

# Example of case study on legal and ethical considerations

[Business](#), [Company](#)



## **PharmaCare – Assignment 3**

### Introduction

The aim of this research study is to evaluate the ethical issues related to the marketing and advertisement, intellectual property, and regulations of product safety. Drug companies have been consistently using direct-to-customers approach for marketing of their products. This aspect is also taken into consideration in the research study. In addition, this study extends to find information regarding the current regulatory scheme along with what should have been done by FDA to overcome the issues. The approaches used by PharmaCare to protect its intellectual property in US are also studied in detail within this study. This has provided significant insights regarding the actions that are compulsory for the company to compensate the people and the nation for the damage done to the environment. The information has also helped in evaluating the PharmaCare in depth. In the end, recommendations have been provided to ensure that the company can live up to its brand values while being ethical in the forthcoming years.

### **PharmaCare**

PharmaCare is a dominant pharmaceutical company. The company aims to enhance the quality of living through its high-quality products. Being a highly responsible company, PharmaCare provides the low income customers with free and discounted drugs while sponsoring healthcare educational programs along with scholarship. In addition, PharmaCare recently initiated a program for the protection and sustainability of the environment. The initiated program encompassed recycling, packing changes and other green

initiatives aimed towards the improvement in the environment along with the quality of peoples' lives.

## **Ethical Issues**

Despite being an internationally recognized drug company, PharmaCare had to face certain ethical issues. Some of the prominent ethical issues that were faced by PharmaCare are as follows;

### **- Marketing and Advertisement**

The marketing and advertisement of products directly to the individuals in the market was the dominant ethical issue for PharmaCare. Even though, the compounding pharmacies were not allowed to market the availability of their products to the consumers along with hospitals, clinics, physician offices but PharmaCare breached all the rules and regulation for short-term profit maximization.

PharmaCare's subsidiary (i. e. CompCare) was consistently involved in the promotion of brand and its products by encouraging the doctors to use bogus patient names for attracting the customers in the market to cover-up their fraud and violation of policies.

### **- Regulations of Product Safety**

The safety of the products at PharmaCare as well as CompCare was consistently ignored by the top management. The organization was provided with surprisingly outstanding profits due to which CompCare consistently ignored precautions to ensure product safety. This eventually led to the increase in heart attack of the people that received AD23.

## **Direct-to-Consumers (DTC) by Drug Companies**

Direct-to-Consumer Drug Advertisement (DTCPA) can be defined as an act through which the pharmaceutical companies promote their products directly to the consumers. With the passage of time, DTCPA has become an integral part of the society. Although, DTCPA has been a publicly hated issue among critics, physicians and patients, but this deleterious factor has been playing an essential role in raising the quality of healthcare. DTCPA has played an essential role in improving the quality of healthcare by providing the patients with credible information regarding the drugs which acts a motivation factor for the individuals to pursue their dreams by remaining active through the information provided (Ventola, 2011).

This clearly reflects that DTCPA aims to educate the people regarding the drugs available in the market that can help them to live a healthy life while forcing the doctors to remain updates in their fields. The credible information at the doorstep of people has eventually empowered them to take charge of their health. One of the dominant sources of information is the internet. Due to all the information provided, the individuals have significantly enhanced their interaction with their consultants or physicians to talk about conditions that were not discussed in prior years. The awareness among the people has significantly been promoting dialogue between the patients and the doctors. As a result of such frequent communication among the patients and the doctors, the relationship between the doctor-patient is significantly strengthened. This reflects that DTCPA encourages the patients to seek advice from their doctors as they are the most preferred and trusted source of information. DTCPA focuses on exposing the patients with all the essential

information regarding the importance of timely intake of prescribed drugs. This reinforcement of physician recommendation through DTCPA motivates the patients to follow the instructions. This eventually reflects that DTCPA not only provides the patients with essential information but also plays an integral role in enhancing the compliance rate (Davis, 2007).

Although, DTCPA also plays a negative role in the society but the strengths and positives clearly outclass the weaknesses and negatives. This reflects that DTCPA is a driving force that encourages compliance and effective communication among the doctors and the patients.

## **Regulation of Compounding Pharmacies**

The regulation of compounding pharmacies has been a controversial issue for some decades. State boards of pharmacy basically control and regulate the compounding pharmacies, but federal legislations also play an essential role in this process. Since 1938, Food and Drug Administration has remained the dominant force to regulate the manufacturing of drugs, but the compounding pharmacies is one of the dimensions that is consistently ignored due to the state and federal oversight (News Medical, 2013).

Particularly in Colberia, the FDA can play an essential role in the regulation of compounding pharmacies. In Colberia's case, the workers are constantly working on low pay scale (i. e. \$1. 00 for a day) while the unequal quality of living between the workers and the PharmaCare's executive can be clearly witnessed. In addition, the rise of production and working-hours also requires immediate FDA's attention. As a result of increase production and working-hours, the working environment along with the safety of the employees is

consistently put at stake (News Medical, 2013).

In addition, the enforcement powers will also ensure that the compounding pharmacies are registered with the FDA as drug manufacturers. This will essentially help in restricting the compounding pharmacies to market their product before testing and approval. As a result, all the adverse events within the compounding pharmacies would be reported to the FDA which will eventually provide the FDA to take strict actions against the violation of rules and regulations (Outterson, 2012).

### **Use of Colberian Intellectual Property**

The Colberian Intellectual Property that is consistently used by PharmaCare includes the ' healers' that have provided the organization with information regarding the indigenous cures. PharmaCare's use of Colberian intellectual property can be judged under the following dimensions;

#### **- Utilitarianism**

Under utilitarianism's perspective, the use of Colberian intellectual property by PharmaCare will be considered to be ethical. The company aims to provide the people with products (drugs) that can help in improving their quality of life (i. e. greater good for the greatest number of people) the intellectual property will be considered to be ethical.

The use of healers' information can be used for the cure of variety of people due to which it will be considered to be ethical.

#### **- Deontology**

This ethical theory is based on the morality of an action. This theory reflects that the intellectual property used by PharmaCare is provided by the healers

themselves. This means that the actions of the company are ethical as the information is provided on mutual consideration.

#### - Virtue Ethics

Under the ethical theory of virtue ethics, the focus remains on the action carried out by a person regardless of the ethical duties and rules. Under this ethical theory, the use of Colberia's intellectual property will be considered as unethical because obtaining critical information from others is wrong.

#### - Ethics of Care

Under this theory, the use of Colberian Intellectual Property by PharmaCare will be unethical. The reason would be that the organization aims to enhance its profit ratios to significant level while ignoring the facts due to which the information was essentially provided to PharmaCare i. e. to save billions of lives from diseases.

#### - Personal Ethical Compass

Under personal ethical compass, I believe that the information that is gained from the healers is being used for the purpose of profit maximization rather than providing the people with drugs that can save their lives. Under this impression, I believe that it is an unethical act that must be stopped immediately.

## **Protection of Intellectual Property in U. S**

The Colberia's intellectual property can be protected in US through variety of laws and regulations. In particular, organizations in U. S are provided with safeguard in terms of practices and procedures to protect the assets from falling into the hands of the competitors.

The innovative idea that is going to be introduced in the U. S can be protected through patents. Through patents, PharmaCare will have the exclusive right for the production and selling of the product within US during the life of the patent. In addition, the patents will restrict other organizations from making, using or selling of PharmaCare's innovative idea in the U. S.

## **Compensating the People and Nation of Colberia**

- Consistent Support for ' Healers'

- Forestation to Preserve Natural Habitats

The extensive activities of the PharmaCare's executives (i. e. luxury compound, swimming pools, tennis court, and a gold course) have gradually resulted in the deforestation of the natural habitat. The deforestation in Colberia has resulted in the loss of natural habitat of the endangered native species. PharmaCare should initiate plans to enhance the forestation. This will helps in the preservation of natural habitat. In addition, the company will be provided with an opportunity to enhance its image in the eyes of the native people.

- Improving the Standards of Living in Colberia

The provision of resources has significantly allowed PharmaCare to enhance its profits off-the-charts. Being a socially responsible company, the organization should provide some incentives to the people of Colberia. PharmaCare has already developed plans for recycling and other green initiatives but there are no programs for the improvement of standards of living. PharmaCare along with its wholly-owned subsidiary CompCare should work towards the improvement of living standards. This can be done by



providing the labor with sufficient wage along with sufficient working environment in the laboratory.

### **Example of Real-World Company (Apple in China – Foxconn)**

America's technologically leading giant (i. e. Apple) has been charged with the same ethical and working issues like PharmaCare. In China, Apple is consistently blamed for the violation of labor laws and working conditions in Foxconn. The allegations against Apple are quite severe as the employees were forced to work 11-hours day along with excessive overtime. As a result of such drastic working environment, 11 of the employees at Foxconn committed suicide (Hickman, 2012; Tsukayama, 2013).

This example is quite similar to PharmaCare where the employees are consistently forced to work at low pay scale in unhealthy working environment.

### **Success of PharmaCare in Suits against the Companies**

With the help of patents, PharmaCare will eventually have superiority over the competitors in the market. Despite the suits against PharmaCare, the patents will provide the organization with protection which will significantly enhance the success of PharmaCare.

During the time of patents, the larger organizations will be restricted to take advantage of the innovative ideas of PharmaCare and will eventually put the larger organizations into trouble due to the patent protection. This reflects that the ratio of success will be significantly higher for PharmaCare regardless of how large or strongly PharmaCare is charged.

## **PharmaCare Living up to its Brand**

PharmaCare is an internationally recognized organization that aims to provide the world with drugs to promote healthy living but the actions and the management decisions clearly reflect that the organization is only concerned with its profit while ignoring several factors for its personal benefit. For instance, the working environment provided to the employees in Colberia resulted in the rise of sick leaves and absenteeism which eventually resulted in missing production schedules from time to time. In addition, the misuse of individuals within Colberia (i. e. paying the employees with \$1. 00 for a day) clearly reflects that all the environmental development plans were to enhance PharmaCare's sales and revenues. Furthermore, the creation of CompCare was mainly to avoid the FDA scrutiny, while consistently disobeying the federal laws and regulations for personal gains. For instance, selling drugs directly to the consumers, hospitals, clinics and physician offices by compounding pharmacies is considered illegal. Lastly, the encouragement provided by CompCare to doctors to fax lists of bogus patient names is another form of violation of federal laws and regulations.

## **Recommendations for PharmaCare for Being Ethical**

With the passage of time, PharmaCare has lost its spark along with the ability to live up to its brand due to the frequent violation of federal laws and regulations. For PharmaCare to become an ethical company once again, it must take the following recommendations into consideration;

- The organization should accept its unethical actions in front of the local and international consumers. In addition, the organization should promise

effective and immediate attention towards the unethical acts. This will allow the organization to eliminate all the unethical acts to live up to the expectation of the consumers effectively.

- PharmaCare must ensure effective and immediate actions towards the working environment for the employees along with equitable wage rate. This will allow the organization to eliminate all the allegations and will eventually provide the organization with an opportunity to enhance its performance while frequently meeting the production schedules.

- The organization should work towards the environmental sustainability and protection not for personal benefits but for the society and the community in which it operates. This will eventually help the organization to be recognized as a socially responsible organization rather than profit-oriented organization.

## **Conclusion**

Simply put, PharmaCare has consistently been using the intellectual property of Colberia for its personal advantage while ignoring the people and community living in Colberia. The unethical acts of the company have not just been limited to the usage of intellectual property but far extends to the violation of FDA rules and regulations.

With the passage of time, PharmaCare lost its edge to live up to its brand due to the severe working condition provided to the employees. To overcome such issues, PharmaCare should focus on providing the employees with safe and healthy working environment to ensure that the health of employees is provided with utmost importance rather than any other factor.

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