



# How to Market and Deal with Company Issues under the New Environment

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## New Environment with Enactment of the Anti-Graft Law

	BEFORE	AFTER
<b>Applicable Laws</b>	Criminal Code + other relevant laws	+ <b>Anti-Graft Law</b>
<b>Application</b>	-Public Officials/Deemed Public Officials	+ <b>Includes employees of private schools and media companies</b>
<b>Improper Solicitation</b>	Coupled with exchange of monetary interest	<b>Improper solicitation itself is prohibited</b>
<b>Provision of Financial Advantage</b>	In relation to the duties + In return for favor	<b>Provision of financial advantage itself is prohibited</b> (depending on amount)
<b>Corporate Liability</b>	Company is not held liable	Company <b>may be held vicariously liable</b>

※ Potential ramifications from the global business perspective

## Types of improper solicitation

- Processing of license/permit
- Reduction/wavier of administrative dispositions/criminal punishment
- Intervening in the personnel management (e.g., hiring, promotion)
- Intervening in the selection/rejection of a position with decision making authority at a public institution
- Intervening in the selection/rejection of award/prize of a public institution
- Disclosure of duty-related confidential information on a bidding/auction
- Intervening in the selection/rejection of a specific party to a contract
- Intervening in the allocation/grant/investment of a subsidy
- Abnormal transaction of good and/or services produced/supplied by a public institution
- Processing/manipulation of admission and/or grade at a school
- Processing of matters related to military services (e.g., physical examination for conscripts)
- Intervening in evaluation/assessment performed by a public institution
- Selection/rejection of a subject of administrative guidance/inspection, or ignoring a discovered violation
- Processing of an investigation and/or trial of a case

*No punishment stipulated for direct improper solicitation.*

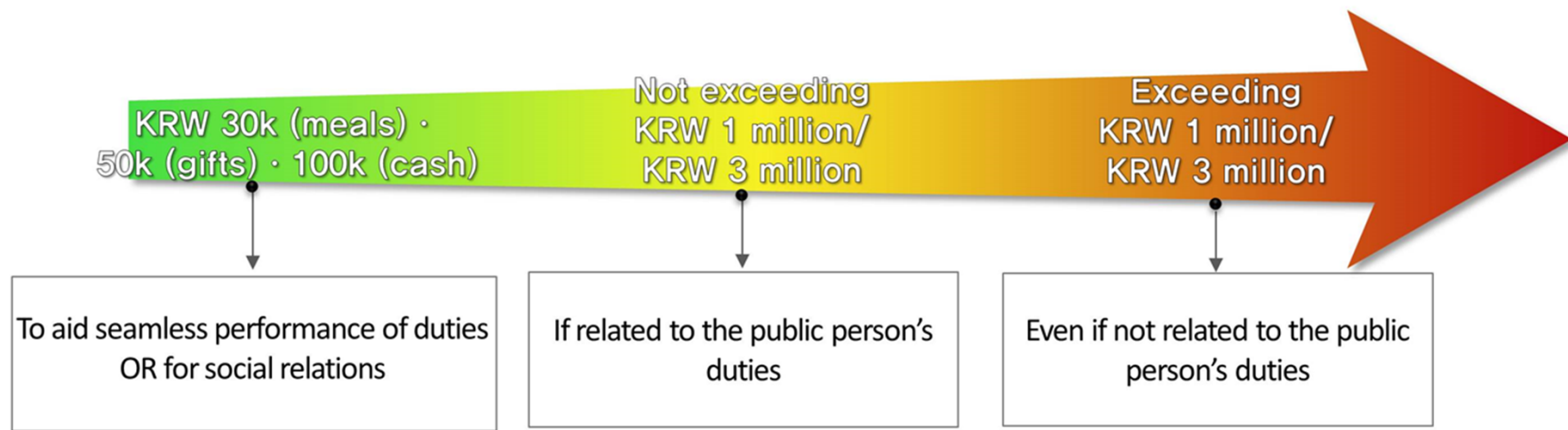


*In violation of laws*

*or*

*Abuse of authority*

# Monetary Limitation and Duty Relations



- ACRC: Narrow construction of exceptions
  - ✓ If it is “directly” related to the public person’s duties (e.g. a specific pending issue), then the exception would not apply.
  - ✓ Rice cake worth KRW 45,000?
- Special Joint TF: ACRC + Ministry of Justice + MOLEG



### PR companies and Agents?

#### Practical Tips

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- **Proportionate DD**
- **Insert Compliance Provisions in the Contracts**
- **Regular Monitoring and Audits**
- **Appropriate Level of Payment**



### Media day and events for launching of a new product?

#### Practical Tips

- Exceeding KRW 1 million is not permitted
  - Sponsoring overseas events would not be permissible
- Official Event Exception?
  - Contents/purposes of the event
  - Openness of invitation
  - Reasonable costs
- Domestic events with light refreshments recommended



### Advertisement sponsorship?

#### Practical Tips

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- **Sponsorship in return for valid consideration permitted**
  - Procedural requirements
  - Actual consideration
- **Purchasing advertising permissible**
- **Sponsoring events may be permissible**
- **“Purchasing” articles not permissible**



### Gift to school teachers?

#### Practical Tips

- **Donation to schools/institutions may be permissible**
  - As permitted by other laws
  - “Sponsorship” or fundraising activities may not be permissible
- **Direct gift to teachers not permitted**
  - Sharing teacher’s expenses of overseas trips may not be permissible
- **Pizza parties for a class may be permissible**



### ➤ Exemption of Vicarious Liability

❖ Exercised **due attention** and **supervision** to **prevent violations**

→ Update Compliance Policy

→ Conduct Training

→ Designing/Implementing Monitoring System

※ ***One size fits all approach to compliance program would not be sufficient!***

- **Violation of the Anti-Graft Law vs. FCPA Violation**
- **Red Flags and Internal Investigation**
- **Books & Records Provision**
- **Potential Debarment**

# Thank You

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