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Compliance Monitor

The monthly briefing service for compliance specialists

Manchester to Cupertino and back

The "infinite loop of regulation" faced by the financial services industry runs counter to trends and wisdom gleaned from other sectors, argues chairman of the CISI compliance forum committee, ***Julian Sampson****.*

Go to any regulatory conference, pick up any regulatory periodical, and the words 'more change' and 'increasing burden' are never far away. While it is a truism that the burden of regulatory change increases, it seems as if it was never more so. Aside from the transition to new UK domestic regulators, UK financial services staff need to absorb an ever growing burden of new EU originated directives and fresh FSA interpretations.

And yet I was struck by the contrast between the financial services sector and other areas of public policy, where in fact deregulation is moving up the political agenda.

One only has to read the reports from the Conservative Party conference in Manchester this past October to see this. Key areas of public service delivery are to be deregulated. In education, the Free Schools programme encourages groups of private citizens to form their own schools. In employment, the government seems committed to abolishing the regulations that they believe are preventing firms taking on staff. The vogue philosophy is that it's no good protecting a worker's rights if that worker doesn't have a job in the first place. In health, the NHS is to be subjected to greater market competition. In Health and Safety, there is a growing consensus that there should be a rolling back of regulation in favour of a 'common sense' approach.

These are far from the foamings of the Thatcherite right. The 'better regulation' objective of the Department for Business, Innovation and Skills, led by the left-leaning Liberal Democrat Vince Cable, is fully behind the deregulation objective. Its website states: "Cutting red tape and improving regulation and policies is a key priority for BIS. We aim where appropriate, for a light-touch regulatory environment, with less red tape and burdens on business, while protecting the public, consumers and employees". That, indeed, is music to the ears of all of us.

And the rhetoric has improved. No longer do politicians rush to 'bash a banker'. We may not yet be at the stage where David Cameron wants to hug a hedge fund manager, but it is better.

And yet equivalent deregulation in financial services seems as far away as ever. There's no appetite for it. Why? It's not as if deregulation hasn't been tried before, with success. The deregulation that followed the Big Bang in the early 1980s was followed by huge growth, not just in the sector, but across the economy as a whole. We all benefited from it.

At around the same time as the Conservatives were meeting in Manchester, Steve Jobs died. Much has been written about his success and management style. And I was struck by the thought: how would he have fared had he gone into financial product rather than information technology product? It's worth considering the parallels between these worlds, in the areas of product design and corporate governance, to see if there's anything that the financial services world can learn from Apple and Steve Job's success.

As far as product design is concerned, we all know what we have to do. This was set out most clearly in TCF Outcome 2: "Products and services marketed and sold in the retail market are designed to meet the needs of identified consumer groups and targeted accordingly." Since then, the FSA has outlined the greater powers its successor will gain to intervene earlier in the product development cycle. This was first justified in DP11/1 of January 2011 on the grounds that, inter alia, "Ineffective competition can arise through problems with supply. For example, where there are only a small number of providers, and potential entrants are deterred from entering the market, incumbents may be able to raise prices, limit quality or restrict product availability." I'm not sure that Jobs would have agreed with that.

So how would these requirements have applied at Apple? Imagine the scene – an IT regulator arrives at Apple and looks at the new iPod. He asks to see the results of focus groups that support the introduction of this product. Says Jobs: "It's really hard to design products by focus group. A lot of times, people don't know what they want until you show it to them." So what about your other market research? Jobs replies: "It's not the consumer's job to know what they want."

Perplexed, the IT regulator turns to the matter of governance and asks to see the board minutes of Apple

Inc, looking for full discussion on the merits of the iPod and expecting to see detailed evidence of challenge by non-executive directors to this innovative product. I don't know how Jobs would have reacted to such questioning, but I can guess from the details of his personality that we know. According to obituary writers: "He could be irascible, petulant, temperamental and combative..."; "Former employees recall being terrified of him..."; "Slow to accept criticism..." From these comments I guess that his reaction to this questioning would have been explosive.

However, there is an alternative view. It states that what we're doing is correct. Good product only comes about through good – and evidenced – process. Apple was not a hippy commune and the iPod did not spontaneously spring, fully formed, from a room full of smoke of dubious origin. Apple was as process driven as the next company.

But the point is this – Apple weren't afraid to be different. In fact, it was a requirement. And more importantly, they didn't have anyone looking over their shoulder, judging their judgements. Had that been the case, the iPod, iPad or any other product you mention, might never have seen the light of day.

So how would Jobs have fared in financial services? I'm forced to conclude that he would have been seen as a dangerous risk taker, an accident waiting to happen, a risk to the regulator's objectives. Definitely not someone who should be at the helm of a financial services firm.

And maybe that's right. After all, what does Apple do? It makes toys. All it does is help us do the same as we've always done, faster. It's not dealing with really important stuff – like people's bank accounts or pension arrangements. But that ignores the massive impact that Apple – and IT generally – has had on our lives. This was illustrated by Lucy Alexander, writing in *The Times*: "From the moment we wake up to the moment we sleep, Apple can control our lives. Woken by an alarm on an iPhone, check the emails on an iPhone, go for a run plugged into a Nano, switch to the iPhone for the commute (first checking the Next Bus or Tube Deluxe apps) work all day on a MacBook, book dinner using the Open Restaurant app, find a cab home using the London Taxi app, then fall asleep while trying simultaneously to check Twitter, chat on Facebook, buy a handbag on asos.com and watch a film on the iPad." While that may be a caricature, we all recognise elements of it to be true.

Am I being unfair? After all, many have said that now that their charismatic founder has died, Apple will change and become more like the standard corporate that we are encouraging all our firms to be. But there are many at Apple who would disagree with that prescription, saying that the opposite was true. To succeed, Apple must remain true to the ideals of its founder, rather than meld into corporate mediocrity.

And I could be proved wrong. Without Jobs providing the coherence and drive, and without a move to a more traditional management approach, Apple may fall behind. The Jobs business model is thus not one to emulate and is bad. But if that is the case, then everything that came out of it must also be bad. And I wouldn't agree with that.

So where does that take us? Back to Manchester, where the Conservatives, in common with all other UK and EU political parties, believe that the unbanked and the unpensioned should be protected from the Steve Jobses of financial services by an ever rising tide of regulation. And is it working? Are the unbanked banked and the unpensioned now pensioned? Is this what they're spending their money on? No. Instead, they're buying iPads.

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