Abbott Laboratories and Property Rights in Thailand

Learning Objectives

- Develop an understanding of the interplay of the legal, business, and nongovernmental forces affecting Abbott’s decision-making.
- Apply the shareholder vs. stakeholder model of business.
  - What are the leadership implications faced by Abbott?
- Critically analyze the ethical implications of each party’s actions.

Context

In March 2007, Abbott Laboratories found itself in a global tug-of-war among its shareholders and stakeholders. The Thai government issued a compulsory license on Abbott’s new HIV/AIDS medications including Kaletra and the new heat-stable form of the drug, Aluvia. Abbott refused to introduce the new drugs to Thailand as a result of its stance regarding intellectual property rights. Abbott’s decision sparked immense controversy among the Thai government and both national and international NGOs.

Additional Recommended Reading

See Nature article:


Persistent Link:

Answer Key

1. What are the major leadership issues or challenges for Abbott?

Shareholder vs. Stakeholder Model of Business

The shareholder model of business maintains that the “business of business is business”. Essentially, a company has an obligation first and foremost to make a profit and ensure continued growth of the corporation in order to maximize shareholder value. The stakeholder model of business argues that a company has a responsibility to every public it affects including shareholders, customers, employees, competitors, nongovernmental organizations, the community, etc. Thus, the company operates using Corporate Social Responsibility (CSR) as a cornerstone of business operations. Abbott’s executives were forced to make a decision to either pursue a shareholder model or stakeholder model of business.

Negative PR-Loss of Customers

If Abbott decided to stop offering its HIV/AIDS treatments to Thailand, the company would risk bad publicity. As was stated in the case, various NGOs planned and implemented protests and boycotts during Abbott’s annual shareholder meetings. The negative publicity increases the threat of losing customers and developing a poor reputation in the consumer's eyes.

Potential Profit Loss

Negative PR and a poor reputation could threaten Abbott's ability to yield growing profits for its shareholders. Since the Thai NGOs were threatening national and international boycotts, Abbott’s leaders faced a tough decision between standing on its principals of protecting intellectual property rights and accommodating the demands set forth by the Thai government and NGOs.

Interpretations of Intellectual Property Rights (IPR) Law

As was noted in the case study, the IPR law is somewhat vague and unclear as to when compulsory licenses may be issued and when agreements regarding compensation must be met. According to the information, the Thai government acted within the confines of the IPR law. However, Abbott refused to introduce Kaletra on the basis that the Thai government did not respect Abbott’s right to protect its intellectual property and its lack of respect for the informal agreements.

WTO Mandates vs. Rights of Companies

Abbott maintains that intellectual property must be protected in order to encourage the research and development of new products and drugs. Maintaining a patent allows a company to reap the profit rewards for a given period of time. Generally, the profits can
be used to invest in new technologies and research in order to keep turning out new drugs. However, the mandates concerning IPR law issued by the WTO argue that in some situations, a government has a right to issue a compulsory license.

2. What are the major leadership issues or challenges for the Thai government?

**Human Rights Protection**

The Thai government’s main aim was to provide aid for its domestic health crisis by avoiding the further spread of HIV/AIDS not only in Thailand but throughout the surrounding area. The government faced the necessity of protecting the Thai people from infection and providing the best possible care.

**Business Issues**

Some issues that prevent the use of the best possible care for the Thai people include the difficulty of budgeting under universal healthcare, the potential loss of new technology, and other issues related to the balance between responsibility to the Thai people and the need to maintain international business relationships. In addition, the decisions made by the Thai government impact the behavior of businesses thinking of entering the Thai market. In essence, decisions that protect the physical well-being of the Thai people may also have the effect of discouraging their future potential for business investment and therefore economic growth and trade.

3. Describe the main points of intellectual property protection.

The main protections provided by intellectual property rights include protection of profit, maintenance of the incentives for Research and Development and movement into new markets, and other business-related rights. By protecting the profit and market motivations for entry into new markets and R&D, intellectual property protection maintains trade relationships and trust among countries and companies.

The TRIPS Agreement provides provisions for compulsory licensing and allows flexibility on IP protection. The Doha Declaration states that the patent owner MUST receive payment for use of intellectual property, but this declaration also made the law more ambiguous.

4. What is the potential impact of NGO actions on Abbott?

**Negative PR- Loss of Customers**

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Potential Profit Loss

Negative PR and a poor reputation could threaten Abbott's ability to produce a profit for its shareholders. Since the Thai NGOs were threatening national and international boycotts, Abbott's leaders faced a tough decision between standing on its principals of protecting intellectual property rights and accommodating the demands set forth by the Thai government and NGOs.

Furthermore, negative publicity could generate skepticism on the part of future investors. Lack of investment could lead to Abbott being unable to grow.

5. Are there any other leadership theories you think may apply to the case?

Machiavelli

Machiavelli focused on the maintenance of power. Essentially, a successful leader is able to maintain his/her power by rule of law and force. But, the leader must justify his/her actions by arguing that the actions are for the good of the followers as a whole. One could argue that the Thai government acted using Machiavellian tactics. Since the government offers universalized health care, it cannot come across as a failure to its followers by being unable to afford and distribute the new HIV/AIDS treatments. Thus, it exercised its power by issuing compulsory licenses.

Lewis

Essentially, leadership differs by region due to cultural influences. Perhaps the Thai government and Abbott executives had a different understanding of negotiations.

Utilitarianism

Utilitarianism holds that one should make a decision that creates the greatest good for the greatest number. Abbott may have used utilitarianism in its stance on intellectual property (IP) by arguing that protecting IP would lead to better drugs being produced in the future, thereby benefitting society as a whole.

6. How do you define Corporate Social Responsibility?

Definition:
Maintaining a balance between making a profit and simultaneously looking out for the interests of its other stakeholders. The corporation has more than just an obligation to maximize its wealth. Stakeholders include: consumers, competitors, NGOs, government, employees, shareholders, community, etc.

7. Did either of the parties set a precedent? If so, was it positive or negative?
Yes. The Thai government was the first to invoke the TRIPS Agreement rights to issue compulsory licenses. The Thai government's actions could be both negative and positive: positive on the humanities side and negative in the fact that it reduces a company's incentive to make new drugs.

8. At this point, which party do you think responded appropriately in the given situation? Explain.

Students could argue that the Thai government acted in accordance with the laws when it issued the compulsory license. Abbott was only acting based on profit motives and not looking out for its consumers. Thus, Abbott was not being a socially responsible company.

Students could also argue that Abbott was acting based on CSR. By protecting IPR, Abbott was ensuring that companies still had an incentive to fund research and development for new medical technologies and medicines that could benefit society as a whole in the long run.

Students could also argue that neither party acted appropriately.

**Assessment**

Surveys will be distributed via SurveyMonkey.com to all participants 24 hours after the presentation. The responses will be used to conduct the assessment.

**Lesson Plan**

8:00 – 8:05: Personal Introduction

8:05 – 8:15: Explain how the discussion will be conducted, why we chose the case, and the cases relevance to the sectors. Explain shareholder and stakeholder models of business.

8:15 – 8:25: Individual time – fill out the Handout.

8:25 – 8:45: Small Group Time (discuss the case, we float around)

The students will be split up randomly to discuss their individual answers. One person will be appointed as the recorder and will initially represent the group when the questions are posed.

8:45 – 9:30: Whole Group Discussion

The whole group discussion will be started by going through the questions on the Handout. To wrap-up the discussion, the Additional Questions should be used.
**Additional Questions:**

1. Would you have felt differently about the case if you had been given one leader who had made the decision to pull out of Thailand?
   a. Yes, because you could actually focus the blame on one person. You could explain Abbott’s response better based on the leader’s personality and leadership style.
   b. No, the blame still would have been on Abbott as a whole.
2. If you had to choose, would you choose to pull out and potentially hurt AIDS patients or continue to provide only Kaletra risking a loss of profit and hurting the shareholders?
3. Is it within Abbott’s power to save AIDS patients, or is it the responsibility of Thailand to increase the education and preventative measures?
4. What will you take from this in terms of leadership issues that you might come across in your future personal and professional lives?

9:30: Wrap-up discussion with concluding remarks.

**Case Resolution/Epilogue**

Abbott continued to provide products to Thailand including Kaletra, but in response to Thailand’s compulsory licensing requirements, Abbott decided to withhold its release of new products into Thailand. The new products included the heat-stable form of Kaletra, Aluvia, which would have undoubtedly been more effective due to Thailand’s tropical climate.

**Reflection**

**Successes:**

Overall, we were extremely pleased with the outcome of the facilitation. The group responded positively to the case. The results were further reflected in the responses from the surveys (See attached). Our judgment of how long it would take to discuss each topic was on track. The discussion flowed well based on the questions from the Handout. Once we were coming to a close, the additional questions really personalized the case study and brought in a lively discussion. The questions helped students apply the issues in the case to their personal leadership styles and also provided some closure to the discussion.

In terms of meeting our objectives, we feel confident that the majority of the students met the objectives. Upon asking what they were going to take away from the case, the students stated that it is difficult to take into account all of the ethical implications and stakeholders when making leadership decisions. Thus, the students developed an awareness of the stakeholder vs. shareholder model of business. Also, the students critically analyzed the ethical implications for both parties, and realized the important role culture and personal values play into making leadership decisions.
Opportunities for Change:

Several questions were asked by the group about Thailand’s people and government. If we were to do things differently, we would have included a section about Thailand’s governing body and how it came to power. In the survey results, some of the people did not seem to grasp the shareholder vs. stakeholder model. We attributed this to the fact that the majors of the students were varied, some more business-based and some more humanities-based. Nonetheless, the diversity in the group added to the discussion. Perhaps we could have taken time during the facilitation process to briefly explain the shareholder vs. stakeholder model.

The students were also curious about the HIV/AIDS prevention programs in Thailand, as well as whether Abbott provided any sort of prevention education. We could have added a section in the case study that addressed such questions. Or, we could have briefly addressed the topic in the facilitation process.

Additional Suggestions

When asking Additional Question two, we asked the students to raise their hands based on what decision they would make if they were in Abbott’s place. Thus, the students were forced to personalize the case study and make a decision. We were not surprised to find the choices were evenly split. Asking Additional Question four also helped personalize the case and wrap-up the discussion. It also gave the facilitators a platform to bring the discussion to a close.

From a facilitator’s perspective, it may have been less confusing to have only one or two facilitators instead of three. It was hard to know which one of us would be speaking, and there was really no way to concretely plan who would speak based on how the discussion flowed. With two facilitators, the communication between them would have been clearer. Also, we suggest that the facilitators float around during small group discussions to get a feeling for where the participants are leaning and pose questions to make the students think before coming to the whole group for discussion.