

Beware the Trojan Horse of lavish gifts and entertainment

Reality is that such a practice can be easily misunderstood and perceived as an attempt to secure an improper advantage. BY EUGENE K B TAN

IT IS that time of the year again when companies send out red packets, bak kwa (pork jerky) and oranges.

Showering gifts and entertainment upon clients and business associates is par for the course during festive occasions in our Asian culture, which emphasises interpersonal relationships, trust-building and reciprocity.

"This is just how business is done," is a common refrain.

It is crucial for businesses to recognise, however, that there can be a dark side to giving or receiving gifts and entertainment.

This is especially so when the bestowing of lavish gifts and entertainment is ultimately for the personal benefit of individuals. After all, inanimate entities can neither enjoy gifts nor be entertained.

Reviewing policies

In the wake of former transport minister S Iswaran's 27 criminal charges last month relating to dealings with businessman and Singapore Grand Prix owner Ong Beng Seng, it is timely for businesses and the non-profit sector to review their policies on gifts and entertainment.

There is also a need to review practices and attitudes on this matter, as it would not be surprising if there is a divergence between policy and practice.

The common policy and practice is for individuals to declare the gifts and entertainment they have received, and secure the requisite approvals for them. There appears to be a view that, once these are declared, it becomes proper to accept them.

Corporate integrity controls on gifts and hospitality must, however, be clear-eyed about conflicts of interest.

Giving or accepting gifts or hospitality must not raise concerns – whether real or perceived – of corporate and personal integrity. Singapore Standards 37001:2016, a domestic technical certification standard on anti-bribery management systems, describes a conflict of interest as a "situation where



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business, financial, family, political or personal interests could interfere with the judgment of persons in carrying out their duties for the organisation".

The reality is that even when lavish gifts or hospitality are extended without instrumental motives, they can be easily misunderstood and perceived as attempts to secure an improper advantage.

Thus, gifts and entertainment should be regarded as potentially placing an organisation and/or individual in a conflict-of-interest position. Where a person has a direct financial or proprietary interest, or even a direct non-pecuniary interest in a matter, he/she should be disqualified from being involved in it.

Where one is personally interested in the outcome of a matter over which he/she has an official role, law and ethics assume that

this person will not be able to act impartially and objectively on the matter. This is even if the person believes that he/she can rise above the conflict of interest.

If said person were to continue to be involved in the matter – notwithstanding this risk – that could severely undermine the integrity of the decision. The fundamental rule is that any decision-maker must not only be impartial, but be seen to be impartial.

Where a decision-maker accepts gifts or entertainment from another person while having work dealings with him, the inference of bias in favour of the gift-giver arises from such a relationship.

It is useful to ask whether there are circumstances that would reasonably give rise to a legitimate concern of a conflict of interest to a fair-minded observer.

Would the observer conclude,

knowing the relevant circumstances, that a conflict of interest has materialised or is probable?

Going beyond mere reporting

Appropriate approvals should be sought when accepting or giving gifts and entertainment above a pre-determined pecuniary value.

Nevertheless, there is the danger of mere compliance without recognising why it is vital to observe the substance and spirit of those rules.

Take, for instance, a chief executive who has obtained approval to accept an expensive gift or entertainment from a vendor but without personally paying for it.

When the vendor's contract comes up for renewal in future, it is a fair question to ask whether the CEO would be favourably disposed towards the vendor because of the valuable gift he had received.

A gift guide

A starting point for offering, seeking or accepting gifts and entertainment:

- Is it legal or ethical for me to offer, accept or to ask for a gift?
- Would I be comfortable if the gift is made public?
- Am I setting a good example for my organisation; would that privilege to accept or to ask for a gift be extended to everyone else?
- Does it feel right?
- Is it consistent with my values and my organisation's values, norms, and code of conduct?

A red flag for personal and corporate integrity is hoisted where the answer to any of the above questions is a no.

Would the CEO be thinking of the gift and entertainment he has enjoyed from the company that is seeking to do business, or would he be thinking of the merits of the contract?

Would he be thinking of how he

has benefited and would benefit personally, or would he be thinking of what is in the best interest of his organisation?

To be sure, the CEO could rationalise that he is focused on the merits and is not at all influenced by the gifts received or anticipated.

The reality, however, is not so simple. Influence peddling is often understated, and conflict of interest works in insidious ways – even when formalistic rules have ostensibly been complied with.

Companies should consider requiring their C-suite officers and staff to make adequate payment for gifts and entertainment received personally.

This might make them reluctant to accept such gifts and entertainment; and can ameliorate any "what's in it for me" mindset, or any insidious influence on decision-making.

The proliferation of gifts and entertainment policies may have resulted in a box-checking mentality, in which compliance is to the letter, rather than spirit, of the rule.

Yet, offering or accepting an expensive gift or entertainment raises, minimally, an apparent conflict of interest, which could be actualised in future.

Lavish gifts and entertainment should, by default, be seen as inappropriate, if not problematic, as they often come with strings attached.

Homer's Iliad tells how the Greeks seemingly retreated from a long-running war with Troy, leaving behind a large wooden horse outside the walls of the latter's besieged city.

The Trojans later pulled the horse into their city, to use it as an offering to the goddess of war Athena, who would make Troy impregnable. Unfortunately, armed Greek warriors who were hiding inside the hollow horse emerged from it during the night and opened the gates to let in their waiting comrades – resulting in the destruction of Troy.

The table (left) might serve to reinforce an aversion to lavish gifts and entertainment, which should be regarded as the proverbial Trojan horse that severely compromises corporate and individual integrity and reputation from the inside.

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