

SEE Questionnaire

Donations and Payments Q2



Does your company have policies or practices to prevent undue influence of appointed or elected public officials?

Rationale for question

Like individuals, organisations such as civil society groups or businesses, have the right to access and express their interests and concerns to appointed or elected public officials. Indeed, participation from such groups can be highly beneficial in effective government. However, as Transparency International explains, this access becomes questionable if an organisation gains undue influence in any government. In other words, these organisations are able to disproportionately affect the decisions made by public officials, whether it is with regards to formulating policy, awarding contracts or granting special permits or other favours. A company may gain undue influence through offering gifts, favours, perks or cash payments (including political donations) to public officials or those connected to public officials, such as family members or political parties.

Companies are obliged to pay taxes and other regular levies and duties to governments: these are the normal costs of doing business. However, some companies also make irregular payments, which end up in private hands instead of providing public goods and services. This is particularly problematic in some developing countries, where citizens struggle to hold their governments and public officials accountable. Some of these payments and donations are legal, but still provide a company with an unfair advantage over those who cannot, or will not,

make such offers. For example, political donations are generally allowed by law, but organisations that make large donations can exert a disproportionate influence over decisions made by politicians. In addition, some payments are legal in one jurisdiction and illegal in another. For example, 'facilitation payments', which are payments made to low-level officials in overseas trade in order to speed up or obtain routine administrative processes, are illegal under U.K. jurisdiction but legal in the U.S.

A company may also have influence through privileged access to appointed or elected public officials, whether directly, through the use of lobbying firms or other intermediaries (such as agents, subcontractors or consultants). This becomes problematic if, for example, a former or current company employee is now serving in a public office and the company uses this connection to promote favourable legislation or obtain government contracts. Likewise, former government employees working as lobbyists may exploit networks of friends and former colleagues in the government administration to gain unfair advantage.

However, as it is possible for a company to have great influence without ever abusing it, this question focuses on company policies and practices that prevent the abuse of influence from occurring. Such policies and practices may include:

- restrictions on the types and amounts of spending on receptions, meals, gifts etc.;
- limits on contributions to political campaigns;
- guidelines on hiring lobbyists or donating to interest groups whose functions include lobbying (including groups that campaign, for example, on environmental and human rights issues);
- making publicly available a record of payments the company or its intermediaries have made; and
- a clear explanation of circumstances that could be considered a 'conflict of interest'.

Defining terms

'Undue influence' occurs through excessive and/or inappropriate payments or donations to public officials, or exploitation of privileged access to them, in order to obtain certain benefits. Some of these practices may comply with the letter of the law but remain contrary to the spirit of the law.

Primary and Secondary answer requirements

ANSWERING YES

Companies must:

1. describe their policies and practices to prevent undue influence.

ANSWERING NO

Companies must:

1. explain why they do not or cannot answer YES to this question, listing the business reasons, any mitigating circumstances or other reasons that apply.

Companies may:

1. state the extent to which they meet some of the specifications, even if it is not sufficient to answer YES; and
2. mention any future intentions regarding this issue.

DON'T KNOW is not a permissible answer to this question.

NOT APPLICABLE is not a permissible answer to this question.

NO ANSWER YET is only permissible under extraordinary circumstances and then for only a limited period.