

WHAT CAN BUSINESS DO TO PREVENT CORRUPTION? THE COLOMBIAN CASE

Gustavo Adolfo YEPES LÓPEZ

Director of Social Management, Faculty of Business Administration, Externado University;

Leads the Management and Social Responsibility Research Group;

Belongs to the 180 Committee of the ICONTEC Colombia;

Professor of the Colombian inter-institutional initiative, CSR School–ERSE;

Member of the editorial committee of the *RS* magazine (*Responsibility, Sustainability*)

Co-writer of *Corporate Social Responsibility, Fundamentals and Implementation in Current Organisations and Leadership, Evolution and Conceptualisation*.

Calle 12 No. 1-17 Este

Bogotá, Colombia

Fax number: +571. 2839421

Phone number: +571.3420288 Cell phone: +57.3105637578

e-mail: gyepesl@gmail.com

Abstract

This article is based on the First National Survey on Actions against Bribery in companies that operate in Colombia, thanks to the partnership between the Externado de Colombia University and Transparency for Colombia, the Colombian chapter of Transparency International. It presents the point of views about bribery of an important number of small, medium and large enterprises in Colombia. Pressures that entrepreneurs must face and the actions they must take within their companies to diminish this unfortunate worldwide phenomenon. This descriptive and explanatory study identifies the fight of the large, medium and small enterprises against corruption and aims to cast light on how to adopt new mechanisms and strategies to reduce corruption and bribery in business.

Introduction

The first section presents the different approaches of Corporate Social Responsibility and its evolution in relation to a company's moral and legal obligation to behave transparently and to fight against bribery and corruption. This section ends by presenting the system developed by Transparency International and Social Accountability International, called Business Principles for Countering Bribery; which was used as conceptual framework for the investigation.

The second section explains the methodological framework used in the study carried out in nine of the most representative cities in Colombia, with 24 questions answered by the first and second level directives of 537 small, medium and large enterprises. The results illustrate Colombian entrepreneurs' perceptions about bribery and the types of pressures they must endure. Some suggested actions to prevent bribery and the internal processes and relation with groups of interest are shown in the third section, as well as the practicability and applicability of the Business Principles for Countering Bribery according to the experience of those interviewed. The analysis of the results regarding the percentage of entrepreneurs who consider that business offer bribes as part of their professional activities, the most common forms of bribery, the factors affecting its use and the mechanisms to avoid bribery are found in the fourth and last section.

Corporate Social Responsibility (CSR)

Not only Public institutions, multilateral organisations, civil society, the media, academics, employees, consumers, unions, but also, the companies themselves recognize the new role that business must play in society during the 21st century. Currently, the concept of CSR is related to the commitment by businesses to high standards in labour relations, environment, human rights, transparency, fair competition, goods and services production and distribution, and even the influx in solving social and communitarian problems.

The neo-liberal approach

The neo-liberal theory argues that businesses should not aim to resolve social problems support since this is essentially a task of the state. Its most famous and notorious advocate was the Nobel Prize winner Milton Friedman who alleged that the companies' resources could only be used to achieve the business goal – increase utilities (Friedman 1970). The theory also affirmed that the Corporate Social Responsibility was a subversive concept that jeopardised business interests (Madsen 1990: 272) and those of society too, hence for the neo-liberals the search for individual wealth was the centre of social benefit because the forces of free trade (the invisible hand) would offer to most of the population the resources needed to have an adequate life. The rest, according to the model, could receive governmental assistance or charity from the part of citizens who are legal with the business rules..

The social role

Other theorists, from administration and management, argue that businesses have crucial social roles. For instance, Druker asserts: 'Organisations have the responsibility to look for attending the basic social problems related to their competence and that, certainly, could transform the social problems in opportunities for the same organisation' (Druker 1994: 112). Accordingly, maximising financial benefits creates opportunities for social needs such as employment, taxes, goods and services.

The moral dimension

A representative of this approach is Adela Cortina who argues that enterprises always have a moral dimension. Thus, Cortina argues: 'Business ethics would consist of the discovery and application of the values and norms shared by a pluralist society – values that develops civic ethics – to the peculiar environment of the companies' (Cortina 1998).

The stress on sustainable development

The CSR concept keeps developing and its foundation is trying to reach further. It is crucial that business keep producing economic resources that has an utilitarian function in society (Schvarstein, 2003: 68); still, it is important to fulfil their social role generating employment, paying taxes, and it is expected to display ethical behaviour where economic and moral considerations are balanced and committed to sustainable development.

Mr. Wolfensohn, as President of the World Bank, acknowledged that "even though, the CSR concept has been developing since the beginning of the sixties, there is not a unique or commonly accepted definition, and generally it is attributed to a series of policies and practices related to the relation between key social actors, values, fulfilling legal requirements; respecting people, communities and the environment; and the business commitment to contribute with sustainable development."

On the other hand, the World Business Council for Sustainable Development (WBCSD) defines CSR as "the corporate commitment to contribute with an economic sustainable development, working with the employees, their families, society and the local community to

improve their quality of life". It is worth to emphasise that this Council is composed by the 180 largest international enterprises of the world.

The green book of the European Commission suggests that CSR is the "Company's voluntary integration of the social and environmental concerns to their commercial operations and their stakeholders". Furthermore, the International Labour Organization (OIL) explains that the "CSR concept is a way of making business in which the companies look for an equilibrium between the need to achieve the economical, financial and development objectives and the social or environmental impact of their activities."

This focus, besides the evident evolution and the response to the social expectations of its time, implies a change of the enterprise competitive logic that until now has led business. This deep change requires that the companies search not only for the traditional financial and economical results, but also, at least for the balance of the social and environmental impacts generated by their operation.

After this analysis it is possible to argue that the present concept of CSR, even though it was born from the traditional business theories that only aimed for financial profitability, intends to integrate the enterprises' logic and the essential aspects of the expectations of the groups of interest and the sustainable development concept.

To reach this, a daily commitment is expected from the companies to, besides following the law, control their impact in social and environmental aspects related to the Human Rights, quality of life at work, commitment to values, business ethics and transparency, fulfilling promises to consumers, clients and business partners, with an activity that constantly may reduce their impact to the environment and if possible, may support vulnerable communities that are or are not within their influence area.

As identified above, one of the main responsibilities of the modern companies is the transparent handling of information and their finances; a shared obligation with the public sector and with civil society.

1.2 Transparency in Companies

According to David Nussbaum, Executive Director of Transparency International, "corruption is not a natural disaster, but a cold and calculated robbery of opportunities to men, women and children who are not capable of protecting themselves", the obligation to carry out their activities in a honest, dignifying and transparent manner is not only a task of the public institutions or their officers, but also the private sector is also responsible of the honour, integrity and virtue of its own acts.

The co-responsibility of the private sector in the fight against corruption, according to the First National Survey on Actions against Bribery in Companies that Operate in Colombia is based on the "conception that the citizens, men and women, not only demand that the State fulfils its obligations, but also that they acquire a series of rights vis-à-vis the administration of public goods manage and the regulation of shared benefits, having as premise the equality and justice values." (UEC, CTI 2008).

According to the 2007 Global Corruption Barometer of Transparency International, corruption affects poor families more, even in rich countries. Huguette Labelle, President of

the Anticorruption Group of Transparency International, affirms, “the survey shows that people believe that corruption is deeply rooted in their country”; her study demonstrates, among other results, that bribery has a higher presence in Central Europe, East Asia and Latin America.

In Colombia, according to the *Base-line Study of CSR* of the Colombian Centre on Corporate Responsibility, 31% of enterprises consider that corruption is the second biggest problem of the country and 66% sustain that they fight against it; 73% affirm they have made an ethic effort; 49% have included ethic criteria in the performance evaluation for directors and employees; 30% have channels to attend and report ethical issues and the 60% have acted to promote training on values for their employees. (CCRE, 2006).

However, according to Transparency Internationals’ Global Corruption Report – 2008, Colombia is ranked as the 56th country out of 159, four places higher than the year before, revealing the importance of identifying and establishing a mechanism to reduce this global problem.

1.2 The Business Principles for Countering Bribery

One of the most distinguished mechanisms in the world to counter bribery and corruption inside business is the so-called Business Principles for Countering Bribery, developed by an important team lead by Transparency International and Social Accountability International.

These principles have as an objective “To provide a framework for good business practices and risk management strategies to encounter bribery and assist business on eradicating bribery, evidencing their commitment to fight against bribery, making a positive contribution to improve the business standards on integrity, transparency and accountability wherever they operate” (Transparency Notebooks No. 15), through these two main principles:

- 1. Prohibiting bribery in all of its types, even direct or indirect; and*
- 2. The business commitment to implement a programme to counter corruption.*

All types of enterprises, no matter the size, sector or business objectives, may use these principles. They propose measures to fight against corruption and bribery in relation to the forms of bribery, internal processes and the different relations with their main interest groups. “The adoption of the Principles by the entrepreneurs demonstrates their commitment to counter bribery and to contribute positively to the improvement of the business standards on integrity, transparency and accountability” (Transparency Notebooks No. 15). As a result, three criteria are established in relation to the forms of bribery, internal processes and interest groups. Given the fact that these principles are implemented on a voluntary basis, the achievement verification should be performed by civil society in general and not a regulatory institution.

2. The Methodology

The study was done between June 2007 and July 2008 and it identified the actions taken by 537 companies that operate in Colombia to prevent bribery and corruption. The criteria used are the ones defined by Transparency International and Social Accountability International as

the “Business Principles to Counter Bribery”.

Particularly, it aims to recognize the perception of Colombian businessmen about corruption and the pressures they endure, the actions taken to prevent corruption and the practicability and applicability of those actions.

The target population of the study were small, medium and large companies in the country, distributed by size and regions, about 18,326 of a 19,728 total that form part of the real sector of the economy (primary, secondary and third sector), and that existed in 2005, according to the Superintendency of Societies.

The geographical area of the study includes the Colombian main cities: Bogota, Medellin, Cali, Bucaramanga, Ibague, Santa Marta, Villavicencio and Cucuta where 75% (13,802) of the companies defined as target group reside.

The descriptive and explanatory character of the study relied upon a stratified sample proportionate to the city and size of the company. 537 enterprises were selected from different sectors of the economy (industrial, commerce, services, agricultural and mining industry) with 95% probability of occurrence of the phenomenon and a 4,15% on margin of error.

The methodology used to collect the information was private interviews based on a written form filled out personally by the first and second level directives of the companies.

Amongst the limitations of the investigation, besides the technical and economical limitations of a nationwide study, the resistance of the businessmen to answer the survey was identified, meaning that it was impossible to achieve the results from the randomly selected companies.

Even though the results represent a significant number of companies stratified by city and size, technically, they cannot be applied to the entire universe of companies in the country. However, its descriptive and explanatory quality is valuable as it enables the characterization of the phenomenon under study as well as it represents the main features and tendencies about the theme and it is valuable as it is the base for generating new hypothesis and research questions about this vital theme for the development of the country.

The study describes the behaviour of 537 companies from which 84 are large enterprises (16%), 134 (25%) are medium and 319 (59%) are small. Distributed by sectors - 42% provide services, 31% are industrial, 25% commercial and 2% from the agricultural or mining industry. The companies are located in different cities: Bogota (65.2%), Cali (16.9%), Medellin (7.4%), Bucaramanga (3.5%), Ibague (2.6%), Villavicencio (2%), Santa Martha (1.5%) and Cucuta (0.7%).

3. The Results

3.1. Perceptions and Types of Pressure

91% of those polled consider that the Colombian businessmen offer any benefits as incentives to act dishonestly (such as bribes) which implies a break of trust during business dealings (definition given by the Colombian Penal Code).

73% of the 488 companies that are in favour of the affirmation “in Colombia there are businessmen that offer bribes within their business dealings” suggest that the most frequent option when deciding to act dishonestly is the payment to accelerate bureaucratic procedures. Additionally, the political contributions used to assign contracts, to influence public policies (52%) or gain individual benefits are recognized by the interviewed as common dishonest behaviour. On the other hand, 51% assert that the arrangements are used as an excuse to bribe. The above affirmations were the most frequent amongst the interviewed.

To explain the arguments of the use of bribery, the interviewed businessmen answered that the main motives to give or offer a bribe in business with the public sector are the complexity of the bureaucratic procedures with 62%, followed by 48% on pressures of public officers, the unfair competence 40%, the public sector inefficiency with 39% and the demand to achieve the sales goals with 19%.

Furthermore, between the main motives to offer and give bribes in business with the private sector, the interviewed businessmen consider firstly that it is an accepted behaviour of the market, secondly is used to compete and in third place, to form part of an strategic alliance.

3.2 Actions to Prevent Bribery

3.2.1 Actions to Oppose Forms of Bribery

In relation to the bureaucratic processes required by the public entities, more than half of the interviewed affirm that they reject paying commissions (57%) and that they are aware of the regular conduct to develop those processes (51%). Furthermore, 36% declare that they express, to their employees and third parties, their position of not giving bribes to accelerate processes and 12% say they know the processes with a higher risk of being used as a excuse to demand improper commissions.

In relation to the actions taken by the companies regarding political contributions, 65% reject the offering and payment of political contributions while 20% recognised making their political contributions public. The practices such as the prevention of conflict of interests, making accounting records of those contributions and the distribution of information to those who need it or the precaution of not having advantages over competitors, do not have the same significant frequency as none of them exceeds the 9%.

When giving donations, it was found that 23% of the companies interviewed do not expect a preferential treatment, in second place 21% register the donations on the financial records and in third and fourth place the actions to make public their rejection to make donations and the establishing of maximum limits with 20% and 18% respectively.

Concerning sponsorship, 30% of the companies require to perform preventive actions against bribery focused on the analysis and suitability of the capacity of the target organization, followed by 22% of companies that monitor the correct use of the funds and in third place, 18% that agree on the negative to sponsorships to influence bidding processes.

Finally, between the actions to prevent bribery related to giving or receiving gifts and/or representation expenses, it was found as some of the most commonly used actions of the companies that operate in Colombia, the establishing of maximum limits to gifts and/or

representation expenses with 34%, the assurance to avoid creating obligations when giving gifts with 33% and 28% that communicate publicly their opinion.

3.2.2 Actions Involving Internal Processes

Regarding the internal control and auditing, the polled companies affirmed that more than half, 51%, verify with accuracy the accounting registries, half - 50% - verify the payment authorization. With lower percentages auditing processes for the payments to third parties are identified (39%), the assurance of different interventions regarding the authorisation of payments (34%) and the implementation of auditing committees to supervise the internal controls (21%).

In the case of the communication channels, which are not commonly used by the businessmen that operate in Colombia, almost half of the interviewed (47%) do not have any channel at all. The 34% that have it guarantee the confidentiality of the report to allow the employees to seek orientation or to report the facts without any risks of retaliation; while, 20% counts with confidential communication channels where third parties may seek orientation or report bribery without any risks of retaliation.

On the subject of the activities to prevent bribery and corruption between the employees it was found that 36% of the interviewed businessmen sustain that they do not take any action, 31% make workshops about anti-bribery practices, 28% include anti-bribery commitments in the labour contracts and the 16% have follow up mechanisms carried out by the executive board.

Another internal process practice is to apply sanctions. 36% inform their employees of the sanctions imposed by the company for those who bribe and 36% affirm that they actually impose sanctions to those who bribe and 35% do not take any action.

3.2.3 Actions Related to Interest Groups

With regard to the businesses associates and strategic alliances, the study identified that 52% of the companies do not have any business associates, 23% assures that the associate business supports the rejection of bribery and improper behaviour; 19% verify beforehand the suitability, reputation and position regarding bribery of those companies that are interested in starting an association process, 18% include bribery as a cause for termination of the association contract.

Regarding the practices to fight against bribery in the branch and subsidiary offices, 55% of the interviewed businessmen answered that they do not have any of such offices, out of the other 45%, 20% make their rejection to bribery known to their branch and subsidiary offices, 18% assure that the branch offices are aligned with the rejection of bribery and improper behaviour, 10% establish sanctions for the branch and subsidiary offices in case they are involved in any bribery act and 10% inform them about the sanctions that may be applied in case they are involved in any bribery act.

Additionally, 61% of the interviewed businessmen answered that they consult the precedents and references to know the suitability of the contractors and suppliers, 34% assure that the buying processes are fair and transparent, 31% make known their anti-bribery policy. Also, 31% make permanent evaluations on the offers and 25% reserves the right to terminate

the contract if there is an offering or payment of any bribe by the contractors and suppliers.

With regard to procurement processes, the permanent evaluations of the received offers and the making public of anti-bribery policies are found in 40%, 32% and 32% respectively -in the case of the companies that make contacts with the State, while a 16% for those that do not have that relation.

Finally, with respect to the practices to fight against bribery in the relations with the sales representatives, 54% of the interviewed companies affirm that the commissions are proportionally to the services they give, 32% say they consult the precedents and references to corroborate the suitability and reputation of the representatives. In the same percentage, the companies make public their position regarding bribery to the sales representatives and 22% of the interviewed use bank accounts for the payment of commissions. 19% verify the alignment of the sales representatives on bribery and 18% have bribery as a cause to terminate the contract.

4. Analysis and Conclusions.

In the Colombian businesses studied group it is evident the perception that bribery occurs, much over, it is a common and accepted behaviour to make payments in order to accelerate bureaucratic processes. The political contributions are made to receive individual benefits and offering gifts is usual to generate corruption.

The interviewed companies consider that bribery is seen as a common practice in commercial relations that is made without any kind of limits just to acquire contracts. This suggests a low perception of transparency in the commercial relations in the country and proposes a deep reflection about another Colombian business culture.

Regarding the actions taken by the companies to prevent bribery, it was evident that most of the companies polled that operate in Colombia do not apply any type of criteria to prevent or diminish bribery in the aspects evaluated, which suggests a few interest and bad information from the businessmen about a transparency criteria for doing business. Also, this means low expectations and demands by the civil society on the private sector related to transparency in business and insufficient promotion of these values by the private sector and civil society that have an institutional mission to improve the societies performance in this theme.

In relation to the practices to prevent bribery and corruption in the internal processes is obvious that most of the companies interviewed do not implement any of those, although auditing and internal controls have been enhanced. This means that the companies polled are very sensitive to corruption and bribery procedures because of the lack of mechanisms to minimize the occurrence of these types of risks. This weakness is deducted because of the insufficient information given by the organizations interviewed and the low knowledge of the company's position on the matter.

On the other hand, the results of the actions of the companies to counter bribery in relation to interest groups evidenced that the companies have a very informal way of handling their relations with these groups with who they have strategic relations, which implies a high risk for corruption and bribery.

All the above ratify that there is still an important way to follow in the Colombian business sector, not only for the companies that operate in Colombia but also for the organisations that perform these types of practices. It was revealed that there is important to promote actions to reduce bribery. Business awareness in relation to the viability of implementing integral policies that allow the improvement of business performance is required to permit the fulfilling of the ethical aspects, the exercise of corporate social responsibility and a real contribution to human and social development.

Keywords: corporate social responsibility, transparency, bribery, corporate principles

References

- Centro Colombiano de Responsabilidad Empresarial. (2006) *Línea de Base sobre RSE en Colombia*, Bogota
- Corporación Transparencia por Colombia y Facultad de Administración de Empresas de la Universidad Externado de Colombia, (2008). *Cuadernos de Transparencia No 15, Primera Encuesta Nacional Sobre Prácticas Contra el Soborno en las Empresas que Operan en Colombia*, Bogotá
- Cortina, Adela (1998) *Ética de la empresa: claves para una nueva cultura empresarial*. Madrid, Trotta, third edition
- Drucker, Peter (1994) *La Sociedad Poscapitalista*. Bogotá, Norma
- Grayson, Hodges (2002) *Everybody's Business*. New York, DK Publishing Inc
- Kotler, Lee. (2005) *Corporate Social Responsibility*. New Jersey, John Wiley and Sons
- Madsen, P. and Shafritz, J. (1990) *Essentials of Business Ethics*. New York, Meridian Books
- Reinhard, Steurer, (2006) *Mapping Stakeholder Theory Anew: From the 'Stakeholder Theory of the Firm' to Three Perspectives on Business–Society Relations, Business Strategy and the Environment*, Bus. Strat. Env. 15, 55–69, im Wiley Inter Science
- Transparency International and Social Accountability International. (2003) *An essential tool for Business: Business Principles to encounter Bribery*.
- Friedman, Milton. (1970) Social Responsibility: A Subversive Doctrine. *The Sunday Times Magazine*. September.