Plavix case study

Education

Thiscase studyillustrates the conflict between patent protection and preserving a pure competitive market. Pharmaceutical companies are granted patent rights to newly developed drugs for a limited amount of time. Through legal means they are able to form monopolies and maximize their profits. a parent company can move to delay the release of its generic comparison through legal and illegal measures. In the following case Bristol-Myers Squibb fell victim to their own anti-competitive practices. Why did Bristol-Myers Squibb and Sanofi-Aventis seek a settlement?

Apotex had was near the conclusion of the government mandated 30 month stay brought on by Bristol-Myers Squibb to delay them from releasing their generic form of Plavix(Chen, 2011). Bristol-Myers Squibb chose to settle rather than litigate for fear of likely losing any patent litigation. Buying out Apotex which was the only other producer of the drug would preserve their monopoly and profit margin. Bristol-Myers Squibb had already had a long history of manipulative practices and had delayed other drugs from entering the market similarly, excessive 30 month stays (FTC, 2003).

They had been taking advantage of a loophole in the Therapeutic Equivalence Evaluations system known as the Orange Book (FTC, 2003). Litigation would bring further attention to the practices within the pharmaceutical industry and encourage government intervention. Bristol-Myers Squibb and Sanofi-Aventis prevents Apotex from launching generic drug. Pharmaceutical companies are well within their rights to push for extensions on their patents (Baron, 2010). Bristol-Myers Squibb however did not take a legal approach to this.

They should not have attempted to pay Apotex 40-60 million dollars to prevent them from launching their generic drug. The Federal Trade Commission must approve of any such agreement to ensure that it does not violate anti-trust laws. Their attempted agreement was collusion. Their attempt to limit the production of Apotex was illegal and therefore rejected by governing bodies. Sherman's strategy Bristol-Myers Squibb's deceptive practices were likely to catch up to them. This occurred when they crossed paths with Sherman who led Apotex at the time.

After everything settled Sherman acknowledged in aninterviewthat he knew the FTC would reject the proposed agreements made by Bristol-Myers Squibb and Sanofi. He also recognized that their spokesman didn't realize his offer would cause adverse action against Bristol-Myers Squibb (Baron, 2010). He played to their ignorance and entered the agreement. There is no direct answer to the ethics of Sherman's strategy. He did not actively participate or even condone Brisol-Myers Squibb's collusion; in fact he knew the agreement would be rejected.

There is no way of truly knowing whether Sherman acted with malice when implementing his strategy. Should the FTC and the state attorneys general have rejected the agreements? The FTC and state attorney was right in rejecting Brisol-Myers Squibb's proposed agreements on the grounds that it is an anti-competitive practice. The second agreement would have been rejected as well provided Bristol-Myers Squibb was completely honest with the FTC. Upon submission of the second agreement to the department of justice they affirmed under oath that all agreements were as listed on the document with no side arrangements (Chen, 2011).

After the initiation of an investigation conducted by the Federal Bureau of Investigations Bristol-Myers Squibb plead guilty to two counts of fraud. Did Bristol-Myers Squibb likely violate the deferred prosecution agreement? Bristol-Myers Squib's board of directors were not going to allow their organization to violate the deferred prosecution agreement. A corporation in its position must remain clean and ethical to rebuild especially while under the supervision of government assigned federal monitor Frederick Lacy. The firing of CEO Peter Dolan was a sign that Bristol-Myers Squibb was trying to recover.

References

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