compliance; Anti-Corruption Law; Competitive advantage.

Resumo


À luz da Lei Anticorrupção, nº 12.846, de 1º de agosto de 2013, o programa de compliance ou programa de integridade pode ser considerado uma ferramenta indispensável para uma organização privada que almeja obter vantagem competitiva, uma vez que visa garantir à mesma mais confiabilidade jurídica, maior qualidade no desenvolvimento das atividades e economia de recursos humanos e pecuniários. Assim, o presente artigo tem como objetivo realizar uma análise crítica da utilização de tal programa como instrumento jurídico de destaque competitivo pelas organizações. Pretende-se identificar se a implementação de tal programa jurídico, aplicado à gestão de empresas brasileiras, impacta positivamente em sua governança, trazendo-lhes benefícios perante às demais. Para tanto, empregar-se-á a metodologia qualitativa-dedutiva de pesquisa bibliográfica, doutrinas e leis.

Palavras-chave: Compliance; Lei Anticorrupção; vantagem competitiva.

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Resumen

A la luz de la Ley Anticorrupción, n° 12.846, de 1° de agosto de 2013, el programa de cumplimiento o programa de integridad puede ser considerado una herramienta indispensable para una organización privada que desea obtener ventaja competitiva, una vez que objetiva garantizar a la misma más fiabilidad jurídica, mayor calidad en el desarrollo de las actividades y economía de recursos humanos y pecuniarios. El presente artículo tiene como objetivo realizar un análisis crítico de la actualización de tal programa como instrumento jurídico de enfoque competitivo por las organizaciones. Se pretende identificar si la implementación de tal programa jurídico, aplicado a la gestión de empresas brasileñas, impacta positivamente en su gobernanza, trayéndoles beneficios ante las demás. Para tanto, se empleará la metodología cualitativa-deductiva de investigación bibliográfica, doctrinas y leyes.

Palabras clave: *programa de cumplimiento; Ley Anticorrupción; ventaja competitiva.*

1 Introduction

The *compliance* program or integrity program, under the aegis of the Anti-Corruption Law, No. 12,846, of August 1, 2013, has been adopted by certain private organizations, especially by those that seek to achieve prominence and competitive advantage. The article aims to provide a theoretical descriptive study regarding the benefits of the application of this legal tool by companies, especially in Brazil. The present study was

divided into three parts, through which it intended to explain, in a non-exhaustive way, the structuring of the private legal entity and corporate governance; in a second moment, the *compliance* program itself, with its particularities, pillars and its implementation; and in a third moment, a greater emphasis on this program as a legal instrument for achieving competitive advantage.

Compliance is a very useful legal management instrument used by companies that seek to comply with laws, ethics, and external and internal regulations, all in order to minimize/mitigate any negative legal impacts, such as fines, embargoes, among others, and guide their behavior in the market in which they operate.

To achieve this end, it was sought to explore the theme from the most diverse aspects, starting with a brief study of the organizations and their management, then moving on to the study of the *compliance* program, aiming at understanding its pillars and objectives, and, finally, analyzing the advantages and challenges of applying such a tool.

In Brazil, the application of such a program as a legal management tool can still be explored and explored, which is why the study of this article is relevant, in order to serve as subsidies for Brazilian companies to understand the importance of its use, not only in the legal field, but also as a competitive strategy.

The choice of the theme as a form of case analysis is justified, since in Brazil there is still no legal obligation to implement such a program, except in certain cases when it comes

to public bidding. In the case of Law No. 14,133/2021, in its article 25, paragraph 4, there is a predictability of the requirement of an integrity program, when: "In the contracting of works, services and supplies of large importance, the public notice must provide for the mandatory implementation of an integrity program by the winning bidder, within 6 (six) months, counted from the execution of the contract, according to the regulation that will provide for the measures to be adopted, the form of proof and the penalties for non-compliance". Thus, there is a certain misunderstanding of the real importance of investing in *compliance*, revealing itself to be a subject of great importance not only in the academic-scientific sphere but also from a legal, economic, political and management point of view. Thus, discussing the implementation of the *compliance* program in the context of corporate governance, whether private, mixed or public, is of great value and practical applicability.

In view of the purposes proposed in this article, the methodology adopted was the bibliographic review, developed through qualitative-deductive research, which was carried out through a study based on scientific-academic productions, in order to bring the necessary clarifications regarding the theme. In the case of this article, the criterion used to assess whether the implementation of a *compliance program* has a positive impact on business management refers to the possibility of reducing unlawful acts, as well as the mitigation of legal risks and competitive opportunities. Throughout this research, several authors will be presented who argue that, in order to demonstrate the effectiveness of good corporate governance, it must act in a transparent manner. As such, there is inhibition of corrupt practices and, consequently, the cases become isolated and not an everyday action. And all this contributes to a good business reputation and competitive gains, compared to a company in the same segment with an image shaken by allegations of illegal practices.

2 Legal entity under private law and corporate governance

Before entering the subject itself regarding the use of the *compliance* program as a competitive legal strategy, it is necessary to make some introductory notes and the study of some issues intrinsically linked to the theme of this study.

It is important to make a brief explanation about organizations, legal entities susceptible to rights and duties. It will become essential to correctly understand the breadth of the whole issue related to business companies, since they have a relevant role not only for the parties of the business relationship, but also for the economy and development of the country, especially in Brazil.

In addition to natural or natural persons, according to Caldas Neto (2015, p. 03), man felt the need to create an entity that was individual and holder of rights and duties, in his likeness,

but with autonomy, both in his personality and in his assets, having attributed to them his own and individual legal personality, different from that of his partners, needing, however, these for their subsistence, because as they are immaterial entities, they need individual representatives.

According to Silva (2013, p. 59), for the constitution of the legal entity so that it has personality, criteria are necessary, and this constitution also goes through two phases, the first of which deals with the constitution of the legal entity, having two criteria, which are the material and formal element. The material element refers to the will to constitute a legal entity, and this can be constituted in two ways: by unilateral act (intervivos or causes deaths) or by bilateral act (will of the parties).

As can be concluded, the formal act refers to the very formalization of the will to constitute the legal entity through the acts necessary for the subjective idea to gain body, form and personality. For this, this constitution must be made in writing, and only then will there be registration, all according to the norm of article 997, Civil Code (Silva, 2013, p. 59).

According to the author, a company can be designated as a group of men gathered for a certain purpose, and this group has its own existence and legal autonomy, distinct from the individuals who compose them and who are called partners. Thus, because they have their own personality, they have powers and duties in addition to enjoying the protection of the right.

For Silva (2013, p. 60), in the Brazilian legal system, the business organization has its own personality, being the holder of rights and duties in the civil sphere similar to the individual and in what is appropriate to them. Enjoying legal personality, the members of this legal entity will respond within the limits of the capital invested, and the individual capital of each partner will not communicate with that of the company.

According to Caldas Neto (2015, p. 03), the business organization is an institute created by the national system with legitimacy to obtain rights and duties and assist in the fulfillment of social and economic values such as free initiative and social justice provided for in the Federal Constitution. The legal existence of legal entities begins with the registration of the constitutive act in the respective registry, with authorization or approval from the Executive Branch if necessary, considering that only after registration will it be considered regular and holder of rights and duties.

The importance of the *compliance program* for companies derives directly from its management, because in order to apply such a legal tool properly, it is necessary for the organization to invest in quality management. This is because, according to Crozatti (1998, p. 02), the business environment demands increasing levels of effectiveness from organizations, which necessarily implies constant organizational change, thus, such a program will be better accepted by a modern management open to innovations.

Based on data and bibliographic references, our final considerations point to the importance of considering the systems from which leadership is recruited, remunerated, promoted, developed, etc., when preventing corruption. Our

data do not show that leaders are more corrupt, but that they are more willing to relax principles in professional circumstances (Santos *et al.*, 2012, p. 1).

Coelho (2016, p. 76) argues that, however, due to ignorance or lack of knowledge, companies, especially small ones, resist investing in good management, which brings them losses in the long and short term. The lack of knowledge in the use of good management by small companies and the lack of knowledge of the power that quality management has greatly hinder not only growth such as the permanence of these companies in the market. Thus, demystifying that investment in quality management, with corporate governance, are strategies accessible only to medium and large companies is essential, as the importance of good management for all companies is proven.

Each company can adopt a management model according to its particularities and what it intends to achieve, among other factors. According to Coelho (2016, p. 78), strategic management can be defined as a system of performance indicators that outlines the paths to be developed by management regarding previously defined strategic initiatives and actions. Also according to the author, strategic management is based on the integrated, systemic and interdependent management of various departments.

It is also important to briefly discuss corporate governance. For Jacometti (2012, p. 769), the success of a company and its growth depend on good corporate governance practices and the professionalization of business management, and in more developed business economies there is a clear distinction between the concepts of ownership of capital and administration. In rising economies, such as Brazil, this distinction is not yet clear, demonstrating that the country still has a long way to go in terms of business management.

Corporate governance adds value, although it is not able to create it in isolation, since this occurs only when alongside good corporate governance there is also a quality, profitable and well-managed business, which allows good governance practices to be applied, with the consequent benefit of all shareholders and other stakeholders (Marques, 2007, p. 12).

According to Colares (2014, p. 32), despite the recognized importance of the management and development of the economic growth of organizations, corporate governance, despite being widely disseminated, is not yet actually internalized by the corporate environment, especially in Brazil. Such a situation requires greater scope and possibility of being addressed from different aspects and is justified by the diversity of existing governance models.

Thus, we will move on to the compliance program itself and its importance as a mechanism implementation of good corporate governance.

3 Compliance program

Innovations and transformations are taking place in the contemporary era, especially after the advent of the revolution brought about by the technological era, through which civilization was provided with quantum leaps on the path towards evolution, also visualizing organizations that increasingly seek to modernize and innovate, making use of tools such as the *compliance program* (Coelho, 2012, p. 78).

For the author, such a program has come to play a fundamental role in the evolution alluded to, as it will become increasingly necessary for companies and organizations to operate in accordance with the laws, current standards and internal procedures.

As Silva (2015, p. 15) clarifies, organizations are subject to and exposed to changes, originating in the external environment that, evidently, will affect the market, processes and people, and the survival of companies, legitimizing the growing concern of organizations with internal factors, which are the ones that would provide greater competitiveness in the face of the external environment.

According to the author, with this rigor brought by the Anti-Corruption Law to private companies (Law No. 12,846, of August 1, 2013, regulated by Decree No. 8,420, of March 18, 2015), the need for companies to adapt to the conducts provided for therein was born, so as not to be penalized neither for their own acts or actions nor for those of their partners and suppliers. This adaptation translates into the adoption of a series of measures and practices, or integrity programs, as it is called by law.

Also from the perspective of Oliveira *et al.* (2020, p. 369), the integrity program and the compliance program *are* brought as synonyms. Such a program has become essential for all companies that aim to reduce the risks of being penalized, especially for the economic issue, since the fines for companies convicted of corruption, for example, are high and the penalties are very serious (Colares, 2013, p. 84).

The author also points out another positive factor of a company resorting to a *compliance program*: if it is caught committing an act of corruption and if it has instituted such a program, it will have its penalty mitigated, as it has shown itself to be an organization concerned with issues such as ethics and transparency, and that corrupt action is an isolated act.

The authors above clarify that *compliance* was born from the need to impose on organizations actions that are only strict to legal and ethical compliance, in the dictates of society and laws, especially in relation to illegal practices.

The implementation of a *compliance* program in organizations is becoming more common every day, seeking not only to comply with legal issues, but also to increase efficiency and risk mitigation, aiming at a greater result that translates into competitive advantage (Oliveira *et al.* 2020, p. 01). Also corroborating this allegation, Oliveira *et al.* presents that:

It is not only about the risks arising from internal behavior, but, above all, about the consequences of the corporation in the market, especially in the face of those in which there are large competitors, high competition or high economic interests. Risk analysis, in this line, involves subjecting to certain situations that could erase the integrity of the company and, especially, how it should behave in the face of such occurrences (Oliveira, 2020, p. 371).

For Crozatti (1998, p. 01), all activities in a company, whether of any nature or purpose, consume resources and generate products and services, and the way each company performs its activities is directly influenced by the beliefs and values implicit in the rules, attitudes, behaviors, habits and customs that characterize its human relations. In this way, the organizational culture comes to impact the levels of efficiency and effectiveness of the activities performed in that particular company, by determining the degree of importance of the variables inherent to the activities.

And it is in the above context that the compliance program is inserted. It allows you not only to save resources, but also to positively impact the organizational culture, bringing benefits to all sectors of the company.

However, many companies, especially micro and medium-sized ones, are still reluctant to adhere to the *compliance* program to its full potential, which denotes the lack of awareness of Brazilian entrepreneurs and managers about the advantages of its adoption. In Brazil, *compliance* is still closely linked to the idea of combating corruption and fraud in organizations, which ends up limiting not only the use of the tool, but also the benefits arising from them.

The ideas of compliance are made up in the congruence of two factors, the search for ethical practices and a corresponding guiding command. At the motivational core of such measures are fundamental factors, essential to regulation and market development in a competitive environment. With this, organizations start to act and provide consumption with a differential bias, reliability of economic and social relations, preventing operational risks that are considered preponderant to competitive survival. Understanding such inspiration as institutional subjection to normative-legal precepts while giving deserved importance to better management and the paths to be followed by each company, inserted in an increasingly demanding and excluding competitive market – in which the values of consumerist trust, the formation of new market alliances and the prevention of sanctions are preponderant factors for success – are important inaugural modulating premises that enable, from here, analyze this institute from the perspective of the corporate management sector in health (Oliveira *et al.*, 2020, p. 07).

This set of actions that translates into *compliance* is nothing more than effective and practical measures, taken by the management of the company or organization, which can also count on a management sector that deals with the issue of legal compliance. In the face of the new reality, *compliance* comes to adapt companies to legal standards, thus bringing legal

compliance, in addition to acting in the fight against corrupt practices to the extent that it analyzes and actively acts against any practice and strategy that is not in accordance not only with legal standards but also with organizational culture and practices (Madeira, 2016, p. 48).

According to Madeira (2016, p. 55), the central concept to understand the protection of human rights is *compliance*, and this concept is used in four ways: a) a study group examines citizens' compliance with national laws and judicial decisions; b) another study group investigates legal compliance by the Executive and Legislative Branches and bureaucracies; c) a third group analyzes compliance with international treaties and legislation and the recommendations and decisions of international courts; and d) a last group applies the concept to examine the conformation between decisions of the higher courts and subnational authorities and courts.

For Ribeiro and Diniz (2015, p. 92), the *compliance* program has both a coercive and a management character, and in both descriptions, it seeks to emphasize mechanisms that avoid *non-compliance*, and the coercive role in terms of monitoring and applying sanctions has a relevant weight, while the management character will be based on the development of capacities, interpretation of rules and transparency.

According to the empowerment theory, the *compliance* program becomes necessary due to the need for behavioral changes of company members; from the managerial perspective, non-compliance is explained as one of the effects of lack of capacity and ambiguous rules (Madeira, 2016, p. 58).

In Brazil, this program has a relatively recent history, starting with the country's accession to international treaties and conventions related to human rights violations, legal compliance, protection of public companies and anti-corruption actions, among other practices, from which the need arose to create mechanisms that would bring compliance with international measures to combat corruption. According to Madeira (2016, p. 57), among the Brazilian consequences of international treaties are the promotion of political debates, constitutional developments, and changes in national statutes.

It is important to clarify that, over time, *compliance*, previously restricted to private companies and the legal department of such companies, has also become relevant to public companies, with regard to the incorporation of their tools in their management, as well as internal departments have also been created, including being able to hire companies that outsource.

The motivations that lead companies to adopt the compliance program in their management are numerous,

such as the search for legal compliance, as well as competitive advantage, as will be seen in the following topic.

3.1 Compliance as a competitive advantage

As explained, awareness of the importance of using *compliance* in Brazil has been increasing significantly in recent years. This was due to several factors, such as the growing global relevance of the Brazilian economy, the increase in foreign investments in the country, and the Brazilian political system. However, the organizations realized that the application of the *compliance* program brought yet another consequence: the increase in competitive advantage over other companies (Castro; Adam; Guerreiro, 2019, p. 190).

Regarding competitive advantage and according to the authors, it is important to clarify that the current world, highly competitive, especially among organizations, makes consumption a factor of extreme cultural, economic and financial relevance, fundamental for an organization to remain in the market, with growth and prominence, in addition to being necessary for it to obtain competitive advantage, Not only in the sale of your product or service, but also with your suppliers and service providers.

Competitive advantage, also called competitive differential, consists of one or more characteristics that allow an organization to differentiate itself and stand out in comparison to its competitors and from the point of view of customers. It is essential for the differential of an organization, and the search for ways to achieve competitive advantage is necessary and constant. Factors such as organizational climate, motivation, leadership and communication process are also strategies that add up to organizations' search for competitive advantage.

Scott understands that organizations, at the present time, "do not exist and compete as autonomous individual units, but as members of broad systems." It is precisely this fact that indicates the need to conceive compliance as a systemic instrument for gaining competitiveness, thus being fundamental for organizations. Slack, Chambers, and Johnston define five operating system performance objectives that contribute to organizations' competitive advantage: reliability; cost; flexibility, quality and speed. Defining the expected performance of the system in relation to these objectives is essential for organizations to achieve satisfactory degrees of competitiveness (Oliveira *et al.*, 2020, p. 14-15).

If before there was the investment of organizations in advertising campaigns and promotions, thus aiming to attract more and more users and consumers, with this new awareness of the importance of internal and external human capital, combined with the example of the complexity of large organizations, it has now come to be interpreted as an investment, engaging highly qualified, resilient, focused, talented, empathetic, among other talents (Oliveira *et al.*, 2020, p. 07).

Thus, according to Oliveira *et al.* (2020, p. 01), the aforementioned legal tool is

essential for organizations today, at least for those that seek growth and prominence in the market in which they operate. The need to work in legal compliance makes more and more companies adopt the tool as a competitive strategy, demonstrating, based on the results presented, that investment in *compliance* is the appropriate path¹.

It is important to clarify how Law 12,846/13 brought the possibility of adopting compliance programs for companies, including public companies. In this sense, the importance of the anti-corruption measures adopted in Brazil should be highlighted, which include *compliance* (Santos *et al.*, 2012, p. 03).

For the authors, with regard to corporate fraud, the *compliance* program can still bring organizations the necessary legal compliance, which even earns subsidies from public agencies and the State, which is another advantage of its adoption by organizations.

Brazil, specifically, committed itself to the Organization for Economic Co-operation and Development (OECD), in June 2002, during the world convention, to draft a law on bribery inside and outside the country. After 11 years of the signing of this agreement, Law No. 12,846, of August 1, 2013, known as the anti-corruption law, was approved. However, whether in the United States of America, Brazil or any other country, the simple requirement of an internal control system and the civil and criminal liability of senior management without due adjustments to the monitoring practice can delay the main objective of the law: to curb the practice of corruption. The failures of corporate governance, responsible for the precipitation of scandals in the US stock market in the 1980s, as well as the accounting scandals of the late 1990s, demonstrate this (Castro; Adam; Guerreiro, 2019, p. 187).

The motivations that lead companies to adopt such a program are numerous, and corruption is an important part, since it brings financial losses to them, in addition to causing damage to their image and reputation, such as demoralization, in addition to other losses such as increased costs and decreased economic development. It is also important to emphasize that, at the level of the internal public, the *compliance* program also acts favorably, since the improvement of the organization's processes and services implies a consequent increase productivity and reduction of costs and expenses, as well clarified by Santos *et al.* (2012, p. 03).

For Santos *et al.* (2012), this competitive advantage is the desire of all organizations, which for a long time have invested in strategies such as advertisements and promotions, gifts and loyalty systems. However, over time, practice and results have shown that these strategies alone were not enough. At the same time, it was found that in the market there were companies that did not stop growing and standing out, and many of them became

¹ Law No. 14,133/2022, in its article 25, gave real importance to the adoption of internal integrity mechanisms and procedures (*compliance*), to be implemented by bidders who intend to carry out large contracts with the Public Administration, and also if there is a tie between two or more proposals in a bid, one of the tiebreaker criteria will be "the development by the bidder of an integrity program, according to the guidelines of the control bodies".

great powers.

The author also clarifies that, when analyzing the organizational strategies and practices adopted by such organizations, it was found that they, among other strategies, invested heavily in human capital, that is, in hiring and establishing partnerships with highly qualified, skilled and talented professionals. Factors such as organizational climate, motivation, leadership and communication process are also strategies that add up to organizations' search for competitive advantage.

For Castro, Amaral and Guerreiro (2019, p. 191), the so-called human capital has shown itself to be of vital importance for organizations not only as a competitive strategy, but also as a strategy for maintaining the market and developing the organization that invests in highly qualified professionals with an excellent competitive advantage. Such strategies also occur in relation to the management of the purchasing sector of organizations, as well as most sectors and departments, which invest in highly qualified professionals to assume command positions within organizations, as the choice of good professionals is also a competitive strategy.

Finally, it is important to discuss the importance of the *compliance program* as a competitive advantage in relation to the financial market of the B3 stock exchange. According to Oliveira *et al.* (2020, p. 03), according to B3 rules, the companies that make up the new market are not required to maintain a specific *compliance sector*.

A proposal for reform of this segment, which is still in the process of approval, also does not provide for this requirement. If the reformulation is approved, companies must implement it due to internal control, risk management or internal audit.

For the authors, in order to contain this wave of discredit that plagued organizations and reflected directly on the capital market, the Stock Exchange established a standard of corporate governance, being a differentiated segment for being very demanding, imposing a set of rules that must be obeyed by the companies that participate in this list.

In August 2013, Law No. 12,846, popularly known as the Anti-Corruption Law, was approved. Patricia Reis Castro, Juliana Ventura Amaral and Reinaldo Guerreiro, researchers at FEA USP, verified the degree of adherence of Brazilian publicly traded companies to the criteria of the program of the aforementioned law in an article "Adherence to the integrity program of the Brazilian anti-corruption law and implementation of internal controls", published in issue 80 of the Accounting & Finance Magazine. The authors found that there was the emergence of new internal controls for greater adherence of companies to the integrity program, mainly impacting information on financial statements, bids, infractions, and donations to political parties, in addition to the more accentuated emergence of the compliance officer function (Viana, 2019, p. 01).

According to BM&FBovespa (2019, p. 01), implemented in December 2000 by the

former São Paulo Stock Exchange (Bovespa), the new market and the differentiated levels of corporate governance are special listing segments that are intended to provide a trading environment that stimulates both the interest of investors and the valuation of companies, and the Novo Mercado is mainly directed to the listing of companies that go public.

The acronym B3 is the result of the initials of the words, Brasil, Balcão and Bolsa, the result of the combination between BM&FBovespa and Cetip (Central de Custódia e Liquidação Financeira de Securities), and established new provisions making companies, both those that are listed and companies that intend to enter this segment, further improve their corporate governance practices. and since January 2, 2018, the new Novo Mercado Regulation aims to increase the transparency and rigidity of the segment and, consequently, add more value to listed companies (Vexia, 2019, p. 01).

BM&FBovespa's Novo Mercado is considered the maximum segment of corporate practices in Brazil (B3, 2023). Improving corporate governance practices has become the motto of B3's Novo Mercado, and thus seeks to bring greater transparency and rigidity to the segment, adding greater value to the companies included in the listing. With regard to *compliance* management, the commitment of senior management, ethical conduct, *accountability*, transparency and compliance with internal rules and international standards (when applicable) are some examples of positive actions that impact the effectiveness of this program.

Thus, for organizations that intend to join B3, the implementation of a *compliance* program is essential. As analyzed, the benefits of the adoption of its practices by organizations, whether small or large, are numerous, going beyond the obligation of legal compliance and anti-corruption actions.

It is worth mentioning that, in the case of micro and small companies that do not operate in the BM&FBovespa Market, for example, or in any other traded value market, an important concern must be held on the part of the entire value production chain. For companies listed on the stock exchange, the zeal for ethics, legal compliance, and standards pre-established by the contracting parties become important throughout the production flow and process, whether internal or external. And if small companies intend to reach the level of service providers or suppliers of raw materials for the large agents in this market, the relevance of a *compliance program* (in this case leaner) in their internal management must be considered, aiming to meet their requirements.

4 Final Considerations

The scope of this study was to analyze the advantages of the adoption of the *compliance* program by organizations, especially in relation to the competitive strategy, since

its implementation, as a legal instrument, raises the quality of the services and products offered by the organization, as well as its image and social reputation.

The study showed that Brazil has more effective and tougher measures related to legal compliance, such as the implementation of the *compliance* program. It was found that such a legal program is present, representing more than a choice, as a legal need and requirement (in some cases). It acts positively in the various sectors of organizations, especially with its internal audience, translating into a competitive advantage over other companies.

The current requirements of the consumer market, and especially for those that are publicly traded or intend to enter the B3 stock market, for example, must adopt several governance practices, included in it of compliance, in addition to mere compliance with Brazilian legislation.

It is concluded that, despite the adoption of the *compliance* program being discretionary and, in some specific cases, there is a legal requirement, organizations that invest in such a legal instrument will only have benefits, such as improved production quality, retention of values (human capital), greater legal and technical credibility before the consumer, investor and regulatory market, thus becoming a business necessity.

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