CASE 4.5

One Nation under Wal-Mart

The huge corporations that produce our cars, appliances, computers, and other products—many of them household names like Nike, Coca-Cola, and Johnson & Johnson—are a familiar feature of contemporary capitalism. But Wal-Mart represents something new on the economic landscape. Now the world's largest company, Wal-Mart has achieved its corporate preeminence not in production but in retail. No other retailer, at any time or in any place, has ever come close to being as large and influential as Wal-Mart has become. After years of nonstop growth, there are now more than 4,750 Wal-Mart stores, visited every week by 138 million shoppers. And the company is opening more stores all the time as it moves beyond its stronghold in the rural South and Midwest and into urban America. In fact, 82 percent of American households purchase at least one item from Wal-Mart every year. As a result, the company's marketplace clout is enormous: It controls about 30 percent of the market in household staples; it sells 15 percent of all magazines and 15–20 percent of all CDs, videos, and DVDs; and it is expected to control soon over 35 percent of U.S. food sales. For most companies selling consumer products, sales from Wal-Mart represent a big hunk of their total business: 28 percent for Dial, 24 percent for Del Monte, and 23 for Revlon. Wal-art is also responsible for 10 percent of all goods imported to the United States from China.[96]

The good news for consumers is that Wal-Mart has risen to retail supremacy through the bargain prices it offers them. The retail giant can afford its low prices because of the cost efficiencies it has achieved and the pressure it puts on suppliers to lower their prices. And the larger the store gets, the more market clout it has and the further it can push down prices for its customers.

Everyone, of course, loves low prices, but not everyone, it seems, loves Wal-Mart. Why not? Here are some of the charges that critics level against the retail behemoth:

- Wal-Mart's buying power and cost-saving efficiencies force local rivals out of business, thus costing jobs, disrupting local communities, and injuring established business districts. Typically, for example, within five years after a Wal-Mart supercenter opens, two other supermarkets close. Further, Wal-Mart often insists on tax breaks when it moves into a community, so its presence does little or nothing to increase local tax revenues.
- Wal-Mart is staunchly anti-union and pays low wages. Its labor costs are 20 percent lower than those of unionized supermarkets; its average sales clerk earns only $8.23 an hour, and most of its 1.4 million employees must survive without company health insurance. Small wonder that employee turnover is 44 percent per year. Moreover, because of its size, Wal-Mart exerts a downward pressure on retail wages and benefits throughout the country. Critics also charge that Wal-Mart's hard line on costs has forced many factories to move overseas, which sacrifices American jobs and holds wages down.

- Government welfare programs subsidize Wal-Mart's poverty-level wages. According to one congressional report, a two-hundred-employee store costs the government $42,000 a year in housing assistance, $108,000 in children's health care, and $125,000 in tax credits and deductions for low-income families. And internal Wal-Mart documents, leaked to the press, confirm that 46 percent of the children of Wal-Mart's 1.33 million workers are uninsured or on Medicaid. The document also discusses strategies for holding down spending on health care and other benefits—for example, by hiring more part-time workers and discouraging unhealthy people from working at the store by requiring all jobs to include some physical labor.
- As Wal-Mart grows and grows, and as its competitors fall by the wayside, consumer choices narrow, and the retail giant exerts ever greater power as a cultural censor. Wal-Mart, for example, won't carry music or computer games with mature ratings. As a result, the big music companies now supply the chain with sanitized versions of the explicit CDs that they provide to radio stations and that are sold elsewhere. The retailer has removed racy magazines such as *Maxim* and *FHM* from its racks, and it obscures the covers of *Glamour*, *Redbook*, and *Cosmopolitan* with binders. Although most locations offer inexpensive firearms, Wal-Mart won't sell Preven, a morning-after pill—the only one of the top ten drug chains to decline to do so.

For these reasons, Wal-Mart's expansion is frequently meeting determined local resistance, as concerned residents try to preserve their communities and their local stores and downtown shopping areas from disruption by Wal-Mart through petitions, political pressure, and zoning restrictions. As one economist remarks, for Wal-Mart "the biggest barrier to growth" is not competition from rivals like Target or Winn-Dixie stores but "opposition at the local level." As a result, Wal-Mart has begun responding to the criticism that it is a poor corporate citizen and miserly employer by improving employee health insurance coverage and adopting greener business practices. And even its usual critics applauded when the company responded rapidly to Hurricane Katrina, sending truckloads of water and food, much of it reaching residents before federal supplies did.

When it comes to Wal-Mart, Professor John E. Hoopes of Babson College encourages people to take a long-term view: "The history of the last 150 years in retailing would say that if you don't like Wal-Mart, be patient. There will be new models eventually that will do Wal-Mart in, and Wal-Mart won't see it coming." And, indeed, since 2005 the company's sales growth has slipped as the Internet has changed people's shopping habits and as other discounters have done a better job of attracting affluent consumers and providing higher quality and better service.

In the meantime, where you stand on Wal-Mart probably depends on where you sit, as Jeffrey Useem writes in *Fortune* magazine: "If you're a consumer, Wal-Mart is good for you. If you're a wage-earner, there's a good chance it's bad for you. If you're a Wal-Mart shareholder, you want the company to grow. If you're a citizen, you probably don't want it growing in your backyard. So, which one are you?"

Discussion Questions

1. Do you like Wal-Mart? Do you shop there? If so, how frequently? If not, why not?
2. Is there a Wal-Mart store in your area? If so, has it had any impact on your community or on the behavior of local consumers? If there's no store in your area, would you be in favor of Wal-Mart opening one? Explain why or why not.
3. Is Wal-Mart's rapid rise to retail dominance a positive or a negative development for our society? What does it tell us about capitalism, globalization, and the plight of workers?
4. Can a retailer ever become too large and too powerful?
5. Is opposition to Wal-Mart's expansion a legitimate part of the political process or is it unfair interference with our market system and a violation of the company's rights? Do opponents of Wal-Mart have any valid concerns?

CASE 6.1

Breast Implants

In the last few decades, silicone has become a crucial industrial product, playing a role in the manufacture of thousands of products, from lubricants to adhesive labels to Silly Putty. One of its medical uses, however, has been controversial—namely, as the gel used for breast implants. Dow Corning, which was founded in 1943 to produce silicones for commercial purposes, invented mammary prostheses in the 1960s. Since then a million American women have had bags of silicone gel implanted in their breasts. For many of them, silicone implants are part of reconstructive surgery after breast cancer or other operations. However, by 1990 four out of five implants were for the cosmetic augmentation of normal, healthy breasts—a procedure that became increasingly popular in the 1980s as celebrities such as Cher and Jenny Jones spoke openly of their surgically enhanced breasts.

Today, however, what used to be a common elective operation is rarely performed.[93] The reason dates from the 1980s, when women with silicone breast implants first began reporting certain patterns of illness. There were stories of ruptured or leaky bags, although the estimates of the proportion of women affected ranged from 1–5 percent to 32 percent. And there were allegations that the silicone implants were responsible for various autoimmune disorders—such as rheumatoid arthritis, lupus erythematosus, and scleroderma—in which the body's immune system attacks its own connective tissue. Then, in 1991, a jury heard the case of Mariann Hopkins, who claimed that her implants had ruptured and released silicone gel, causing severe joint and muscle pain, weight loss, and fatigue. On the basis of documents suggesting that Dow Corning knew of the dangers of leaky bags, a San Francisco jury found the company guilty of negligence and fraud and awarded Hopkins $7.3 million.

When Dow Corning first sold breast implants in 1965, they were subject to no specific government regulations. In 1978 the Food and Drug Administration classified them as "Class II" devices, meaning that they did not need testing to remain on the market. In 1989, however, as worries about the dangers of silicone implants increased, the FDA reclassified them as "Class III" devices and in 1991 required all manufacturers to submit safety and effectiveness data. Although some FDA staff members were scathingly critical of the poor and inconclusive documentation submitted by the manufacturers, the FDA's advisory panel ruled that the implants were not a major threat to health. Based on public need, it voted to keep them on the market.

After the Hopkins case, however, David A. Kessler, the FDA's new chairman, called for a moratorium on breast implants. He asked doctors to stop performing the operation, but he told women who had already had the operation not to have the bags removed. Still, the moratorium terrified the women who had had breast implants, a few of whom tried in desperation to carve them out themselves, and it galvanized a political movement led by women who were upset about having been used, yet again, as guinea pigs for an unsafe medical procedure. For them, it was just one more episode in a long history of the mistreatment of women by a medical, scientific, and industrial establishment that refused to treat them as persons and take their needs seriously. The FDA moratorium also galvanized the legal forces marshaled against the manufacturers of silicone bags. By 1994, some twenty thousand lawsuits had been filed against Dow Corning alone. Entrepreneurial lawyers organized most of these actions into a few large class-action suits so that their pooled legal resources would be more than a match for the manufacturers.

Meanwhile, Kessler instructed the FDA's advisory panel to restudy the breast implant question. Presented with a series of anecdotal reports about diseases that are not rare, the panel complained about the lack of hard scientific data. From the scientific point of view, the problem was how to distinguish coincidence from causation. For example, if connective-tissue disease strikes 1 percent of all women and if 1 million women have implants, then

statistically one should expect that ten thousand women will have both implants and connective-tissue disease. So if a woman develops the disease, can it correctly be said that it was caused by her breast implants? Moreover, not only does silicone appear to be chemically inert, but silicone from a ruptured breast implant will remain trapped inside a fibrous capsule of scar tissue. Nevertheless, on the basis of the panel's recommendation, the FDA ruled that silicone may be used only for reconstruction and that cosmetic breast augmentation must be done only with saline packs.

At that point the gulf between science, on the one hand, and the FDA and public opinion, on the other, began to widen further. A Mayo Clinic study published in the prestigious *New England Journal of Medicine* in June 1994 showed that there was no difference between women with breast implants and other women with respect to incidence of connective-tissue disease; by the summer of 1995 two larger studies had confirmed the Mayo Clinic's report. On top of that, the FBI and other investigators exposed several labs that were selling to lawyers and victims fraudulent test results purporting to show the presence of silicone in the blood of women with breast implants.

Lawyers and other advocates for the women with implants repudiate those studies, contending that the women have a new disease. To this contention scientists respond that the description of the symptoms of this supposed disease keeps changing. Some say it looks like fibromyalgia, which is included in their studies. Many feminist activist groups distrust science; they believe that we should pay less attention to statistics and medical studies and greater attention to the women who have suffered. These women know what their bodies have been through, and they are convinced that their implants are responsible.

This reasoning, and the skepticism toward science and statistics that it represents, has swayed jurors. After Dow Corning filed bankruptcy in 1995, which brought to a halt the lawsuits against it, new lawsuits were filed against its parent company, Dow Chemical. The first of these resulted in a $14.1 million verdict against the company, despite the lack of scientific evidence. Disregarding the studies in the *New England Journal of Medicine,* the jurors were convinced that this particular plaintiff's suffering somehow stemmed from her Dow-manufactured breast implant. A few years later, the women who said their silicone breast implants made them ill agreed to settle their claims against Dow Corning for $3.2 billion. The settlement is part of its bankruptcy reorganization plan and is similar to a settlement entered into earlier by 3M, Bristol-Myers Squibb, and other manufacturers of breast implants.

Update:

By now, more than twenty reputable scientific studies have been conducted on implant safety. Three European governments have convened scientific panels. The American College of Rheumatology, the American Academy of Neurology, the Institute of Medicine, and the American Medical Association have all published reviews of the evidence, as has an independent scientific panel appointed by a federal court. The conclusion is unanimous and unequivocal: There is no evidence that breast implants cause disease of any kind.[94]

In light of these findings and the recommendations of a federal advisory panel, in July 2005 the FDA gave conditional approval to Mentor Corporation's application to produce silicone breast implants, thus effectively ending a thirteen-year ban on the use of silicone for cosmetic breast enhancements.

Discussion Questions

1. What does the breast implant controversy reveal about society's attitudes toward product safety, about the legal liability of manufacturers, and about the role of regulatory agencies like the FDA in protecting consumers? Is our society too cautious about product safety or not cautious enough?
2. Was the FDA justified in placing a moratorium on silicone breast implants and then halting them altogether for cosmetic purposes?

3. Is the agency too concerned with public opinion? Should it pay greater attention to scientific evidence or to the individual women who have suffered?
4. Was it irresponsible of the manufacturers of breast implants to have marketed them without first conclusively proving they were safe? If you were on the jury, would you have found Dow Corning or its parent company liable for the illnesses suffered by women who have had breast implants?
5. On safety matters, should the FDA or any regulatory agency err on the side of overprotection or underprotection? Has the FDA's stance on breast implants been fair to women who would like breast augmentation but cannot get it? Some people disapprove of cosmetic augmentation or believe it to be a frivolous operation. Do you think that attitudes like this played a role in the controversy over the safety of breast implants?
6. Some argue that in the case of new drugs or medical procedures in which the dangers are uncertain, consumers should be free to decide for themselves whether they wish to run the health risks associated with these products or services. Assess this argument.

CASE 6.2

Hot Coffee at McDonald's

To aficionados of the bean, there's nothing like a piping-hot cup of java to get the day off to a good start, and nothing more insipid than lukewarm coffee. That's what McDonald's thought, anyway—until it learned differently, the hard and expensive way, when seventy-nine-year-old Stella Liebeck successfully sued the company after she was burned by a spilled cup of hot coffee that she'd bought at the drive-through window of her local McDonald's. The jury awarded her $160,000 in compensatory damages and a whopping $2.7 million in punitive damages. After the trial judge reduced the punitive damages to $480,000, she and McDonald's settled out of court for an undisclosed sum.[95]

Unlike the outcome of most other lawsuits, the hot-coffee verdict received nationwide attention, most of it unfavorable. To many ordinary people, the case epitomized the excesses of a legal system out of control. If hot coffee is dangerous, what's next: soft drinks that are too cold? To conservatives, the case represented the all-too-familiar failure of consumers to take responsibility for their own conduct, to blame business rather than themselves for their injuries. More policy-oriented pundits used the case as an occasion to call for reform of product liability law—in particular, to make winning frivolous suits more difficult and to restrict the punitive awards that juries can hand down.

However, those who examined the facts more closely learned that the Liebeck case was more complicated than it first appeared. For one thing, Liebeck suffered third-degree burns on her thighs and buttocks that were serious enough to require skin grafting and leave permanent scars. After her injury, she initially requested $10,000 for medical expenses and an additional amount for pain and suffering. When McDonald's refused, she went to court, asking for $300,000. Lawyers for the company argued in response that McDonald's coffee was not unreasonably hot and that Liebeck was responsible for her own injuries.

The jury saw it differently, however. First, McDonald's served its coffee at 185 degrees Fahrenheit, significantly hotter than home-brewed coffee. The jury was persuaded that coffee at that temperature is both undrinkable and more dangerous than a reasonable consumer would expect. Second, before Liebeck's accident, the company had received over seven hundred complaints about burns from its coffee. In response to the complaints, McDonald's

had in fact put a warning label on its cups and designed a tighter-fitting lid for them. Ironically, the new lid was part of the problem in the Liebeck case because she had held the coffee cup between her legs in an effort to pry it open.

Although the jury found that Liebeck was 20 percent responsible for her injuries, it also concluded that McDonald's had not done enough to warn consumers. The jury's $2.7 million punitive-damage award was intended, jurors later said, to send a message to fast-food chains. Although the judge reduced the award—equivalent to only about two days' worth of coffee sales for McDonald's—he called McDonald's conduct "willful, wanton, reckless, and callous."

Discussion Questions

1. Is hot coffee so dangerous, as the jury thought? Should a reasonable consumer be expected to know that coffee can burn and to have assumed this risk? Is a warning label sufficient? Is our society too protective of consumers these days, or not protective enough?
2. In serving hot coffee, did McDonald's act in a morally responsible way? What ideals, obligations, and effects should it have taken into consideration?
3. McDonald's claims that most consumers would prefer to have their coffee too hot than not hot enough. After all, if it's too hot, they can always wait a minute before drinking it. Suppose this is true. How does it affect McDonald's responsibilities? Given that McDonald's serves millions of cups of coffee every week, how important are a few hundred complaints about its coffee being too hot?
4. Was Liebeck only 20 percent responsible for her injuries? Do you agree with the amount of compensatory and punitive damages that the jury awarded her? If not, what would have been a fairer monetary award?
5. Should juries be permitted to award punitive damages in product liability cases? If so, should there be a limit to what they can award? Is it right for a jury to award punitive damages against one company in order to send a message to a whole industry?

CASE 6.3

Sniffing Glue Could Snuff Profits

Harvey Benjamin Fuller founded the H. B. Fuller Company in 1887. Originally a one-man wallpaper-paste shop, H. B. Fuller is now a leading manufacturer of industrial glues, coatings, and paints, with operations worldwide. The company's 10,000 varieties of glue hold together everything from cars to cigarettes to disposable diapers. However, some of its customers don't use Fuller's glues in the way they are intended to be used.

That's particularly the case in Central America, where Fuller derives 27 percent of its profits and where tens of thousands of homeless children sniff some sort of glue. Addicted to glue's intoxicating but dangerous fumes, these unfortunate children are called *resistoleros* after Fuller's Resistol brand. Child-welfare advocates have urged the company to add a noxious oil to its glue to discourage abusers, but the company has resisted, either because it might reduce the glue's effectiveness or because it will irritate legitimate users.[96]

Either way, the issue is irritating H. B. Fuller, which has been recognized by various awards, honors, and socially conscious mutual funds as a company with a conscience. Fuller's mission statement says that it "will conduct business legally and ethically, support the activities of its employees in their communities and be a responsible corporate citizen." The St. Paul–based company gives 5 percent of its profits to charity; it has committed itself to safe environmental practices worldwide (practices that are "often more stringent than local government

standards," the company says); and it has even endowed a chair in business ethics at the University of Minnesota. Now Fuller must contend with dissident stockholders inside, and demonstrators outside, its annual meetings.

The glue-sniffing issue is not a new one. In 1969 the Testor Corporation added a noxious ingredient to its hobby glue to discourage abuse, and in 1994 Henkel, a German chemical company that competes with Fuller, stopped making certain toxic glues in Central America. However, Fuller seems to have been singled out for criticism not only because its brand dominates Central America but also because—in the eyes of its critics, anyway—the company has not lived up to its own good-citizen image. Timothy Smith, executive director of the Interfaith Center for Corporate Responsibility, believes that companies with a reputation as good corporate citizens are more vulnerable to attack. "But as I see it," he says, "the hazard is not in acting in a socially responsible way. The hazard is in over-marketing yourself as a saint."

Saintly or not, the company has made matters worse for itself by its handling of the issue. H. B. Fuller's board of directors acknowledged that "illegal distribution was continuing" and that "a suitable replacement product would not be available in the near future." Accordingly, it voted to stop selling Resistol adhesives in Central America. "We simply don't believe it is the right decision to keep our solvent product on the market," a company spokesman said.

The Coalition on Resistoleros and other corporate gadflies were ecstatic, but their jubilation turned to anger when they learned a few months later that Fuller had not in fact stopped selling Resistol in Central America, and did not intend to. True, Fuller no longer sold glue to retailers and small-scale users in Honduras and Guatemala, but it continued to sell large tubs and barrels of it to industrial customers in those countries and to a broader list of commercial and industrial users in neighboring countries.

The company says that it has not only restricted distribution but also taken other steps to stop the abuse of its product. It has altered Resistol's formula, replacing the sweet-smelling but highly toxic solvent toluene with the slightly less toxic chemical cyclohexane. In addition, the company has tried—without success, it says—to develop a nonintoxicating water-based glue, and it contributes to community programs for homeless children in Central America. But the company's critics disparage these actions as mere image polishing. Bruce Harris, director of Latin American programs for Covenant House, a nonprofit child-welfare advocate, asserts that Resistol is still readily available to children in Nicaragua and El Salvador and, to a lesser extent, in Costa Rica. "If they are genuinely concerned about the children," he asks, "why haven't they pulled out of all the countries—as their board mandated?"

Discussion Questions

1. What are H. B. Fuller's moral obligations in this case? What ideas, effects, and consequences are at stake? Have any moral rights been violated? What would a utilitarian recommend? A Kantian?
2. What specifically should H. B. Fuller do about Resistol? Are the critics right that the steps the company has taken so far are mere image polishing? Is the company's only moral option to withdraw from the Central American market altogether?
3. When, if ever, is a company morally responsible for harm done by the blatant misuse of a perfectly legitimate and socially useful product? Does it make a difference whether the abusers are adults or children? Is it relevant that other companies market similar products?
4. Tobacco companies have a strong financial interest in cultivating future smokers, and although they deny doing so, they consciously market their product to make it attractive to young people. Contrast their conduct with that of H. B. Fuller.
5. Given H. B. Fuller's conduct in other matters, would you judge it to be a morally responsible company, all things considered? Are companies that pride themselves on being morally responsible likely to be held to a higher standard than other companies? If so, is this fair?

CASE 6.4

Drug Dilemmas

Everyone knows how high the cost of prescription medicines is these days, and many Americans dislike having to pay significantly more than Canadians or Europeans do for the very same drugs. Many of them also resent the huge profit margins that drug companies enjoy in comparison with other U.S. corporations. Year after year, for over two decades the drug industry has been far and away the most profitable sector of our economy. However, many people are also inclined to accept high prices as the cost we must bear for drug research and the development of new medicines. But, in fact, the prices drug companies charge bear little relationship to the cost of making or developing them, and those prices could be cut dramatically without coming close to threatening their R&D budgets. Less than 15 percent of the sales revenue of the large pharmaceutical companies goes into R&D, half what they spend on "marketing and administration."[97]

Moreover, the pharmaceutical industry is nowhere near as innovative as most people think. According to Marcia Angell, former editor in chief of the *New England Journal of Medicine*, only a handful of important drugs have been brought to the market in recent years, and they were based mostly on taxpayer-funded research. She writes, "The great majority of 'new drugs' are not new at all but merely variations on older drugs already on the market. These are called 'me-too' drugs. The idea is to grab a share of an established, lucrative market by producing something very similar to a top-selling drug." This is made possible by the fact that the FDA will generally approve a drug if it is better than a placebo. "It needn't be better than an older drug," Angell says. "In fact it may be worse. There is no way of knowing, since companies do not test their drugs against older ones for the same conditions at equivalent doses." Of the seventy-eight drugs approved by the FDA in a recent year, only seventeen contained new active ingredients, and the FDA classified only seven of those as improvements over older drugs. And none of those seven came from a major U.S. drug company.

When it comes to research and innovation, the record of the big, profitable pharmaceutical corporations contrasts poorly with that of the small biotechnology companies that are responsible for most of today's medical advances. CV Therapeutics of Palo Alto, California, is one such company. Founded by cardiologist Louis G. Lange, it has developed a new drug, ranolazine, which promises to be the first new treatment for angina in over twenty-five years. The *Journal of the American Medical Association* has praised ranolazine as helping patients whom standard therapies have failed. But this medical breakthrough has brought an ethical dilemma with it. Patients in Russia and Eastern Europe constituted 60 percent of the one thousand or so test subjects involved in the studies that enabled CV Therapeutics to develop the drug. Now that the drug is ready, does the company have a moral obligation to make its drug available to them?

Other drug companies today are struggling with the same dilemma. They frequently test experimental drugs overseas, where there is less red tape and both doctors and patients are keen to participate in the tests. In Russia, for example, doctors are eager for the money they can get as study monitors, traveling to medical offices to make sure protocols are being followed. They also receive medical equipment such as treadmills for exercise testing. For their part, patients see it as a chance to get medications that they cannot afford to buy and that their government doesn't pay for. Moreover, says Richard Leach, the American business manager of a company called Russian Clinical Trials, "Eastern European and Russian people tend to be very compliant. . . . They will follow the trial and they will do whatever is asked. If they have to keep a diary, they do it. If they have to make office visits, they do it."

With at least 40 percent of drug testing now done offshore, critics worry that drug companies are exploiting their human subjects. In the United States and other well-to-do countries, experimental subjects must be given full information about

the nature of the research, and they have a right to refuse to participate without penalty or consequence for their usual health care. Not so in Africa and many poor regions, where doctors profit from enrolling their patients, and local officials sometimes encourage whole villages or provinces to enroll in research programs. Conducting research overseas not only saves drug companies money, but it also circumvents FDA restrictions, which require companies to gain its approval before human testing in the United States can begin. The FDA obliges companies to describe their proposed research in detail and to file plans for guaranteeing informed consent and for monitoring the progress of the study. They must set up a review board to monitor each clinical trial and to ensure that risks to human subjects are "reasonable in relation to anticipated benefits, if any, to subjects, and the importance of the knowledge that may reasonably be expected to result." In addition, all risk must be "minimized."

Requirements for foreign research are much looser, and there is very little oversight. "Companies can conduct preliminary studies of drugs in poorer countries before formal testing even begins," writes Marcia Angell. "Quite literally, the participants are used as guinea pigs, subjects of research that really should be done on experimental animals." And when it comes to formal testing, the FDA may not learn about it until the company applies for final approval of its new drug.

These moral issues, however, are not the concern of companies like Russian Clinical Trials. Nor do they see it as their business to ask what happens when the studies end. Dr. Alan Wood, general manager of Covance, another American firm that conducts medical trials in Eastern Europe, says quite plainly, "What our clients do is not our affair."

But what about the drug companies themselves? What, if anything, do they owe overseas test subjects when their new drugs pan out? Some companies never even sell their drugs in the poor countries where they were developed. Others do, but often there are few patients who can afford them. "This is something that the biotech industry, as it develops more and more drugs, will have to come to grips with," says Carl B. Feldbaum, president of the Biotechnology Industry Organization. "It's not that we are lacking compassion, but the economics are tough."

"Do we have an obligation to everyone in the trial or to everyone in the community, the province, the nation, the region, or the world?" asks Dr. Ruth Faden, director of the Berman Bioethics Institute at Johns Hopkins University. "We really haven't figured this out." She acknowledges, though, that "many physician investigators feel uncomfortable with the idea of using patients in studies and then not being able to continue to help them when the trial ends." We seem "to have hit a wall of moral unease," she says. "I'm not sure exactly where we ought to end up."

Dr. Lawrence O. Goskin, director of the Center for Law and the Public's Health at Georgetown and Johns Hopkins Universities, is also troubled. Drug companies, he says, should not be seen as "the deep pocket that helps everyone," yet there is something disturbing about "parachute research," in which a company drops into a country, conducts its drug research, and then leaves. "It raises the question of what ethical obligation, if any, there might be to give back and make sure there is access to the drug after the trials are over."

Drug companies are businesses, of course, and they have to decide whether they can earn enough money in a foreign country to justify applying for approval to market a new drug there, then setting up a business office, and hiring a sales force. Even if they decide to provide the drug to patients free of charge—so-called compassionate use—things are not so simple. They still have to set up a distribution system, train doctors to administer the drug, and monitor the patients who take it. In the case of life-saving drugs, such as those for combating AIDS, many companies do, in fact, provide them for free or at low cost in poor countries, especially to patients who were involved in their development. But with a drug like ranolazine it's more complicated. Angina can cause terrible, crushing chest pains, and it can make the lives of chronic suffers miserable. Ranolazine can cut in half the number of angina attacks a patients suffers, but it's not

a life-saving drug. It improves the quality of patients' lives, but it doesn't extend them.

Dr. Lange, meanwhile, is torn. His company is not a charity, and because CV Therapeutics is small, it can't afford to market ranolazine in countries where few people have enough money to buy it or to set up the distribution systems necessary to give it away. "We're not Merck," he says. "But we're concerned."

Discussion Questions

1. What explains the high price of prescription medicines in the United States? What if anything should be done about it? Do you believe that in the United States drug prices reflect the operation of a fair and competitive market?
2. Given the nature of their product, do pharmaceutical companies have ethical responsibilities that other corporations don't have? In your view, are the large U.S. drug companies good corporate citizens?
3. Are the large drug companies guilty of price gouging or of charging an unfair or exploitative price for their products? In general, what factors should determine the price of drugs? Should Americans be permitted to import drugs from Canada or other countries?
4. Assess the motivations of drug companies that do their testing overseas. Do you think test subjects are being exploited or taken advantage of? Under what circumstances, if any, are companies morally justified in testing overseas?
5. Do drug companies have an obligation to make new drugs available to patients who were involved in their development, either here or overseas? Does the size of the company make a difference? What would you do if you were Dr. Lange? What obligations, ideals, and consequences should he take into account?
6. Is it ethical for companies to decline to sell a useful drug like ranolazine in a poor country because they can make more money marketing it elsewhere?
7. When it comes to life-saving drugs, do pharmaceutical companies have a moral obligation to make them available in poor countries at little or no cost? Explain why or why not. What about effective but non-life-saving drugs like ranolazine?

CASE 6.5

Closing the Deal

Now that she had to, Jean McGuire wasn't sure she could. Not that she didn't understand what to do. Wright Boazman, sales director for Sunrise Land Developers, had made the step clear enough when he described a variety of effective "deal-closing techniques."

As Wright explained it, very often people actually want to buy a lot but suffer at the last minute from self-doubt and uncertainty. The inexperienced salesperson can misinterpret this hesitation as a lack of interest in a property. "But," as Wright pointed out, "in most cases it's just an expression of the normal reservations we all show when the time comes to sign our names on the dotted line."

In Wright's view, the job of a land salesperson was "to help the prospect make the decision to buy." He didn't mean to suggest that salespeople should misrepresent a piece of property or in any way mislead people about what they were purchasing. "Law prohibits this," he pointed out, "and personally I find such behavior repugnant. What I'm talking about is helping them buy a lot that they genuinely want and that you're convinced will be compatible with their needs and interests." For Wright Boazman, salespeople should serve as motivators, people who can provide whatever impulse was needed for prospects to close the deal.

In Wright's experience, one of the most effective closing techniques was what he termed "the other party." It goes something like this.

Suppose someone like Jean McGuire had a hot prospect, someone who was exhibiting

real interest in a lot but who was having trouble deciding. To motivate the prospect into buying, Jean ought to tell the person that she wasn't even sure the lot was still available because a number of other salespeople were showing the same lot, and they could already have closed a deal on it. As Wright put it, "This first ploy generally has the effect of increasing the prospect's interest in the property, and more important to us, in closing the deal pronto."

Next Jean should say something like, "Why don't we go back to the office, and I'll call headquarters to find out the status of the lot?" Wright indicated that such a suggestion ordinarily "whets their appetite" even more. In addition, it turns prospects away from wondering whether they should purchase the land and toward hoping that it's still available.

When they return to the office, Jean should make a call in the presence of the prospect. The call, of course, would not be to "headquarters" but to a private office only yards from where she and the prospect sit. Wright or someone else would receive the call, and Jean should fake a conversation about the property's availability, punctuating her comments with contagious excitement about its desirability. When she hangs up, she should breathe a sigh of relief that the lot's still available—but barely. At any minute, Jean should explain anxiously, the lot could be "green-tagged," meaning that headquarters is expecting a call from another salesperson who's about to close a deal and will remove the lot from open stock. (An effective variation of this, Wright pointed out, would have Jean abruptly excuse herself on hanging up and dart over to another sales representative with whom she'd engage in a heated, although staged, debate about the availability of the property—loud enough, of course, for the prospect to hear. The intended effect, according to Wright, would be to place the prospect in a "now or never" frame of mind.)

When Jean first heard about this and other closing techniques, she felt uneasy. Even though the property was everything it was represented to be and the law allowed purchasers ten days to change their minds after closing a deal, she instinctively objected to the use of psychological manipulation. Nevertheless, Jean never expressed her reservations to anyone, primarily because she didn't want to endanger her job. She desperately needed it owing to the recent death of her husband, which had left her as the sole supporter of herself and three young children. Besides, Jean had convinced herself that she could deal with closures more respectably than Wright and other salespeople might. But the truth was that, after six months of selling land for Sunrise, Jean's sales lagged far behind those of the other sales representatives. Whether she liked it or not, Jean had to admit she was losing a considerable number of sales because she couldn't close. And she couldn't close because, in Wright Boazman's words, she lacked technique. She wasn't using the psychological closing devices that he and others had found so successful.

Now as she drove back to the office with two hot prospects in hand, she wondered what to do.

Discussion Questions

1. Do you disapprove of this sales tactic, or is it a legitimate business technique? How might it be morally defended?
2. Suppose you knew either that the prospect would eventually decide to buy the property anyway or that it would genuinely be in the prospect's interest to buy it. Would that affect your moral assessment of this closing technique? Do customers have any grounds for complaining about this closing technique if the law allows them ten days to change their minds?
3. What ideals, obligations, and effects must Jean consider? What interests and rights of the customer are at stake?
4. What weight should Jean give to self-interest in her deliberations? What do you think she should do? What would you do?
5. What rule, if any, would a rule utilitarian encourage real-estate agents in this situation to follow? What should the realtors' professional code of ethics say about closing techniques?