Commercial Bribery: A Unified Approach?

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Finding the most suitable remedy for a simple commercial bribe promptly lands the inquiry in an amorphous grey area. The overlapping policies of compensation, deterrence, and punishment immediately compete for attention. Returning the bribe may be damages or restitution, a distinction that makes a difference. Pure punishment points the compass at punitive damages. Recovery from the bribe giver adds the possibility of duplication. If one or more of the defendants have other creditors, the distinction between legal and equitable restitution takes center stage.

The quest for a unified approach to the commercial bribery conundrum, even among the common law jurisdictions, begins by discovering persuasive authority from other jurisdictions to fill gaps in positive law. Some, differences, for example in punitive damages or equitable restitution, frustrate complete unification. Domestic statutes cannot be exported.

My modest effort will develop the foregoing points. I urge readers to advance this project by suggesting areas of research, domestic or otherwise, that I have not unearthed.