

Business Courtesies & Hospitality Policy



What We'll Discuss



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VALUES . STANDARDS . ETHICS

1

Defining Business Courtesies

2

Policy & Processes

3

Best Practices

4

Monitoring

ABC background



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MACCA defines gratification as :

- a) money, donation, gift, loan, fee, reward, valuable security, property or interest in property being property of any description (movable or immovable), financial benefit or any other similar advantage;
- b) any office, dignity, employment, contract of employment or services & agreement to give employment or render services in any capacity;
- c) any payment, release, discharge or liquidation of any loan obligation or liability,
- d) any valuable consideration of any kind, any discount, commission, rebate, bonus, deduction or percentage;
- e) any forbearance to demand any money or money's worth or valuable thing;
- f) any other service or favour or any description, including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature;
- g) any offer, undertaking or promise whether conditional or unconditional, any gratification within the meaning of above

Anti-Bribery & Anti-Corruption regulations

FCPA recognises that bribes come in many forms & sizes – prohibits the corrupt offer, payment, promise to pay, or authorisation of payment of any money, or offer, gift, promise to give, or the authorisation of giving *anything of value* to a foreign official.

What is **anything of value**?

ie. cash/ gift vouchers, properties, promise to write off loans, offer to pay for lifestyle maintenance, services, employment opportunities, unusual discounts, tickets to exclusive events, all expenses paid trip (including per diem), prized collections, etc

- Gifted a Rolls-Royce Silver Spirit car to an Indonesian agent as reward for 700 engines sold to Garuda
- Paid for Chinese state-owned airline's employees' 2-week MBA course at Columbia U, 4-star accommodation & lavish recreational activities
- Paid intermediary to pay commissions for tender bidding
- Failing to prevent bribery in Nigeria, Indonesia, Malaysia, China



Notorious violators



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CHRONIC PAIN

17pc

Rise in GSK China revenues in 2012 (3pc of group total)

£321m

Scale of alleged co-ordinated bribery



4

Number of GSK executives arrested to date

2007

When payments to doctors are said to have started

- Manipulate markets, pricing high – kickbacks to doctors
- Bribed KOLs through 700 travel agencies & consulting firms – fees more expensive than usual – conduit to facilitate GSK's bribes
- Bought car, TVs, cameras, electronics & non-medical equipment
- GSK China Head fired Compliance Officer for obstructing its sales strategies

Arguments

Business
courtesies &
hospitality
Culture



*It's
always
expected*

*Others are
doing it*

*Cost of
doing
business*

*Business is
guaranteed
when you play
connections
right*

*Malaysian
hospitality is
about makan &
mesra even in
business*

*I scratch your
back, you
scratch mine*

*No one turns
down a good
offer*

*Our government
agencies must
be bribed to get
things done*

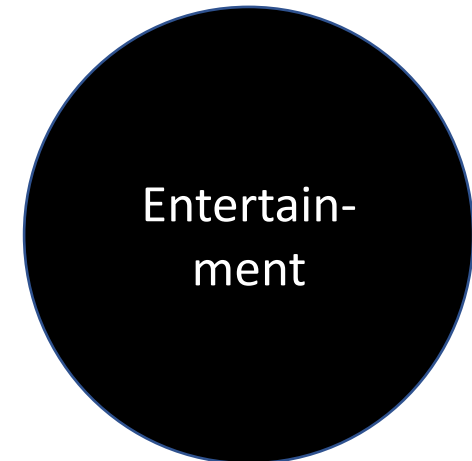
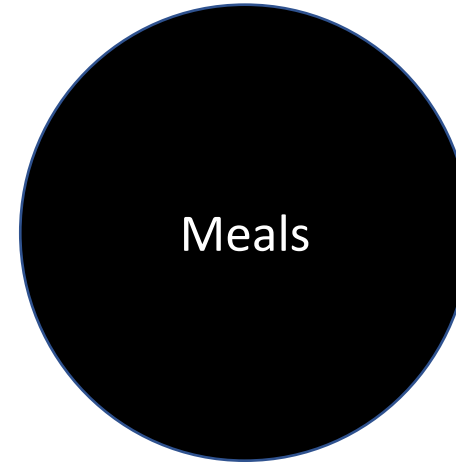
*Malaysians have
a deeply-rooted
culture of bribing*



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What are
business
courtesies &
hospitality?



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Tun Dr Mahathir's no-gift policy



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The 2018-2019 government set a no-gift policy – gifts worth more than RM500 must not be accepted by ministers

*"...if there are gifts, they should be limited to flowers, fruits & food. We will reject everything else... cars (& such), we will reject them all. The same goes for all top government officers."
– Tun Dr Mahathir*

Since then, many government agencies & government-linked corporations have pledged & published a no-gift policy into their business & operations.

What do you want to do?

*Carry on but
with limitations*

Set boundaries

*Not in favor of
giving & accepting*

Exceptions only for very
limited circumstances

Business Courtesies & Hospitality Policy

Void of an intent to corrupt

- Define appropriate gestures in business conduct, within the laws
- Given or received in a transparent/an opened manner
- Set limit matrix, nominal value applies
- Must be accurately recorded in the books (financial records, registry)

No gift policy

- Articulate that purpose is to avoid any conflict of interest
- Set criteria for exceptions
- Return or raffle off gifts that do not meet policy requirements
- Populate a registry for all gift items (declined or raffled off)



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Policy posturing



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To be read in conjunction with the Corporate Code of Conduct, other ABC policies, reference to applicable laws, industry regulations (& employee handbook if applicable)



Define the scope & applicability



Articulate requirements, provide protocols & processes, include matrices of limits, approved courtesies & hospitality gestures, etc.



Thinly confine exceptions, include exception request & approval protocols, prohibit use of intermediaries to funnel courtesies



Provision of travel & lodging to government officials only permitted under very strict criteria. Entertainment for government officials is prohibited.



Provide reporting avenues to raise concerns on contradicting the policy requirements, include disciplinary actions

Applying the policy



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Budget annually for courtesies & hospitality – utilisation of budget must be reviewed by an oversight committee



Do not misrepresent business-related GME expenses as meals, gifts, recreation, travel & lodging for employees for allowable deductions under Malaysian ITA



Provide gifts & meals moderately, ie. at nominal value, for legitimate business events like tradefairs/ conferences, meetings conducted at conducive venues (not nightclubs, karaoke joints)



Travel & lodging for third party business associates & government officials (NOT including their family members) invited to industry tradefairs/ conferences – NO additional recreational activities & per diem permitted



Paid-for entertainment is prohibited, ie. golf memberships, time-share memberships, exclusive events



Even when accepting GME from third party business associates, the principles are the same

Frequently asked questions



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During CNY & Raya Aidilfitri, ang-pows & green packets usually of nominal value are given. Can I accept this cultural gesture?

Politely decline. State that your company policy prohibits taking or offering cash in any shape or form.

But our multi-cultural festivities is about giving. It would be disrespectful to deny business associates of this common gesture.

If your company policy sets a limit matrix of permissible gestures, refer to & comply with the guidelines.

A customer has written a request for contribution of cash or items valuing RM100-500 to their company's annual dinner lucky draw event. It's within our nominal value range as provided in the policy.

Firstly, do not offer cash. Secondly, you have no business purpose in the customer's annual dinner, regardless that the request is within the approved nominal value range.

At a conference that I've been invited to attend as a KOL, there was a 'surprise' entertaining show during dinner. It would have been awkward to walk away since I was seated with other industry peers at the table.

You would have considered the Code of Conduct, Employees Handbook or relevant ABC policies & applied your best judgment on the spot. You will prepare a written report of the events at the conference in detail to the CEO/ the Board & the oversight committee for record-keeping.

Frequently asked questions



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Before we embarked on a Compliance Program, we used to spend on business trips for priority customers as our loyalty program. One such customer has been turned off by our 'sudden axing of this entitlement' & gave us the cold shoulder.

Formally write to your customers that your Compliance Program consists of ABC compliance components (ie. the Code, ABC policies, legal obligations) that protect the business community so that neither you nor your customers are liable to corporate liability for any intention of bribery, as provided under the Section 17A. This letter should be signed off by the Board members & the CEO.

Ever since the Compliance Program kicked in, our revenue has been hit tremendously.

Have you improved on your SG&A expenses since you no longer spend on all kinds of GME on request? Also consider new strategies in reaching out to potential customers as well as retaining existing customers.

There are some recalcitrant customers who are not in favour of our new way of doing things & insist that our relationship should accord them the same treatment as before.

Carefully weigh your consequences – would you rather pay the price (ie. fines, jail, reputation loss) for non-compliance or would you be willing to walk away from unethical customers?

I still want to wait & see the effectiveness of enforcement!

Just because we don't read much news on corporate corruption enforcement by MACC, doesn't mean MACC hasn't been enforcing. Do not discount the fact that anyone can whistleblow on your unacceptable business activities.

Defining permissible business courtesies & hospitality with matrices helps employees apply policy efficiently

Courtesies & hospitality to govt officials only under very limited circumstances



Courtesies & hospitality should never be applied to unduly influence decision-making

Always keep accurate records



Use good judgment & common sense

Key take-aways



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Code of Conduct

A written set of rules issued by a company to its employees, that is unique to the organization as it also reflects the organization's core values & overall culture

ABC Policies

Intent statements demonstrating the company's protocols in preventing bribery – all employees should familiarize themselves with the content of these policies

Communication & Training

Dissemination of the Code & ABC Policies – consistently, purposefully, repetitively in different ways

What we do
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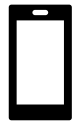
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Here's how to
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