



Corruption Conundrum

Are bribes-for-business deals increasing, or are we just more aware of them?

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March 01, 2007

As accusations of firms offering bribes-for-business fly around Europe — entangling CFOs and other high-ranking finance executives — it's hard not to wonder whether corporate anti-corruption initiatives are failing.

It's been ten years since the OECD unveiled an anti-corruption convention calling on its members to crack down on corporate bribery. Though nearly 40 countries pledged compliance with the convention, we're still awash in corruption scandals. Germany, in particular, has had at least a dozen cases over the past year, from medium-sized retailer Rewe and money-transfer company Hero to multinationals Volkswagen and Siemens. Meanwhile, scandals in other countries — notably the U.K. government's controversial decision to drop its case against arms manufacturer BAe over allegations of bribe-paying in Saudi Arabia — show Germany is by no means alone.

There could be a bright side to this, says Hans-Jürgen Stephan, the Berlin-based deputy managing director of consultancy Control Risks. Corruption isn't necessarily increasing, he asserts; it's just that the new controls are working, thus bringing more corruption cases into the open. Despite the progress, he believes corporate attitudes towards bribery aren't changing as much as anti-corruption campaigners hope.

In Germany, "we like to think that all these other countries, like Italy, are corrupt and that we aren't. That is simply not true," he says, noting that until 1999, German law not only permitted bribes for foreign contracts but also allowed companies to claim them back on their taxes.

"There is a big gap between [new anticorruption] norms and day-to-day reality," adds Miklos Marschall, regional director of Europe and central Asia at anti-corruption campaigner Transparency International (TI). For many companies, there can be a very fine line between "legitimate facilitation payments" and bribes, he says.

Because of this fine line, TI insists that companies have only one solution: "zero tolerance." As Marschall puts it, "We take a tough line but that's the way it has to be — facilitation payments cannot be legitimized."

But what if competitors don't uphold the same standards? In a survey published in October by Control Risks and law firm Simmons & Simmons, more than 40 percent of the 350 respondents said that they had lost new business at some point over the past five years because a rival had paid a bribe. What's more, most respondents had little or no understanding of their own country's anti-corruption laws. This could explain why many companies wrongly assume that they can circumvent the laws by hiring local intermediaries, who may or may not then pay local officials or business contacts on their behalf. Unbeknown to these companies, both direct and indirect payments are illegal in many jurisdictions.

Some anti-corruption experts reckon there is room for pragmatism. Stephan, for one, says companies can consider making carefully screened and documented payments. But, he says, it's better for a company to resist the temptation — "once you start to pay, word gets out and others will expect payments."

COMPANIES BELIEVING THAT THEY
FAILED TO WIN NEW BUSINESS OVER
THE PAST FIVE YEARS BECAUSE OF
BRIBE-PAYING BY RIVALS

Under the table

	%
Hong Kong	76
Netherlands	46
US	44
Brazil	38
Germany	36
France	34
UK	26

Source: Control Risks and Simmons & Simmons

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