

18 Business corruption: speak out or take part?

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A high level of corruption in a market implies that some firms will lose contracts because competitors offer bribes. An interesting question relates to the responses of the victimised firms: what is the reaction if a contract is lost because a competitor has offered a bribe? If firms were to react constructively to each other's bribery, the potential positive impact on the business climate would be significant. This suggests that multinationals may have a broader responsibility with respect to combating corruption than simply adopting a passive 'we-do-not-pay-bribes-ourselves' stance.

Adjustment to local business culture

The project's empirical basis was a 2004 business survey of Norwegian exporting firms.² The survey contained about 100 questions on corruption and was answered by 82 executives with extensive international experience. Focus on anti-corruption efforts in the business sector was strong in Norway prior to this survey, and many firms had adopted new codes of conduct specifically targeted at corruption-related challenges. The survey found a strong tendency among firms to 'adjust to the local business culture' if contracts were lost because competitors had offered bribes, meaning they too considered engaging in bribery. Indeed, one out of four respondents agreed with the statement 'corruption is part of the game'. Few firms, only 5 per cent of those responding to the survey, would leave a market because of corruption-related challenges.

Very few firms indicated they would take a proactive stance against corruption. When asked what they would typically do 'if you generally choose not to complain [about bribery], or if complaints [to the customer or to the tender authority] are ignored or rejected', only 13 per cent would report the case through formal appeal processes, or through informal or diplomatic channels. Overall, the firms polled were very reluctant to speak out, even if convinced they had lost business due to competitors' corruption-related practices.

So why do firms not formally complain about corruption or speak out in other ways about the problem? To explore this issue, the survey asked respondents to rank alternative explanations for keeping quiet. The following two explanations appeared most significant.

1 Tina Søreide is an economist at Chr. Michelsen Institute, Norway. This study is based on T. Søreide, 'Business Corruption: Incidents, Mechanisms and Consequences', PhD in economics at the Norwegian School of Economics and Business Administration, 2006.

2 T. Søreide, 'Corruption in International Business Transactions: The Perspective of Norwegian Firms' in S. Rose-Ackerman, ed., *International Handbook on the Economics of Corruption* (Cheltenham: Edward Elgar Publishing, 2006). The questionnaire applied in the survey-project is available on www.cmi.no.

i) Opportunity for cartel profits

'Concern about future business cooperation' was the most frequently cited explanation, given by 31% of the firms. 'Business cooperation' can be understood as either legal or illegal cooperation with other firms in the market. While it is understandable that legal cooperation is important in many industries, it is also possible that the potential for illegal collusion between firms can reinforce their incentives to remain silent. Firms will be careful not to offend their 'competitors' (i.e. cartel members or potential cartel members) by accusing them of involvement in corruption. Other possible responses to the question about 'keeping quiet' included concerns about customer reactions, sanctions from other firms and sanctions from the bribing company, but were less frequently chosen.

This speculation is supported by Figure 1, which presents estimates based on data from the World Bank Business Environment Survey. According to this data set there is a strong correlation between the function of anti-trust institutions in a given country and the firms' reported corruption-related challenges.³

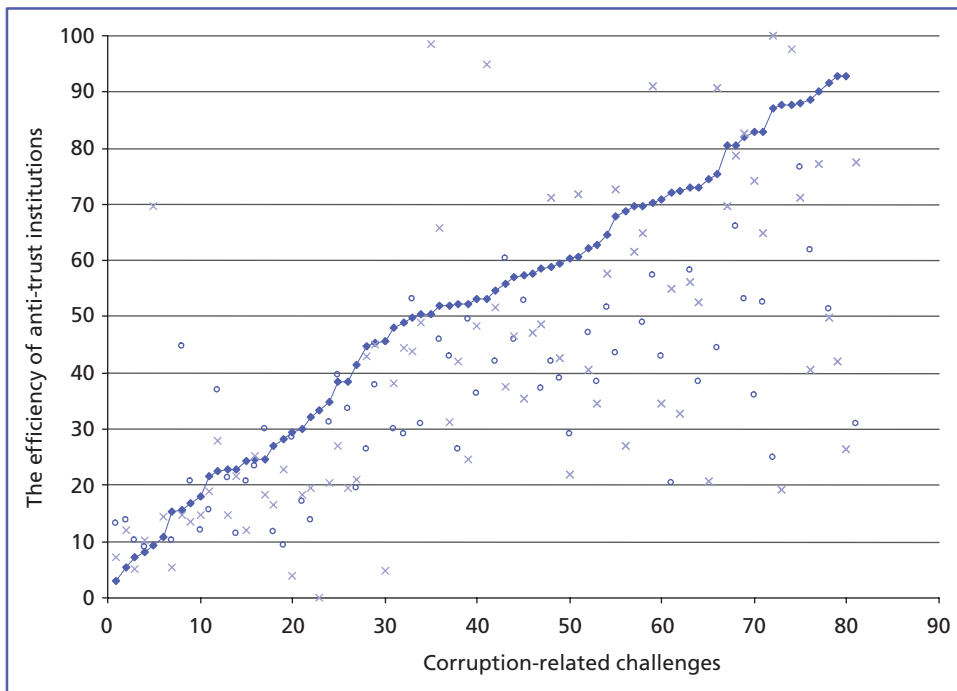


Figure 1: Percentages of business people in various countries who consider the level of corruption and the quality of domestic anti-trust policies, respectively, as obstacles to business. The line shows a clear correlation. The figure shows far weaker correlations between corruption-related challenges and i) the quality of the judiciary (shown as circles), and ii) the level of organised crime (shown as crosses)

³ G. Batra, D. Kaufmann and A. H. W. Stone, 'Investment Climate around the World: Voices of the Firms in the World Business Environment Survey', The World Bank/IBRD (2003). The correlation in Figure 1 is significant at the 1% level.

Apparently, there is more corruption in countries with weak anti-trust institutions. Firms will more frequently lose contracts because of corruption in countries where cartel profits are relatively easy to obtain. Therefore the firm’s decision on whether to blow the whistle on corruption might be weighted against its present and future opportunities in obtaining cartel profits. Where politicians or high-ranking civil servants are susceptible to corrupt activities, collusion among firms creates a higher financial potential for bribes to be made. At the same time, collusion presents an opportunity for government officials to demand bribes by means of extortion, since this form of secret collaboration on prices or quantities is usually illegal.

ii) Uncertainty about the legal status of the acts

‘Lack of proof’ was cited by 12 per cent of the Norwegian business respondents as a probable explanation for why firms may not speak out about corruption, while 15 per cent suggested ‘lack of knowledge about the legal status of the acts’. Even if convinced that a competitor had been favoured on an illegitimate basis, many firms would not react against it because of the difficulties of proving the case in a court.

Despite many legal improvements to fight corruption in the form of better definitions, international conventions and domestic legal reforms, it can still be difficult to tell the legal status of the acts in specific cases. Business corruption does not necessarily take the form of clear-cut bribery. As illustrated in Figure 2, there are many ‘grey zone’ practices that can be used to

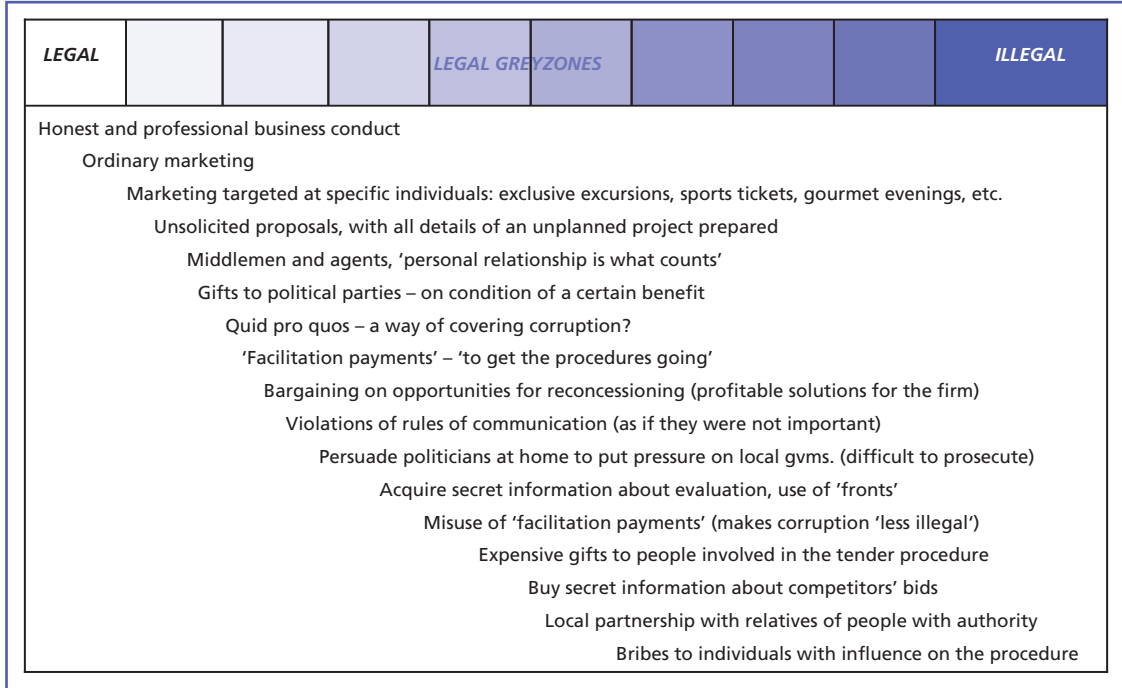


Figure 2: Influence on tender procedures – not necessarily corruption

hide clear-cut corruption and provide a firm with the benefit it needs to win a tender (for example, secret tender information or influence on the choice of technical solutions).

Policy implications

The business survey reveals very different reasons for firms' decisions to keep quiet when competitors make use of unethical business practices such as bribery. The potential for cartel profits and uncertainty about the legal status of the acts reflects different incentives and obstacles.

The role of competition authorities is critical in reducing the potential for cartel profits. Where the presence of an efficient competition authority makes cartel profits through illegal market power less accessible, firms are likely to have less tolerance for business corruption and will more likely speak out against it. Competition authorities' ability to identify accumulation of rents through market mechanisms, as well as political deviations from welfare-enhancing solutions for private markets, dissuades firms from taking part in corrupt acts and also reduces some of the barriers that may prevent firms from speaking out against corruption.

Improved competition reduces the need to determine the precise legal status of the acts: efficient regulation by competition authorities would mean that whatever the legal status of the act performed, contracts would still be awarded based on free and fair competition. Moreover, where proof of corruption is difficult, the firm seeking to speak out against unfair competition is likely to be better directed to alternative ways of confronting the problem if assisted by reliable and efficient competition authorities in the country of operation.