

Smart Tips for SMEs (1)



A good brand image and an integrity culture are the two key success factors of Small and Medium Enterprises (SMEs).

To maintain good relationship with business associates and expand the company's network, some SME operators may offer gifts and hospitality to their business contacts.



Courtesy really costs nothing? What should we watch out when offering business gifts?

This article tries to decipher the legal and ethical concerns behind offering gifts and give "smart" tips to SMEs for conducting their business ethically.

Don't bribe

Business organisations, government departments and public bodies in Hong Kong are all subject to the *Prevention of Bribery Ordinance (POBO)* which clearly defines 'bribery'. A typical act of corruption is comprised of four major elements –the "4A"s:

Four "A"s of corruption

Offering **1) ADVANTAGE** to an **2) AGENT** for inducing or rewarding the agent's **3) ACT** without his/her **4) PRINCIPAL'S APPROVAL** is an offence



1) Advantage

means money, gift, loan, reward, commission, service, favour etc., but excludes entertainment. Entertainment means any food or drink for consumption on the occasion when it is provided.



3) Act

means doing or forbearing to do anything in relation to his/her principal's affairs.

2) Agent

generally means an employee or entrusted party of an organisation. As SMEs may often deal with agents from private and public organisations, they should be mindful that their courtesies may be considered bribery in disguise.

4) Principal's approval

means the permission or agreement given by the agent's principal for him/her to accept an advantage in the course of duty. Principal generally refers to an employer, e.g. a company's owner (for sole proprietary company) or board of directors (for partnership or listed company), a public body or the Government*.



*The principal's approval for employees of public bodies shall be given in writing whereas government servants are not permitted to accept any advantage in the course of duty.



In dealings with business contacts...



Think twice before you act!

- As a start up, you have submitted an application for capital financing from a private funding programme. Earnest to stand out amongst thousands of applicants, you think of sending gifts to the panel members...
- Your company is applying for a bank loan. Hoping to increase the loan amount or extend the repayment due date, you want to offer an advantage to the bank staff for assistance...

 **Offering a bribe to an agent is an offence under Section 9 of POBO.**

Maximum Penalty: A fine of \$500,000 and 7 years' imprisonment


**Stay smart and ethical!
Embrace fairness and uphold a level-playing business environment.**

In dealings with public servants...




Courtesy or bribery?

- You have submitted a patent application for your company's product for some time, but approval from the government department is still pending. Now that you want to give some product samples to the officer concerned so that he will help speed up the approval process...

 **Offering a bribe to a public servant is an offence under Section 4 of POBO.**

- Your company's business licence has just been granted by the government. As the Mid-Autumn Festival is approaching, you wish to give some mooncakes to the officers concerned to show your appreciation...

 **Offering advantage to a public servant while having official dealings with the government or public body is an offence under Section 8 of POBO.**

Maximum Penalty: A fine of \$500,000 and 7 years' imprisonment

Offering bribes to public servants in exchange for their favours at work is illegal. Even without any intention to bribe, one should not offer any advantage to public servants.

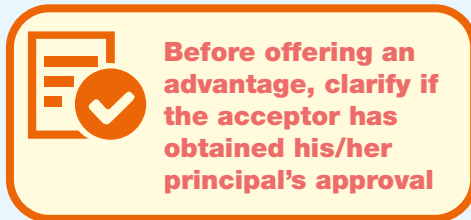
To access full version of the Prevention of Bribery Ordinance, please visit Hong Kong e-Legislation website at <https://www.elegislation.gov.hk/hk/cap201>



Smart Tips



Don't bribe



Before offering an advantage, clarify if the acceptor has obtained his/her principal's approval



Never offer advantage to a public servant while having official dealings with the government department or public body

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