

CEP Magazine – July 2020 On giving and receiving: What does your hospitality policy say?

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Giving gifts and providing hospitality and entertainment are considered an Achilles' heel for any compliance leader. Considering the potential compromises and violation of the law, the legal implications are far too many. The US Foreign Corrupt Practices Act and the UK Bribery Act are equally stringent and have had complementary compulsive effects in countries that were vested with the task of drafting provisions and rules to combat bribery and corruption. It needs to be mentioned that the governments of countries like India and Japan, which have trade and commercial relationships with the US and UK, have followed suit in drafting equally, if not more, stringent laws. These legislations have exercised considerable pressure on corporations to be fully compliant. In light of this, let us understand how effective gift, hospitality, and entertainment policies and procedures help organizations combat bribery and corruption and become truly compliant.

Start with the basics

- It is important to state clearly *what acts* constitute giving/accepting gifts and providing/receiving hospitality and entertainment.
 - An employee of company Z receives a business class air ticket and a ticket to watch a World Cup football match in Qatar.
- The policy should explicitly tell the employee *when such acts* of giving/accepting gifts and providing/receiving hospitality and entertainment are in violation of the law.
 - The ticket is given by Vendor X.
- The policy should explain the *finite circumstances* where it is in violation of the law.
 - The employee who receives the ticket is the chief corporate purchasing leader of the company that sources materials from Vendor X.
- It should explain *how* gifts and entertainment violate the principles enshrined in the law of the land.
 - The employee, being in a position of fiduciary and trust, shall not accept such expensive gifts, hospitality, and entertainment from the vendor with whom they have a business relationship.

Compliance with regulations is fundamental

The policy should broadly cover several situations that are referenced in the legislations of the payer and payee countries (if the parties are in different countries). Implications of tax and other revenue laws should also be clearly laid out.

The policy should also ensure that it does not contravene the intent of other company policies. An illustrative—but not exhaustive—list of company policies that should be taken into consideration is as follows:

- Conflict of interest
- Treatment of others at work
- Sexual harassment in the workplace
- Related-party transactions
- Vendor integrity
- Code of conduct
- Mission and vision statement

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