

# The dilemma and countermeasures of administrative compliance supervision to promote the development of enterprises

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**Abstract:** *Administrative compliance is an important guarantee for the development of enterprises. Administrative compliance supervision based on the theory of market failure, new public service and new public management is the main way to promote the construction of enterprise administrative compliance. Administrative compliance regulation can effectively transform enterprise development ideas, reshape the enterprise development mode, strengthen the enterprise development power, but the implementation of the government functions, compliance obligations, compliance costs and compliance assessment standards and other factors and constraints, should be through clear the government target orientation, construct compliance obligation specification system, build enterprise compliance environment, innovation compliance regulation mechanism, crack administrative compliance supervision problem, promote the development of enterprises.*

**Keywords:** *enterprise compliance; administrative compliance supervision; enterprise development; countermeasures*

## 1. Introduction

As the core economic subjects of high-quality development, enterprises are of vital importance to building a modern economic system and building a modern socialist country.<sup>[1]</sup> Compliance is the basis for the sound development of enterprises and a key measure to promote high-quality development. Enterprise compliance "refers to the operation and management behavior of the enterprise and the performance of employees with the requirements of national laws and regulations, regulations, industry standards, international treaties, rules, as well as the articles of association, relevant rules and regulations"<sup>[2]</sup>. It is "a way of corporate governance adopted by enterprises in order to avoid or reduce the administrative and criminal responsibilities that may be incurred due to illegal operation, and to avoid greater economic or other losses".<sup>[3]</sup> Accordingly, enterprise administrative compliance, refers to the enterprise to avoid administrative punishment for violation of laws and regulations, administrative law, economic law and other legal norms as the standard, identification, assessment, prevention of administrative liability risk company management mode and management mechanism, the main difference between the criminal compliance lies in the purpose of enterprise administrative compliance is to avoid administrative punishment, and the main goal of enterprise criminal compliance is to avoid the criminal investigation. Administrative compliance supervision refers to the supervision mode in which government agencies with the power of administrative supervision and administrative punishment promote the administrative compliance construction and the high-quality development of enterprises by using the positive incentive mechanism according to law.

Compared with criminal compliance, the system of administrative compliance supervision has more application space, a stronger practice foundation, and faster promotion and application,<sup>[4]</sup> Promoting enterprises to establish a compliance system through administrative supervision activities can play a broader role. Therefore, we should start with system construction and promote the development of enterprises through structural empowerment.

## **2. The internal mechanism of administrative compliance supervision to promote enterprise development**

Enterprise development is to improve quality as the core, innovation as the driving force, comprehensively optimize enterprise operation and management, to achieve efficient, stable and sustainable development. Administrative compliance supervision has incomparable value and unique advantages in promoting the development of enterprises.

### ***2.1 Change the development ideas in the gradual formation of compliance ideas***

Administrative compliance supervision is an important way to promote enterprises to form a compliance concept. If external pressure factors to promote the enterprise passive compliance are not considered, whether the enterprise compliance concept is formed is the decisive factor in whether the enterprise is willing to implement the enterprise compliance management by itself. The pursuit of economic interests is the ultimate goal of an enterprise. Due to the reasons of limited rationality, short-sighted, market competition and other reasons, the compliance concept with the nature of social governance is not naturally generated within the enterprise. At this time, external forces have become the decisive factor guiding the enterprise to form the concept of compliance development. The concept of compliance is the ideological basis for enterprises to carry out compliance management. Enterprise compliance is not only the specific enterprise management system and governance mode, but also the main factor affecting the development thinking of enterprises. Corporate compliance is an action taken by enterprises to avoid bearing adverse legal consequences, and the process of action will have a significant impact on the development ideas of enterprises. For example, the original intention of enterprises to avoid adverse legal consequences by implementing compliance management includes not only current economic losses, but also the desire for the long-term development of enterprises. Compliance management will enable enterprises to pay more attention to improving strategic planning ability, resource integration ability, continuous innovation ability and social responsibility consciousness, and pay more attention to shaping corporate compliance culture, so as to form the development idea of sustainable development and strive to build a century-old enterprise.

### ***2.2 Remodel the development mode in the construction of compliance management system***

Enterprise compliance management promotes the diversified development of enterprises. Enterprise compliance management is a complex system, including compliance policy and system, compliance risk assessment, compliance training and education, compliance supervision and inspection, compliance reporting and communication, compliance improvement and optimization, compliance culture shape, enterprise compliance system really effective operation, violation risk can almost be completely eliminated, compliance management can make enterprise competitiveness and reputation, enterprises can devote all the rest of the energy for business expansion, expand new product lines or services, even into the existing business market, realize enterprise diversified development.

### ***2.3 Get the development power in the innovative enterprise management paradigm***

Enterprise compliance brings a strong endogenous impetus for enterprise development. For the enterprise itself, once compliance and business management, financial management constitute the corporate governance structure, from the traditional "dual structure" (business management, financial management) upgraded to the "troika", can effectively prevent and handle compliance risk, to some extent, effective compliance management has become one of the necessary conditions for enterprise development. For enterprise employees, compliance management can stimulate their enthusiasm. Compared to the economic contract of establishing labor relations, the deeper, more recessive, more complex and changeable psychological contract can affect the behavior and performance of employees more importantly. The corporate compliance culture formed in the process of compliance management will have a positive impact on employees' psychology, enhance the sense of belonging and mission of employees, form a stable psychological contract, and make employees actively consistent with the development goals of the enterprise.

### **3. Administrative compliance supervision enables the practical dilemma of the development of enterprises**

#### ***3.1 The slow transformation of government functions hinders the innovation of compliance supervision mode***

Despite the government's commitment to accelerating the role shift, it has achieved remarkable results. However, the transformation of government functions is not complete. The government still regards the regulatory function as a tool to intervene in the market resource allocation and a way to obtain departmental interests, and often tends to use traditional regulatory means such as administrative examination and approval to achieve economic development goals or self-interests. Compliance supervision conforms to the reform goal of the transformation of government functions, and is also an important manifestation of the transformation of government functions. It takes the substantive transformation of government functions as the logical starting point. As the transformation of government functions enters the deep water zone with deep contradictions and the accumulation of regulatory models, the transformation of government functions is increasingly difficult. At present, the transformation of government functions is slow and the government is reluctant to part with administrative examination and approval and administrative punishment, which are regarded as "key skills", and unwilling to delegate power to "cut flesh". Traditional supervision modes such as "examination" and "punishment" have become the main obstacles to exploring the new mode of compliance supervision.

#### ***3.2 The complex nature of compliance obligations weakens the development momentum of regulatory practice***

Enterprise compliance is a legal obligation, obligation or advocacy obligations, will have a significant impact on enterprise compliance regulation practice, different nature of compliance obligations decide different regulatory strategies and methods, in the enterprise compliance construction practice, the provisions of the enterprise compliance obligations nature differences, inconvenience for compliance regulation practice.

On the one hand, many laws and regulations have set corporate compliance obligations for operators, which are clear legal obligations, and violating these obligations will bear the corresponding legal responsibilities., On the other hand, there are some laws and regulations on the parties commitment system, but in these systems, "commitment" to correct error is to start a program prerequisite, and "commitment" itself is by unilateral subject "meaning", the parties have the option of commitment, in this sense, the compliance obligation is agreed. In addition, compliance rectification requirements such as various compliance guidelines, administrative guidance and accompanying administrative penalties also give operators compliance obligations, but these guidelines do not have legal constraint force, and the obligations created by them have the attribute of advocacy compliance obligations. Three-dimensional variety of enterprise compliance obligation system although to promote enterprise compliance construction is very necessary, but also objectively makes compliance regulation more complex, the administrative authority supervision ability put forward higher requirements, and may because accurately grasping the compliance obligation nature is too difficult, which weaken the practice of regulatory subject enthusiasm.

#### ***3.3 The high cost of administrative compliance reduces the enthusiasm of compliance supervision***

The administrative compliance supervision of enterprises reflects the supervision characteristics of democratic participation and diversified co-governance, with the voluntary application of enterprises. Although the direct goal of enterprise administrative compliance supervision is to help enterprises in compliance operation, for enterprises, economic benefits are the main factor affecting whether they choose to apply enterprise administrative compliance supervision. Administrative compliance is a systematic project that requires a lot of manpower and material resources. On the one hand, administrative compliance requires enterprises to equip professional compliance talents and set up special compliance management departments, which will be regarded as an additional burden by enterprises. On the other hand, in order to promote the formulation and implementation of compliance plans, administrative compliance needs to optimize or even restructure the company's management system, which will bring major changes to the enterprise management mode. The change in management mode is often accompanied by huge reform costs, which greatly reduces the

administrative compliance willingness of enterprises.

Enterprise administrative compliance supervision will also bring a large workload to the regulatory authorities. From accepting compliance regulation application to choose case for examination and approval, from the analysis of the enterprise administrative compliance rectification feasibility to guide the enterprise compliance plan, from the supervision enterprise compliance rectification to enterprise compliance rectification effectiveness evaluation, from the administrative compliance regulation case closed to afterwards compliance effect continuous tracking, regulators need to participate, this to be accustomed to "approval" rather than "service" regulators bring huge work and resources into pressure. Therefore, in the case of the transformation of government functions, the regulatory authorities take the initiative to promote the administrative compliance supervision of enterprises.

### ***3.4 The lack of compliance supervision standards affects the enabling effectiveness of compliance supervision***

The lack of regulatory standards makes the arbitrariness of the compliance regulation stronger, and then it is difficult to ensure the fairness and justice of the regulation. For example, judging whether "compliance rectification is effective or not" directly affects whether the administrative organ will punish and punish the enterprises involved. If there are no relevant standards, compliance supervision is too subjective and will inevitably affect the fairness of regulatory results, the effectiveness of supervision and the credibility of the government. Due to the limited administrative law enforcement resources and insufficient research on the administrative compliance issues of enterprises, the administrative compliance supervision and evaluation mechanism and standards have not been established, which makes the administrative punishment suffer from the question of "generating income through punishment", which affects the overall promotion of enterprise compliance.

## **4. Administrative compliance supervision enables enterprises to choose the development path**

### ***4.1 Target positioning: change from standardized behavior to service development***

Since the 21st century, the administrative concept and mode development, the government role from "management" to "regulation" to "regulation + service", administrative supervision mode from "bat" to "bat + love", the change of this idea and pattern, is to adapt to the natural law of market economy development of high quality, gives full play to the inevitable requirement of enterprise autonomy, is the party and government to optimize the administrative power operation mechanism, give enterprise stable, fair, transparent, predictable market environment of major choices.

Whether it is the prior supervision with approval as the main means, or the in-process and post-supervision after the reform of "streamlining administration and delegating power" and "expanding progress and strict management", in the traditional positioning of administrative functions, the main goal of government supervision is to correct and standardize the illegal behavior of enterprises, hoping to promote the compliance operation of enterprises, which is obviously not enough. The optimization of government services should not be limited to convenience and humanization, but also reflected in how to make enterprises have internal development momentum through efficient public services. Regulatory authorities should, based on the basic regulatory functions, on the premise of making illegal behaviors of enterprises in accordance with regulations, adopt compliance incentive measures to serve the development of enterprises and enrich and develop the basic connotation of government "service".

### ***4.2 Legal guarantee: transformation from policy system to legal system***

In order to overcome the problem of incomplete compliance supervision systems, we should gradually legalize effective compliance policies, form a legal system of administrative compliance supervision, and provide legal guarantee for the further promotion of administrative compliance of enterprises. First of all, enterprise compliance administrative regulations applicable to all types and industries should be formulated to guide the construction of enterprise compliance legal system. Secondly, the government's administrative compliance supervision obligations should be clarified in laws and regulations, and the government's implementation of compliance supervision behavior should be regulated. Finally, all functional departments of the State Council and local governments should timely issue supporting departmental regulations or local regulations, and form a complete legal system

of administrative compliance supervision together with administrative regulations. In particular, it should be pointed out that in the process of compliance policy law, the problem of compliance evaluation standards. Due to the large differences in different industries, different categories and enterprises of different sizes of enterprises, the author believes that the standards can be clarified in the form of departmental regulations of the competent departments of the industry.

#### ***4.3 Ecological cultivation: the shift from reverse punishment to positive incentive***

There are two paths in enterprise compliance construction: "enterprise compliance" and "external forces promote compliance". Self-compliance is the main basis for various compliance guidelines to prevent administrative and criminal compliance risks and actively build an internal compliance management system. External force to promote compliance is that administrative organs and judicial organs adopt compliance supervision and compliance rectification to promote enterprises to carry out compliance construction and help enterprises achieve compliance operation. Logically speaking, promoting compliance by external forces is the means to achieve enterprise external compliance, and enterprise external compliance is the goal of enterprise external compliance. The main question is, what is effective for external forces to promote corporate compliance? Compared to punishment, positive incentives may bring better regulatory effects. "Only by combining enterprise compliance with the legal incentive mechanism can enterprises actively build their own compliance governance system and promote enterprises to continuously improve their governance capacity."<sup>[5]</sup>

Although positive compliance incentives have been put into practice in the criminal field, their legal basis has been controversial. Unlike criminal cases, in the enterprise administrative compliance supervision system design and implementation, the legal administrative discretion of administrative compliance positive incentive has legal basis, in the practice of administrative supervision, completely according to the law, to reduce the enterprise administrative illegal responsibility way, urged enterprise compliance rectification, improve the initiative and enthusiasm of the construction of compliance.

#### ***4.4 Mechanism innovation: the transformation from public power supervision to multi-party co-governance***

The essence of administrative compliance supervision is how to view and deal with the relationship between "government and market", "supervision and service" and "order and vitality". From the perspective of the development trend of administrative supervision, one-way supervision of public power is the low-order stage, and governance supervision is the high-order requirement. In the process of building a more complete and mature market economic system, it has become a trend of reform to promote better combination of the effective market and the competent government, and to pay attention to the coordination of multiple regulatory subjects and the combination and allocation of various regulatory tools. With the development of "third-party forces" such as "deadministrative" industry associations and chambers of commerce, professional service intermediary organizations, and consumer rights and interests protection organizations, the public's awareness of rights and moral quality is constantly improving. On this basis, it is timely to promote the administrative supervision system from public power supervision to multi-party coordination and co-governance.

The innovation of enterprise administrative compliance supervision mechanism of coordination and co-governance can start from three aspects. First of all, stimulating market vitality should be taken as one of the main objectives of supervision, and the dual responsibilities of "ensuring order" and "stimulating vitality" should be highlighted, and the value orientation of "stimulating vitality" of administrative compliance supervision should be highlighted. Secondly, it is necessary to properly handle the structural relationship between party leadership, government supervision, market self-discipline and social co-governance, create and use the "third-party supervision and evaluation mechanism of enterprise administrative compliance" to improve the allocation and coordination of regulatory forces, guide enterprises and social organizations to actively participate in it, and eliminate the traditional regulatory tension. Finally, on the basis of recognizing and respecting the differences and cognitive complementarity between enterprises, through the comprehensive use of various regulatory means, to promote the self-supervision of enterprises through administrative compliance supervision, so that enterprises can become an important participant in realizing the goal of enterprise administrative compliance supervision.

## 5. Conclusion

Compliance operation is the basic guarantee for the high-quality development of enterprises. However, due to weak compliance awareness, high compliance costs, insufficient compliance construction capacity, and imperfect legal guarantee system, enterprises have almost no motivation for self-compliance, which brings great risks to the sustainable and healthy development of enterprises. Therefore, it is very necessary to rationally use the "external force" of the government to "help" enterprises in compliance. Enterprise administrative compliance supervision is an important system for the government to use public rights to guide and help enterprises in compliance, which can help enterprises change their development thinking, reshape their development mode and win the development opportunity. Overall, the utility of enterprise administrative compliance regulation depends on the transformation of government functions, regulatory innovation, social forces and legal system, only the government function to help and service enterprise development, with positive incentives to stimulate enterprise compliance momentum, make full use of social organizations to achieve collaborative work, improve laws and regulations, achieve compliance regulatory goal, comprehensive power enterprise high quality development.

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