

December 2005

Corporate Ethics Overview

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About this issue

Welcome to the December 2005 issue of Corporate Ethics Overview.

This issue summarises key ethical news issues as they affect companies in the past two months and has a particular focus on bribery and competition issues. We also report on the recent controversy caused by international foods giant Nestle entering into the Fair trade business.

References to significant sources and publications are included as suggestions for further reading.

Look out for the next issue of CEO in early January 2006.

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Human rights, bribery and corruption

BAT deny keeping North Korean factory secret

Issue: Human rights

British American Tobacco (UK)

Britain's Guardian newspaper has alleged that British American Tobacco (BAT) has been "secretly" operating a factory in North Korea for the past four years.

A BAT spokeswoman denied the Taesong-BAT joint venture factory was a secret and stated that BAT has tried to improve the working conditions of employees by providing free meals and insisting they are well paid.

When asked by the Guardian why the North Korean operation is not referred to in its accounts, BAT said it listed only its "principal subsidiaries" in its accounts and that it was not obliged to inform investors about an investment of the small size of the North Korean operation.

EIRIS Notes

The news of the factory in the capital Pyongyang, a joint venture with the oppressive regime, comes two years after BAT pulled out of Burma, to the delight of pressure groups who had campaigned against the tobacco giants operations there for many years.

In launching an operation in North Korea, BAT is once again doing business with one of the world's most notorious regimes. South Korean human rights observers in South Korea estimate that there are about 200,000 people held as political prisoners in the north of the peninsula.

Human Rights Watch describes the North Korean regime as being "among the world's most repressive governments."

Guardian, 18/10/05

DaimlerChrysler sets cash aside following Latin American slush fund investigation

Issue: Bribery

DaimlerChrysler (Germany)

DaimlerChrysler has set aside a provision for USD 125m (GBP 71.43m, EUR 105m) in its accounts, after identifying suspicious payments during an internal bribery probe

The company's investigations began after the US Securities and Exchange Commission (SEC) and U.S. Department of Justice (DOJ) announced their own investigation in 2004 after a whistle-blower complaint filed by a former employee of the world's fifth-biggest carmaker.

The employee, whom DaimlerChrysler said was sacked for falsifying financial information, had alleged the company had kept secret bank accounts to bribe foreign government officials. Daimler has dismissed the accusation in the past as groundless.

In an October 2005 quarterly report DaimlerChrysler states: "The company has identified certain accounts, transactions and payments that are the subject of special scrutiny and that have been disclosed to the SEC and the DOJ." The payments in question are alleged to have been made to government officials in Latin America.

EIRIS Notes

DaimlerChrysler has also announced that it is cooperating with the SEC, DOJ and United Nations Independent Inquiry Committee to see whether it could have been involved in abusing the United Nations Oil-For-Food Programme for Iraq.

Financial Times, 26/10/05

Reuters, 25/10/05

Daimler Chrysler website

Shell denies US subpoena report over Nigerian TSKJ investigation

Issue: Bribery

Royal Dutch Shell (UK) Total (France) ENI (Italy)

Royal Dutch Shell has denied a Financial Times report alleging that it was on a list of companies subpoenaed by the US Securities and Exchange Commission as part of an investigation into the USD 170m (GBP 97.14m, EUR 115.65m) alleged TSKJ bribery case relating to a liquefied natural gas plant in Nigeria.

In a statement to the press, a spokesperson said: "We have never been subpoenaed by the US SEC regarding this investigation. Shell has always been and is still voluntarily cooperating with the SEC investigation."

EIRIS Notes

The TSKJ bribery case refers to a consortium of Technip, Snamprogetti, Kellogg Brown and Root (owned by Halliburton) and the Japanese Gas Corp, who are alleged to have made improper payments to Nigerian officials to secure contracts to build a major LNG plant in southeastern Nigeria during the late 1990s. This case is the

subject of several government investigations.

An EIRIS Convention Watch report is available to EIRIS clients detailing the TSKJ allegations and the response of Halliburton. The NLNG plant in question sub-Saharan Africa's biggest industrial investment and a joint venture between Nigerian National Petroleum Corp (49%), Shell (25.6%), Total (15%) and Eni (10.4%).

Financial Times, 13/10/05 International Gas Report, 21/10/05

Platts Commodity News, 13/10/05

Employment

Wal-Mart denies "strategic assault" on UK employee rights

Issue: Labour rights

Wal-Mart Stores (USA)

Asda, the UK division of global supermarket chain Wal-Mart, has denied allegations in a trade union sponsored charity report that it is planning a 'strategic assault' on employee rights in the UK.

In a report released by UK charity War on Want, (Asda Wal-Mart: The Alternative Report), the supermarket group Asda is accused of wanting to cut back on workers' rest times, reduce sick pay and remove the right to take any disputes to the arbitration service Acas. War on Want and the GMB general union, which sponsored the report, claim management proposals for a major shake-up in staff operations at Asda's Lutterworth distribution centre in Leicestershire will be rolled out nationwide. They claim in documents provided to the Guardian newspaper that Asda has drawn up a "Chip Away strategy 2005" in order to

plan how to reduce employee costs. The report links these allegations to broader criticisms of Wal-Mart's operations.

The allegations were rejected by Asda, which argued that its low prices were essentially based on high volumes and economies of scale for an ever-expanding and successful company. A company spokesman claimed to be unaware of any Chip Away strategy and denied an anti-union or harsher work regime was being planned. "We are fully supportive of the GMB and generally have very good staff relations, which puts us in the top 10 companies in surveys by the Financial Times and Fortune 500."

In relation to the specific points raised by the charity, Asda said it was not opposed to the GMB taking disputes to Acas if it were not possible to sort it out in other ways. There was no desire to cut breaks that people were entitled to and it would always follow health and safety rules when it came to lifting or other activities. "We would not want to be in contravention of such rules which would open us up to lawsuits and everything," said the official.

EIRIS Notes

US based Wal-Mart, which is the world's largest retailer, has faced numerous allegations about its attitude towards trade unions and its strategy of driving down prices paid to suppliers. EIRIS has prepared Convention Watch reports for clients on aspects of these allegations and on Wal-Mart's official response. The War on Want report refers to a number of these types of allegation in relation to conditions for workers in suppliers to Wal-Mart.

Guardian, 17/10/05
Retail Week, 17/10/05

Valero face questions on nitrogen safety

Issue: Health and safety

Valero Energy (USA)

Safety concerns have been raised at Valero after the biggest US refiner recorded two deaths from nitrogen asphyxiation.

The Chemical Safety and Hazard Investigation Board (CSB) are examining the fatalities and the history of a further nitrogen gas related incident at the Delaware City refinery in 2004.

Valero is complying with the CSB probe and stated that 'despite this tragic incident we remain committed to making this refinery one of the safest in the nation'.

Financial Times, 19/11/2005
The Associated Press, 19/11/2005

Former M&S chairman fined for failing to consult staff

Issue: Labour rights

Marks & Spencer Group (UK)

A Parisian court fined former Marks & Spencer chairman Luc Vandeveldé EUR 3,750 (GBP 2,532, USD 4,436) for failing to comply with local laws on staff consultation when closing the group's French stores in 2001.

The court found that Mr Vandeveldé had breached French labour law by not convening a formal session of the works committee before announcing the store's closures. It also rejected the former chairman's claim that under British law he was obliged to inform his London investors *before* communicating

the decision to staff. Workers in France were told of the news via an email from the company's London head office.

M&S has denied it did not satisfy all relevant European legislation and expressed its continued support for Mr Vandeveldde who is still considering whether or not to appeal the court's decision. The company also welcomed the fact that five other former managers were discharged.

M&S pulled out of France four years ago because it could not turn niche demand for its products into a viable commercial success.

Agence France Presse, 10/10/05
Financial Times, 11/10/05
Daily Telegraph, 11/10/05

Competition

Peugeot Citroen fined for anti-competitive practices

Issue: Consumer protection

PSA Peugeot Citroen (France)

Peugeot Citroen has been fined GBP 34m (EUR 23.13m, USD 19.43m) for breaking European Commission competition rules. The French automotive maker was found to be blocking the cross-border sales of new cars from the Netherlands, where prices are cheaper.

The Commission had documented the violation from 1997 to 2003 preventing consumers elsewhere in the European Union from benefiting under the single market.

This fine comes after another manufacturer DaimlerChrysler had

previously been fined for similar Commission anti competition practices.

BBC, 13/10/05

Drug companies fined for cartel

Issue: Cartels

Abbott Laboratories (USA) **Bayer (Germany)** **Johnson & Johnson (USA)** **Roche Holding (Switzerland)**

Portugal's Competition Authority has fined five drug companies a total of EUR 16m (GBP 23.52m, USD 19.04) for operating a cartel. The five companies were Johnson and Johnson and Abbot Laboratories Inc. of the United States, Bayer Ag of Germany, Menarini Diagnosticos of Italy and Roche Holding AG of Switzerland's Pharmaceutica Quimica, the Competition Authority said in a statement.

The agency stated that the companies fixed prices during 36 bidding processes to supply 22 hospitals. From November 2001 to January 2003, when the Competition Authority issued a complaint, the companies presented identical prices in 20 public bidding procedures, it said.

The Anti-trust regulator opened its investigations after a public hospital in Coimbra, Portugal's third-largest city, complaint that the five firms had all proposed the same price for the same test between 2001 and 2003.

Abbott Laboratories was hit with the largest fine, EUR 6.8m for 34 infractions while Johnson and Johnson, which cooperated with antitrust regulator in its investigation, received the smallest fine. The firm will have to pay EUR 360,000 for 36 infractions.

Roche said it would pay its fine of EUR 1.3m as it found evidence that a former employee was involved in price fixing as alleged but it stressed that the Company's Swiss headquarters was not aware of the practice. Bayer is said to have rejected the finding and was considering filing an appeal against it. Johnson & Johnson said it was studying the ruling. Abbott issued in a statement that it believed no basis existed for the decision and it was weighing its legal options.

Agence France Press, 14/10/2005
Reuters News, 13/10/05, 14/10/05
AFX international Focus, 14/10/05

Deutsche Post ruled against by regulator

Issue: Unfair competition

Deutsche Post (Germany)

Germany's regulator for postal services, telecommunications and energy ruled that Deutsche Post's competitors don't have to comply with Deutsche Post's numeration rules when using its delivery network.

Deutsche Post had asked competitors using its delivery network service to number their items consecutively to make it easier to determine the total. Competitors, however, wanted to number each postal code region separately so that their packages and letters could be machine-sorted at the same time as those of Deutsche Post, rather than separately. This way they would be able to save time and be more competitive.

When Deutsche Post had refused to handle letters and packages from competitors if they didn't comply with its numeration rules, the regulator stepped in.

Dow Jones Newswires, 20/10/05
Frankfurter Allgemeine Zeitung, 26/10/05

E.ON Ruhrgas told to liberalise its long-term contracts

Issue: Unfair competition

E.ON (Germany)

E.ON Ruhrgas, the gas subsidiary of the German utilities group E.ON, and the German antitrust authority (Bundeskartellamt) are embroiled in a dispute over Ruhrgas's long-term gas contracts with municipal services.

Through such contracts gas suppliers bind municipal energy distributors to themselves for many years, and largely exclusively. The antitrust authority therefore set out new guidelines in order to create more competition on the German gas market, but Ruhrgas refused to compromise.

Although the gas supplier has announced self regulation, the cartel office feels the new contract provisions proposed by Ruhrgas do not fully meet its demands.

Frankfurter Allgemeine Zeitung, 12/10/05
Handelsblatt, 10/10/05, 12/10/05

General

NGOs differ over Nestle entering Fair Trade market

Issue: Fair Trade

Nestle (Switzerland)

Nestle, the world's largest food and drink company has become the first of the world's four dominant coffee roasters to launch a brand of coffee certified as meeting Fair Trade principles to guarantee a 'fair price' for the farmers producing its coffee.

The move by Nestlé, the world's biggest food and drink company, has raised debate among development organisations and fair-trade support groups over whether multi-nationals with controversial records should be given the 'Fair Trade' seal of approval.

Under Fair Trade rules, farmers and growers of everything from tea to pineapples are paid a guaranteed 'fair price' which can often be significantly higher than that on world markets.

Nestlé's adoption of Fair Trade " which will be backed by a GBP 1m (EUR 1.19m, USD 1.75m) advertising campaign " relates to the Nestle Partners brand of coffee launched in October in the UK. The policy does not apply to its other coffee products, which will continue to be bought at market prices.

Harriet Lamb, director of the Fairtrade Foundation, argues that it is a "major breakthrough" to have one of the big four international coffee companies using the certification mark, following its adoption by traditional fair trade companies such as Cafedirect and by UK supermarkets' own-brand coffee.

Ms Lamb said. "It throws a big challenge out to the other coffee roasters about why aren't they doing Fairtrade. Why are they doing the almost-there instead of going all the way?"

Amy Barry, the trade spokeswoman for Oxfam, a member of the Fair Trade Foundation agreed it was a step in the right direction, adding "There is an enormous amount more that Nestlé and the other major coffee roasters need to do to address the crisis facing the world's coffee farmers. There is a global oversupply which means prices are either low or very unstable. Four major roasters dominate the industry

and they are pretty much able to dictate the prices and conditions the farmers sell at. Nestlé should guarantee all producers a fair price not just the lucky few who get on a Fair Trade scheme."

By contrast Unison, the public service union has branded the move "cynical" and various groups led by Baby Milk Action have complained the move undermines the Fair Trade logo which they assert was set up to challenge the dominance of multinational companies such as Nestlé.

Patti Rundall, policy director at Baby Milk Action, which co-ordinates the international Nestlé boycott over the marketing of breastmilk substitutes criticised the Fair-trade Foundation for the deal saying that "To give a Fair Trade mark to a company whose baby food trade systematically violates child rights on such a massive scale makes an absolute mockery of what the public believes the Fair Trade mark stands for."

Independent, 07/10/05

Financial Times, 07/10/05

Sunday Telegraph, 30/10/05

McDonald's wins award for animal treatment

Issue: Animal welfare

McDonald's (USA)

McDonald's has won an award for its humane treatment to animals and as a business committed to higher animal welfare standards.

The inaugural RSPCA Alternative Awards ceremony praised McDonald's for changing egg suppliers to free range and its cattle handling standards. The burger giant can now use the RSPCA's

logo to identify itself as a best achiever in the treatment of animals.

An RSPCA spokesman commented; 'the important thing is not that you're killing the cattle, it's how you're actually killing the cattle'.

BBC, 13/10/05

Aircraft companies apologise for offending ad

Issue: Advertising

Boeing (USA) Textron (USA)

Following complaints from the Council on American-Islamic Relations, Boeing and Bell Helicopter were forced to publicly apologise for a published advertisement for their recently developed attack helicopter, the V-22 Osprey. Bell Helicopter is a unit of Textron Inc.

The advertisement, which showed troops being dropped from a V-22 Osprey helicopter onto the roof of a building being labelled as 'Muhammed Mosque' as smoke billows from a burned-out car nearby, was published by the National Journal on 24th of September. The Council on American-Islamic Relations demanded the campaign's immediate withdrawal as well as apologies from the companies behind the advertisement.

Boeing was quick to state that the publication was a "clerical error". In a statement, the vice president of Boeing's defence unit also said: "We consider the ad offensive, regret its publication and apologize to those who like us are dismayed with its contents."

Both Boeing and Textron said they had tried to pull the ad several weeks ago.

The National Journal accepted full responsibility for the error and admitted it had received specific instruction from the agency representing Boeing and Bell not to run the ad.

Reuters 30/9/05

Houston Chronicle 30/9/05

Washington Post, 3/10/05

Ford criticised by own committee

Issue: Environmental performance

Ford Motor (USA)

Following the release of their annual sustainability report in October, Ford have been criticised by their independent committee on sustainable reporting for failing to respond to climate change by reducing greenhouse gas emissions from vehicles sufficiently.

The committee, an expert group of academics, environmental lobbyists and investment groups, stated that clear targets need to be implemented for reducing emissions, including vehicular emissions reductions in emerging markets where the most growth is anticipated.

On a positive note, the committee commended Ford's efforts to reduce emissions from their manufacturing operations. In addition, Bill Ford, chairman and CEO, announced plans to increase tenfold the production of fuel-efficient hybrid petrol-electric vehicles by 2010. A more detailed report on climate change is due out to be published in December.

Financial Times 19/10/2005



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- helps charities and other investors identify the approach appropriate to their requirements
- publishes guides to help investors and advisers identify and choose between funds with ethical criteria
- enables each investor to create a portfolio that reflects their own ethical concerns
- offers services for all types of client, from checking a portfolio to creating and implementing an ethical investment policy
- concentrates purely on ethical research and does not offer financial advice or investment management services

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