Gifts & Entertainment Policies 2012

A survey by the Health Care Compliance Association & the Society of Corporate Compliance and Ethics

June 2012

HCCA HEALTH CARE COMPLIANCE ASSOCIATION

SCCE SOCIETY OF CORPORATE COMPLIANCE AND ETHICS

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Executive Summary

During February and March of 2009 the Society of Corporate Compliance and Ethics (SCCE) and the Health Care Compliance Association (HCCA) jointly fielded a survey among the compliance community. The goal was to determine the level of acceptable business entertainment and gift giving.

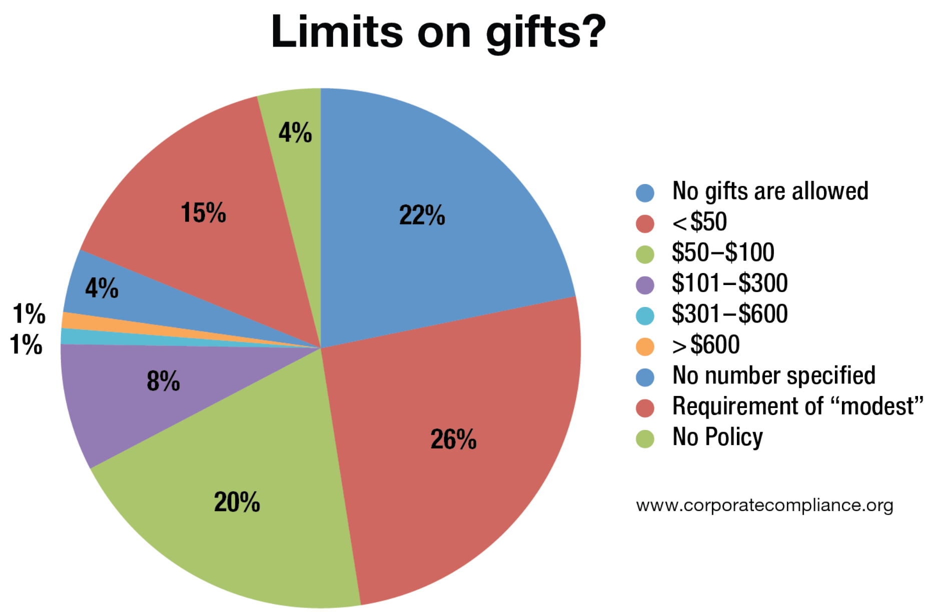
The 2009 survey revealed that, on the whole, business is fairly restrictive of the gifts employees can give and receive, as well as how they can entertain. About two-thirds (63%) either ban gifts to employees or require that they be modest or at a price less than $50.

To determine if gift-giving and entertainment policies had changed in the intervening three years, SCCE and HCCA fielded the research again in June 2012. The results showed a surprisingly unchanged picture, despite increased scrutiny of corporate behavior, Dodd-Frank, the UK Bribery Act, and ongoing FCPA enforcement.

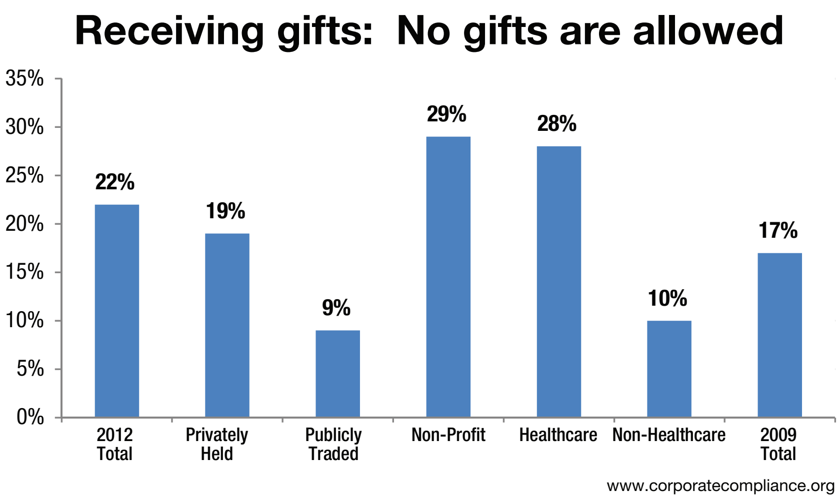
Most organizations have restrictive policies, with healthcare leading the way. In addition, non-profits were generally more restrictive than for profits, and publicly traded companies, interestingly, had the least restrictive policies.

Detailed Findings

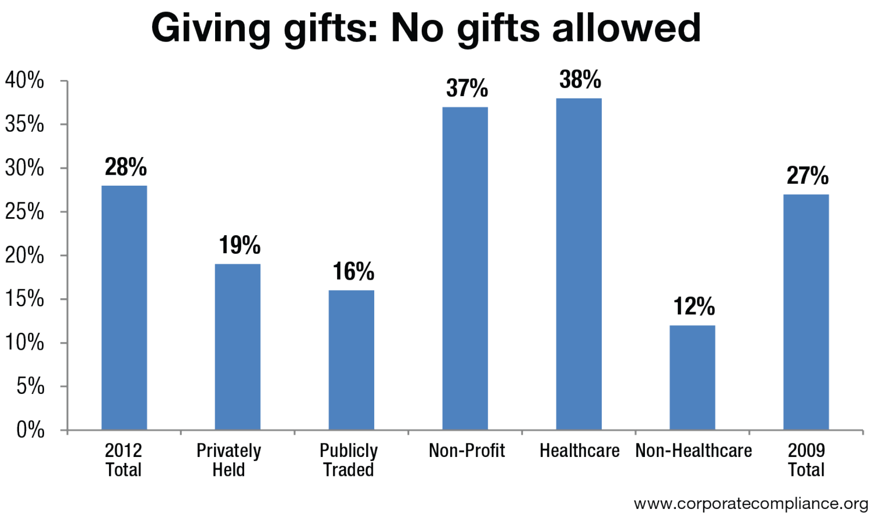
- **On the whole, survey respondents reported that their organizations are very restrictive in the gifts that they allow employees to receive.** A ban on receiving gifts was reported by 22% of survey respondents, an increase of six percentage points from 2009. Another 26% of companies set gift limits of less than $50, and an additional 15% reported that gifts must be "modest."



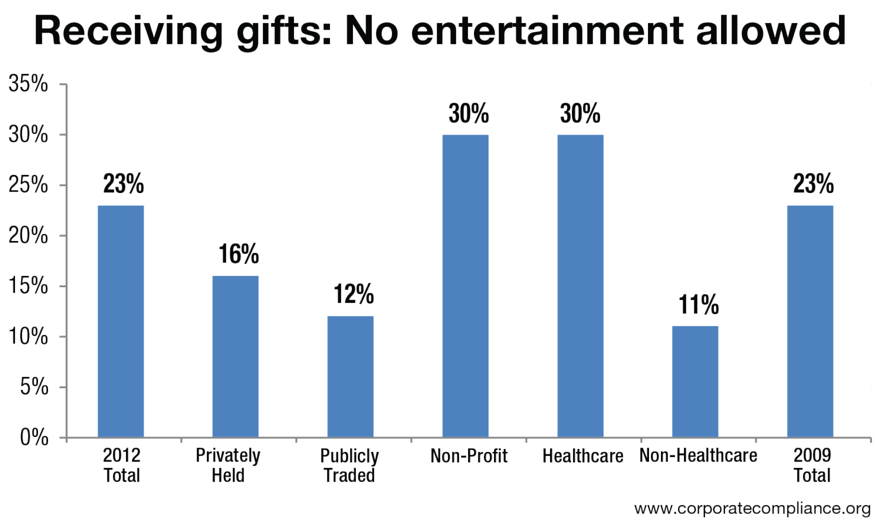
- o **Employer type did, though, affect the limits.** As noted, while 22% overall reported that employees in their organizations can't receive gifts, the number for publicly traded companies was much lower at 9%, while non-profits posted a higher than average 29%. Respondents from the healthcare industry were also more likely than respondents as a whole to report that receiving gifts is banned (28%) and, it should be noted, this number is up from the 20% figure recorded in 2009.



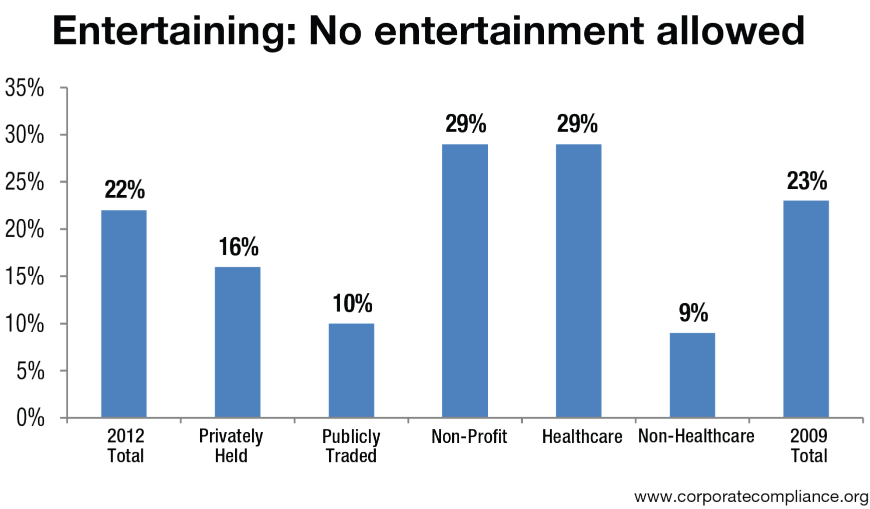
- **It is easier to receive a gift than to give one.** While 22% reported that they may not receive a gift, 28% reported that their company policy bans the giving of gifts. Once again, non-profits and healthcare were the most likely to ban the giving of gifts (37% each). Restrictions were looser for non-healthcare companies (12%) and publicly traded companies (16%).



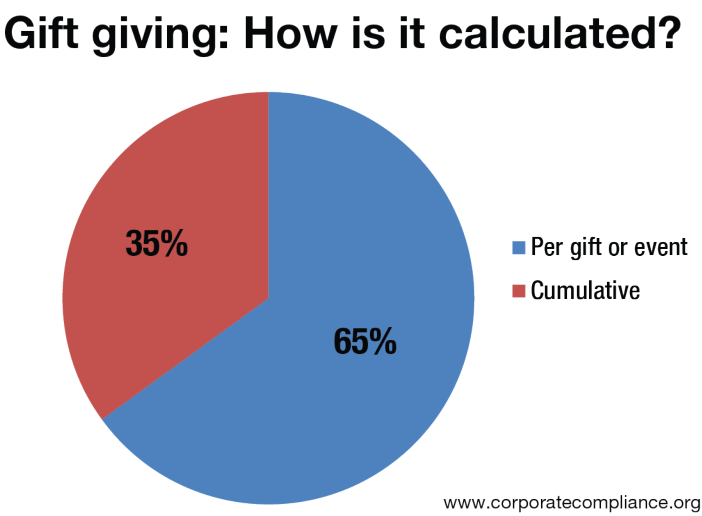
- **On the whole, restrictions on being entertained were similar to receiving gifts, but there was less precision in the definition of permissible entertainment.** Twenty-three percent (23%) of respondents reported that they are not allowed to be entertained. As before, the number was higher among non-profits (30%) and healthcare organizations (30%). Respondents who were allowed to accept entertainment were most likely to report policies calling for "modest" entertainment (32%) than a specific dollar figure. And, here again, the figures tended to skew to the lower side, with just 8% reporting that entertainment greater than $100 is explicitly permitted.



- **When it comes to entertaining customers and other outside parties, healthcare and the non-profit sector were again the most restrictive.** Overall, 22% reported that they were not allowed to entertain, but for privately held companies and publicly traded companies the numbers were much lower at 16% and 10%, respectively. Among respondents from publicly traded companies, 40% indicated that policies required modest entertainment (up from just 25% in 2009), but 14% allowed entertainment of $101 or more, and 7% reported their employer allowed entertainment of more than $300.



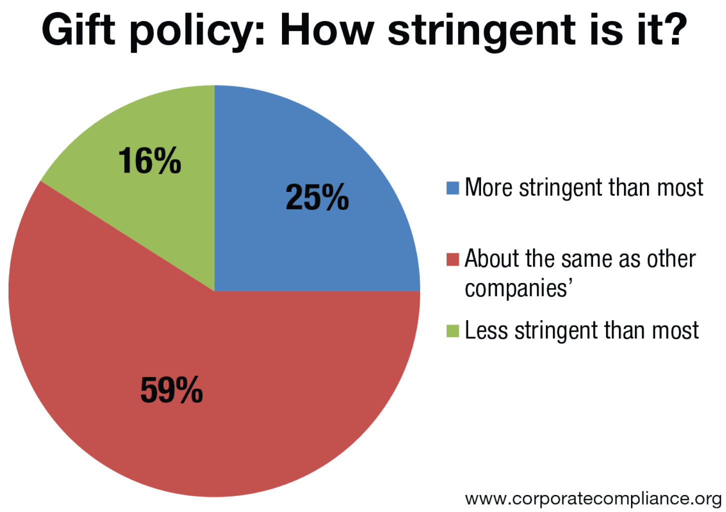
- **Across the board, gift giving tends to be calculated on a per gift or event basis.** Overall, 65% used this basis for calculating gifts, virtually unchanged from 2009. Publicly traded companies were much more likely to do so (73%) than other organizations. Healthcare was slightly less likely (59%) than other industries to calculate on a per-gift basis.



- **Adult entertainment remains off limits for most respondents.** Strip clubs and similar venues were reported banned explicitly by 68% of respondents. Perhaps most remarkable, 1% reported that adult entertainment is explicitly permitted.

- **Companies are keeping their policies fairly constant.** More than a quarter (27%) report that their policies have not changed within the last three years, and another 28% report that policies have not changed for at least a year.

o **Respondents were more likely in 2012 to think their policies were as stringent as other companies'.** Fifty-nine percent (59%) of respondents thought their policies were about the same as other companies, compared to 52% in 2009. Interestingly, 64% of publicly traded companies' employees even held this belief.



Conclusions/Implications

- **Despite the passage of Dodd-Frank, increased FCPA enforcement, and the commercial bribery provisions of the UK Bribery Act, organizations do not appear to be rushing to tighten up their policies on entertainment and gifts.** Most likely feel that the restrictions are already low enough—and on paper it does appear that many organizations are very restrictive—or that previous revisions were sufficient. However, as scrutiny increases, organizations may need to revisit their policies sooner rather than later.

- **Difficulties in selling high-end Olympics tickets may be due to tighter-than-anticipated corporate entertainment policies.** May 2012 press reports indicated that as many as 20% of the corporate hospitality seats remained unsold. Economic difficulties likely play a role. But the data indicates that expensive Olympic tickets, and luxury suites, may run afoul of many corporate guidelines.

- **It's striking how much less restrictive are the policies of publicly traded companies.** Despite increased scrutiny from all corners on the entertainment policies and financial integrity of public companies, policies tend to be looser than they are elsewhere.

- **Calculating gift and entertainment limits on a per event basis, although popular, may prove risky for business.** While each business lunch or gift may be relatively modest, over the course of a year or longer, the total value may prove to be considerable and catch the attention of regulators, shareholders, and others.

Methodology

The research was conducted during June 2012. Responses were solicited from contacts in the database of the Health Care Compliance Association and Society of Corporate Compliance and Ethics. More than 500 responses were collected using Zoomerang, a web-based, third-party survey provider.