



# Access to medicines

Intellectual property rights, human rights and justice

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# DOING THE RIGHT THINGS CORPORATE RESPONSIBILITY REPORT 2009

2008/2009 Goals GRI Index



CORPORATE RESPONSIBILITY AT PFIZER

THE NEW ERA OF RESPONSIBILITY

OUR BUSINESS



DOING  
THE RIGHT  
THINGS



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About the  
Report

Home > Corporate Responsibility at Pfizer

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# COMMITTED TO RESPONSIBLE GROWTH

We recognize that our responsibilities and potential impact go far beyond the medicines we discover and develop. Pfizer is uniquely positioned in both developed and emerging markets to promote health and wellness and respond more effectively to unmet medical needs.

Together with our partners, we are looking for meaningful ways to improve health care around the world. Ensuring steady progress in biomedical science is a part of that. So is improving our business... [more >](#)









# Pfizer Corporate Social Responsibility Report 2009

**Since our last corporate responsibility report in 2007, the world has changed dramatically. Although trust in business had already been dampened by corporate scandals and the collapse of a handful of businesses earlier in the decade, the current financial crisis has raised levels of public distrust of large multinational corporations to all-time highs. At the same time, the role of government in regulating business and addressing societal needs has intensified dramatically. Finally, environmental and social issues such as climate change and access to health care, once the purview of small groups of stakeholders, are now highly visible public policy issues.**

**These shifts are rapidly changing expectations for business. Governments around the world are demanding that businesses improve transparency and adopt a more holistic perspective on creating value. Several countries have passed legislation supporting, and, in some cases requiring, corporations to report on their social and environmental performance.**

**Increasingly investors are including aspects of corporate responsibility performance as indicators of strong corporate governance, risk management or overall management quality. And recent consumer surveys show that the demand for socially responsible products and services continues to intensify.**



# Pharmaco-philanthropy

The new 'buzz' term

Competition within pharma

[www.astrazeneca.com](http://www.astrazeneca.com)

[www.bayer.com](http://www.bayer.com)

[www.gsk.com](http://www.gsk.com)

[www.merck.com](http://www.merck.com)

[www.pfizer.com](http://www.pfizer.com)



# The case of Pfizer in 2009

A subsidiary of Pfizer misbranded and illegally promoted a number of drugs including the painkiller Bextra for uses and dosages that the US Food and Drug Administration had not approved due to safety concerns. In 2009 Pfizer was found guilty of intent to defraud or mislead and was required to pay a criminal fine of \$1.3 billion (nearly £800 million) under the terms of an out-of-court resolution of its liability with the US Department of Justice. This is the highest criminal penalty recorded in the United States. Pfizer also met civil claims by reimbursing \$1 billion to a number of health insurance schemes for prescriptions claimed by consumers. As part of the settlement, Pfizer signed a 'corporate integrity agreement' whereby it was required to conduct independently audited yearly reports for the following five years which were designed to improve its marketing practices.









# Access to medicines: some of the issues

- The 90/10 gap: the market driven approach
- The human right to health
- Patents protecting medicines
- Businesses need to make profit
- The relatively high cost of medicines
- Governments in developing countries having limited capacity to improve access to medicines



# Pharma's accountability to society

- Legal obligations: contract law, competition law, product liability law; duty of care to consumers.
- Required by regulators to provide drugs of sufficient quality; to provide accurate and reliable information; and to exercise due concern for patient safety.



## Does pharma have further responsibilities to advance the right to health?

The UN Millennium Declaration set human rights-based development goals to be attained by 2015. One of the goals in relation to the right to health was ‘in cooperation with pharmaceutical companies [to] provide access to affordable essential drugs in developing countries’.





## Draft Human Rights Guidelines for Pharmaceutical Companies in Relation to Access to Medicines

The guidelines recognise the central role that pharma plays in providing access to medicines and propose the imposition of a legal obligation upon pharma. However, the guidelines are in draft and they are opposed by pharmaceutical companies who argue that although enhancing access to medicine is a shared responsibility, the guidelines 'divert attention and resources from the real problems and challenges...'



# Advance market commitments

- A commitment is made in advance to buy vaccines if and when they are developed.
- In 2007, Canada, Italy, Norway, Russia, the United Kingdom and the Bill & Melinda Gates Foundation committed US\$1.5 billion to launch the first advance market commitment which targets pneumococcal diseases. The project formally began in 2009.









# The 1948 Universal Declaration of Human Rights

The human right to health is set out in Article 25:  
*'Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including ... medical care'*. Additionally, Article 27 provides that *'Everyone has the right freely ... to share in scientific advancement and its benefits'*.



# The obligations of States

- States have the primary obligation to meet all human rights; they have a duty to **respect, protect and fulfil** the rights of individuals.
- But to what extent do public finances permit?





# Do pharmaceutical companies have human rights?

Article 27 of the UDHR

*'Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is author'.*



# Do pharmaceutical companies have human rights?

The European Court of Human Rights decided that intellectual property 'undeniably attracted the protection of Article 1 of Protocol No. 1 of the European Convention of Human Rights'

*Anheuser-Busch Inc. v. Portugal*, European Court of Human Rights, Grand Chamber, No. 73049/01, 11 January 2007.



# Article 1 of Protocol No. 1 of the European Convention of Human Rights: Protection of property

*Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.*

*The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.*





# The Committee on Economic, Social and Cultural Rights

This envisages each state's obligation to *protect* the human right to health as including measures to prevent third parties from interfering with article 12 [right to health] guarantees.' As companies are third parties, a state is entitled to take measures against pharma where it impedes society's right to health. The Committee's General Comment declares (under a section headed 'specific legal obligations') that 'Obligations to *protect* include... the duties of States to adopt legislation or to take other measures ensuring equal access to health care and health-related services provided by third parties'.



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