Current Ethical Issue in Business

Team A- Anna Kolesova, Douglas Hutcheson, Lanette Davis, Sakeitha Sloan, & Terri Bolger

PHL/323

April 28, 2014

Instructor:  VICKIE SIMS

**Introduction**

Ethics plays a major role in the business world. A common occurrence that is deemed unethical in business is the practice of fraud. TAP Pharmaceutical Products pled guilty to committing fraud, resulting in major fines for the company. Many people were affected in this act of fraud, including patients, doctors, TAP employees, and the Medicare system.

**Ethical issue and what it came about**

Fraud is one of the ethical issues that managers have to deal with daily and figure out ways to help the company to avoid fraud and keep the employees honest. “Since the passage of Sarbanes-Oxley, hundreds of corporate fraud cases have been brought to trial” (Taylor, 2001, p. 339). TAP Pharmaceutical products have experienced such fraud and ended up with a lawsuit. In 1995, Douglas Durand took over TAP as a vice president and has noticed something odd about the company and the way it was doing business, “he began to suspect the company was conspiring with doctors to overcharge the federal government’s Medicare program by tens of millions of dollars.” (Weinberg, n.d.) Durand never fixed the issue but instead spend several months gathering evidence and in 1996, he quit after which he has filed a secret lawsuit against TAP.

**Basis of the issue**

TAP was offering kickbacks to doctors for prescribing Lupron. The kickbacks that the doctors would get are trips, resorts, medical equipment and even money. Lupron is a drug that is used for prostate cancer, endometriosis, uterine fibrosis, and precocious puberty. TAP has not done their prior research due to the advertising of the product and therefore was not aware of the fact that the negative side effects of Lupron are extremely high and very dangerous. When they were offering the doctors free samples of Lupron and at times they would charge a lost cost, while doctors would ask for full pay of this drug from Medicare. “In the biggest healthcare fraud settlement in U.S. history, TAP Pharmaceutical Products, Lake Forest, Ill., last week agreed to plead guilty to criminal violations of the Prescription Drug Marketing Act and pay a total of $875 million-$290 million in criminal fines and $585 million in civil penalties-to settle various allegations”(Taylor, 2001).

Money is always an incentive for committing such unethical crimes and in TAP’s case, not only were they taking advantage of the fact that Medicare doesn’t cover a lot, but it does cover prescription drugs but also the older individuals who were pressured into buying the product. TAP employees and managers have worked on working with the doctor’s offices to pursue them into offering Lupton to their patients.

**TAP Pharmaceuticals, ground rules**

In contrast, from many ethical pharmaceutical corporations, TAP pharmaceuticals had a strong emphasis placed on making a profit, no matter the cost. This organization had a stake in profits, rather than ethics. TAP pharmaceutical employees began to offer physicians the option to charge an administration fee for the office staff’s physical administration of the injectable drug to the patient. The company provided their medication free, encouraging the physicians to provide and administer the drug, and charge Medicare for the medication and for the for the physical administration service.

The ground rules manifesting the situation included the TAP pharmaceutical climate had already taken hold in accepting unethical practices and no one was about to take an ethical stance, for fear of being ostracized. Under the “whistle-blowing” program, investigation began and the conclusion was that TAP pled guilty to conspiracy against the federal government paying $875 million in fines. This was the most expensive health care fraud case and settlement in U.S. history. Government officials accused those that instigated the practice in enticing physicians in many ways, including televisions and vacation get-a ways (Taylor, 2001). The case hinged on whether the drug samples or any of the gifts were construed as an effort to encourage the physicians to prescribe Lupron, rather than their competitor that was $100 least expensive.

**Ethical Systems**

The ethical systems that were at work in this scenario are questionable, although could possibly be included in the Relativistic ethics system, also known as the moral relativistic system. This system addresses a personal approach to ethical systems. Each individual has a different approach or outlook on the situation, depending on his or her own judgment. This system supports that there may not be absolute rights and wrongs when evaluating certain situations and they may evolve over time. The president of Takeda International and five other employees were charged in conspiring to cheat Medicare in the final ruling.

**Organizational leadership**

The organizational leadership came into play from Durand’s 20 year work experience with Merck & Co. TAP offered Durand 40% more per year along with a 50,000 dollar sign on bonus. Durand was the man that would bring TAP from niche to mass market purveyor. Durand was a man who liked a challenge and did not refuse the opportunity to try.

Durand had very strict ethical values and the employees at TAP did not. The employees at TAP were aware that the urologists were being bribed because it was being discussed openly. The reps weren’t accounting for the free samples they were giving away and were aware of the liabilities for conducting business this way. Durand’s attempted to give the reps bonuses to keep accurate records which was soon stopped my senior management. The reps stopped keeping track.

The senior management had a main role in bribing the doctors. Durand attempted to make the situation right but once the reps stopped keeping track Durand was then excluded from meetings and felt trapped. He worried about his legal consequences for just having the knowledge of what was taking place. Durand was hired as the vice president and every time he attempted to make changes he was given resistance. This was not resolving the issue it was the attempt to quiet Durand from doing the job correctly, ethically and legally.

**An unethical culture in need of change- TAP Pharmaceuticals**

Businesses are required to conduct their operations while adhering to ethical standards. For example, they should not overprice their products or sale low quality products at high prices. At the same time, businesses are required to provide goods and services that are of high quality and which are also safe for consumption (Coulter, 1800). This is the main reason why firms are required to inform consumers of any dangers associated with using their products. However, in its operations TAP Pharmaceuticals seems to violate ethical standards.

TAP Pharmaceuticals did not consider their drug campaign strategies from launching them. This shows that some of the campaign strategies used by this company were very unethical and violated ethical standards. For example, the company might have used pictures that are unfit for kids or general society to advertise it drugs. To make matters worse, the company does not have any strategy of pulling back the advertisements if they turned out to be unethical. This is a clear indication that the company cared little about people’s concerns in its advertisements. To solve this problem, the company needs to set up a team that will be investigating new campaign strategies in order to check if they conform to ethical standards. The team will also be tasked with testing these strategies before fully implementing them. In the event the strategies turn out to be unethical, the team will have to pull down the advertisement and come up with new strategies that conform to ethical standards.

Despite TAP Pharmaceuticals being a huge corporation, Durand notes that it did not have a legal counsel. This shows that company was not even aware if its operations violated the law or not. The company should come up with a legal counsel which will be advising it as it goes on with its activities. The management team should inform workers the importance of the legal team and therefore encourage them to involve them in their activities (Schauer, 2000).

As the company goes on with its operations, Durand notes that it is bribing doctors in order to prescribe its medicines to cancer patients. The company should instead use effective competitive strategies to curb the competition that it faces from other competitors. For example, it should improve the quality of its medicines. Besides this, it should come up with a new marketing strategy that will enable it to effectively reach out to its audience who in this case are cancer patients. The management team should give workers in the marketing department opportunity to come up with new marketing strategies. To measure the achievement of these strategies, the firm should measure its sales after a certain period after implementing the new marketing tools.

**Conclusion**

Those who committed fraud in the TAP Pharmaceutical case chose to act unethically and faced the consequences of committing such acts. Their actions proved to be selfish and inconsiderate of all those affected, especially their patients who relied on them to provide their medications regularly. Profits were more important to those who committed the fraud rather than the fact that they were acting ethically.

**References**

#513: 10-03-01 TAP PHARMACEUTICAL PRODUCTS INC. AND SEVEN OTHERS CHARGED WITH HEALTH CARE CRIMES COMPANY AGREES TO PAY $875 MILLION TO SETTLE CHARGES. (n.d.). *#513: 10-03-01 TAP PHARMACEUTICAL PRODUCTS INC. AND SEVEN OTHERS CHARGED WITH HEALTH CARE CRIMES COMPANY AGREES TO PAY $875 MILLION TO SETTLE CHARGES*. Retrieved April 25, 2014, from http://www.justice.gov/opa/pr/2001/October/513civ.htm

Coulter, H. L. (1800).*Divided legacy: 3*. Washington, DC: WehawkenBook.[**Journal of *Medical Ethics* - BMJ Journals**](http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=5&cad=rja&uact=8&ved=0CFgQFjAE&url=http%3A%2F%2Fjme.bmj.com%2F&ei=ordbU-X3JIiEtQbuhIDAAw&usg=AFQjCNHAwBzIfHjo0eflVG3FCIwHgWIOaQ&sig2=KQDESrCRMWzqaAJVqM8URg&bvm=bv.65397613,d.Yms)**-** jme.bmj.com/‎ Medical ethics- <https://www.ama-assn.org/ama/pub/physician-resources/medical> ethics.page-

Haddad, C., & Barrett, A. “Whistle-Blower Rocks an Industry,” Business Week, 24 June 2002, 126-30.

Schauer, A. (2000). *Ethics in medicine: With 29 tables*. Göttingen: Vandenhoeck&Ruprecht.

Taylor, M. (2001). Record settlement on TAP. *Modern Healthcare, 31*(41), 8. Retrieved from <http://search.proquest.com/docview/211951649?accountid=35812>

Treviño, L. K., & Nelson, K. A. (2011). *Managing business ethics: Straight talk about how to do it right* (5th ed.). Hoboken, NJ: Wiley.

Weinberg, N. (n.d.). The Dark Side of Whistleblowing. *Forbes*. Retrieved April 25, 2014, from <http://www.forbes.com/forbes/2005/0314/090.html>