

# **Responsive Compliance Assurance Approaches**

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# This presentation

- is partly based on some of the results of two INECE Conferences on

*Next generation Compliance and Enforcement Approaches*

held Spring 2015 in Washington DC and Rotterdam



# INECE STRATEGIC GOALS

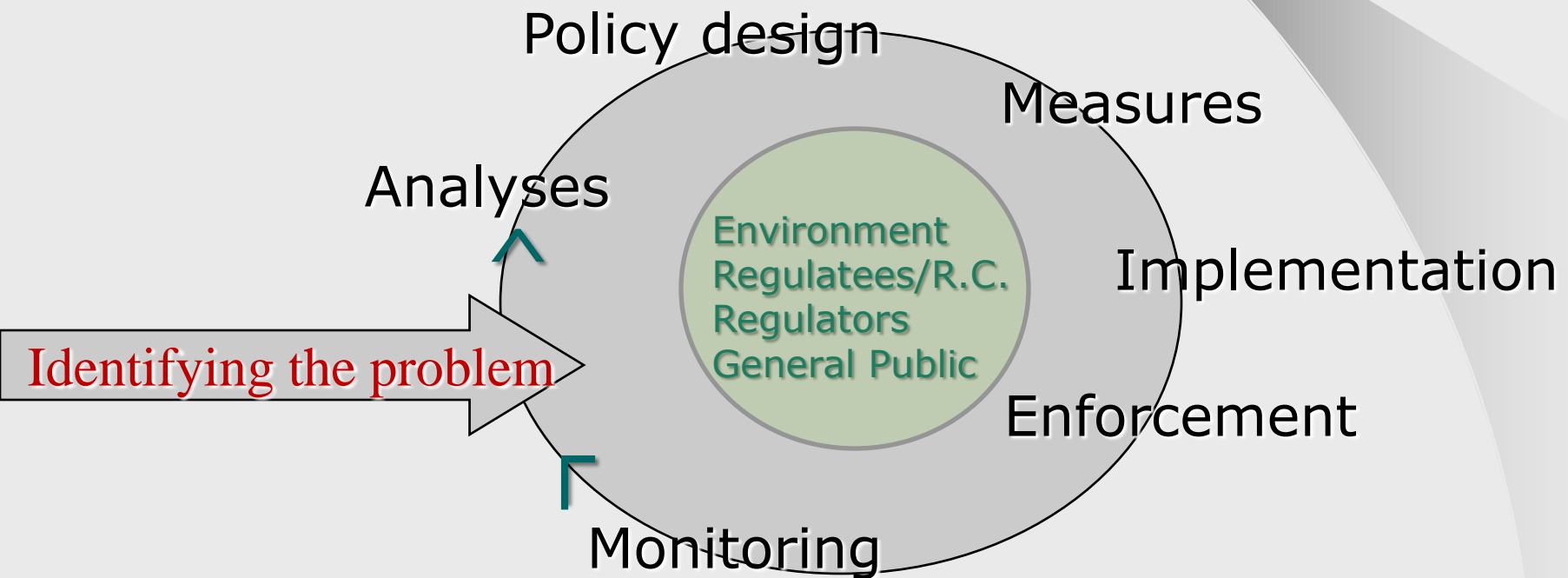
- Raise awareness of the importance of environmental compliance and enforcement
- Strengthen capacity throughout the regulatory cycle to implement and secure compliance with environmental requirements
- Develop networks for enforcement and compliance cooperation



**Environmental compliance and enforcement are the foundation for the rule of law, good governance and sustainable development**

# POLICY CYCLE

(WINSEMIUS, 1986)



# THE REGULATED COMMUNITY

How does it look like?

= 50 power plants?

= 3 refineries?

= 100.000 farmers?

= 1 nuclear power plant?

➤ Probably a lot of diversity...!

# **THE R.C. IS A DIVERSE ANIMAL**

Those who will not comply at all

Those who are impressionable

Those who will co-operate in all circumstances

# Wisdom by Chester Bowles\*

20% of the regulated population automatically complies with any regulation

5% will always attempt to evade it

the remaining 75% complies as long as they think that the 5% will be caught and punished

**\* MY YEARS IN PUBLIC SERVICE, 1941-1969, 25, (1971)**



# T TYPOLOGY OF ACTORS

Extremes of the spectrum:

- ✓ Rationalist - tend towards non-compliance
- ✓ Normative – tend towards compliance

# RATIONALE OF RATIONALISTS

- They will follow the logic of consequences
- If cheaper, they will violate
- You need deterrence and enforcement

# RATIONALE OF NORMATIVES

They will comply because of:

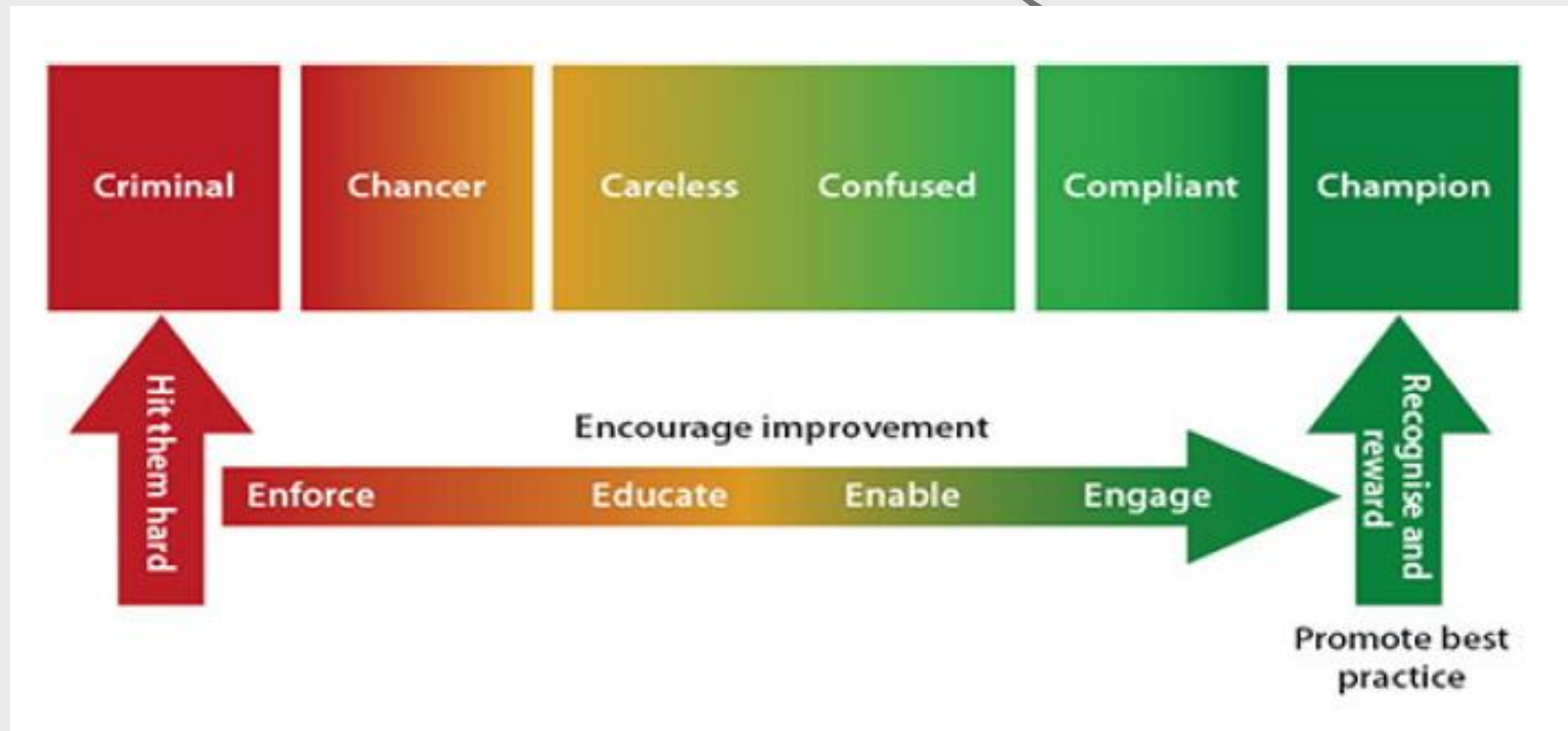
- their capacity
- knowledge of rules
- financial ability
- commitment
- incentives
- influence of social norms

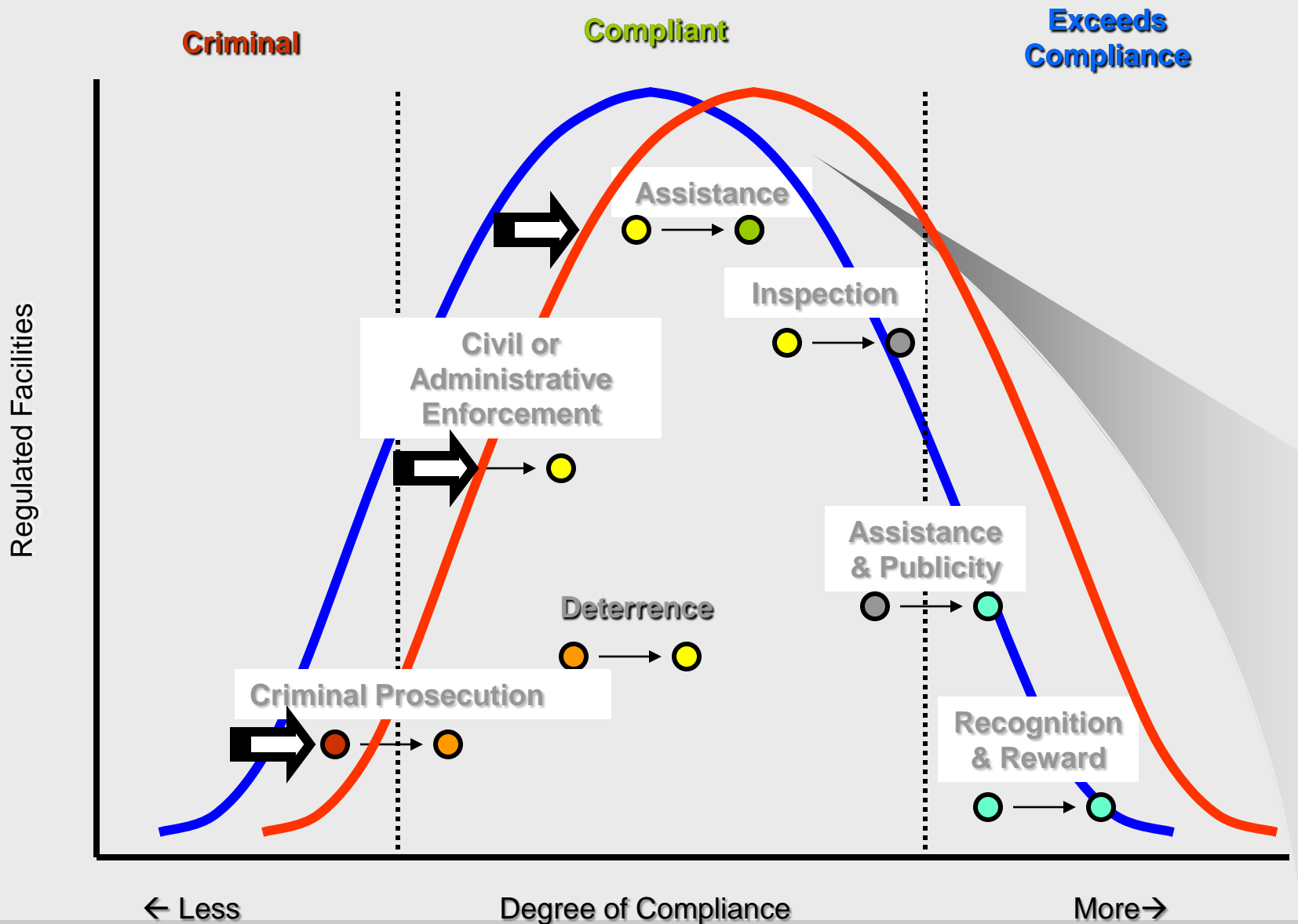
# TYPOLGY OF ACTORS

Responses to extremes of the spectrum:

- ✓ Rationalists - deterrence and enforcement
- ✓ Normatives – cooperation and compliance assistance

# SPECTRUM OF REGULATEES





# COMPLIANCE ASSURANCE PROGRAM

## STEPS AND COMPONENTS

1. Identifying the regulated community
2. Evaluating the current level of compliance
3. Setting the program priorities
4. Promoting compliance in the regulated community
5. Monitoring compliance
6. Responding to violations

# ULTIMATE GOAL OF COMPLIANCE ASSURANCE

- Protect people and environment
- Influence the behaviour of individuals, groups and organisations
- Create a level playing field for economic operators
- Maintain the rule of law and good governance
- Support sustainable development



# FACTORS AFFECTING COMPLIANCE

## ***DETERRENCE FACTORS***

CREDIBLE LIKELIHOOD OF DETECTION

SWIFT AND SURE RESPONSE

APPROPRIATE SANCTION

PERCEPTION OF THE FIRST THREE ELEMENTS

## ***ECONOMIC FACTORS***

COSTS OF (NON-)COMPLIANCE

FINANCIAL REGIMES (TAXES, CHARGES, SUBSIDIES)

# FACTORS AFFECTING COMPLIANCE

## ***BEHAVIORAL FACTORS***

SOCIAL FACTORS

PSYCHOLOGICAL FACTORS

KNOWLEDGE AND TECHNICAL FACTORS

ORGANIZATIONAL BEHAVIOR

# INFLUENCING BEHAVIOUR

- Optimized learning program
- Responsive interventions
- Moral messages
- Self-regulation and self-policing

# Optimized learning program

- Permanent (life-long) education is a need
- Educate inspectors from different perspectives
- Enable sufficient job-rotation of inspectors
- Ensure that learning reflects the dynamic realities of regulation, regulatees and regulators

# Responsive interventions

- Understand how and when to apply different interventions in response to non-compliance
- Ensure that choice of intervention can be explained/justified, both individually and collectively
- Consider to 'map' your interventions in order to determine what to apply in which situation
- A transparent intervention 'map' helps the regulator, the regulatee and the public

# Moral messages

- Regulators may send moral messages to a regulatee w.r.t. observed vs. desired compliance performance
- Direct the message to high management and its intentions ('tone at the top')
- The message should be constructive and have a rationale
- Make sure that the regulator, as a sender, fulfills requirements of integrity and acts decently

# Self-regulation and self-policing

- Potential approach for the really well complying regulatees, leading to a conditional relief of inspection burden
- With appropriate compliance management system in place and a good track record, the regulator has trust in the regulatee
- This approach could be formalised in a covenant; infringements do not lead to interventions when self-reported and self-corrected
- Approach is not a blind trust and unconditional – there will be reality checks

Some statements...  
for discussion or reflection...  
now or later...



# TARGETED APPROACHES

*Effective regulation requires approaches differentiated with regard to levels of potential for self-regulation and compliance assurance instruments, based on thorough understanding of social and behavioural aspects of regulatory compliance.*

# STAFF DEVELOPMENT

*While next generation compliance and enforcement approaches have benefited from advanced technological and social science developments, the human factor and importance of staff development within environmental regulatory agencies should stay a priority too.*

# INTERNATIONAL COOPERATION

*Given the local, national, regional, and international dimensions of environmental compliance and enforcement work, international cooperation and environmental enforcement networks are vital to achieving environmental protection.*

# RESEARCH

*The complexity of issues facing regulators and the fact that they involve economic, social, environmental and political aspects means that robust and reliable research and data is required to validate and improve regulatory responses.*

# OPPORTUNITIES FOR PARTICIPATION

- Visit the INECE Web Site [www.inece.org](http://www.inece.org)
- Register to receive news and updates

- Share your experiences/good practices!

Be one of our correspondents:

Call for short articles for INECE web site:  
send those to [inece@inece.org](mailto:inece@inece.org)

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