Case Study: GSK-China and the FCPA
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In 2013 British pharmaceutical giant GlaxoSmithKline (GSK) was hit hard by a Chinese probe into alleged bribery. The Chinese authorities compared GSK to a "criminal godfather", accusing them of running a $500m bribing scheme targeting doctors and hospital officials with cash payments, free trips and visits to prostitutes, in order to sell GSK's products at price premiums. According to the Chinese Ministry of Public Security, funds were funneled through a local travel agency, which was serving as a front operation creating fake bookings of trips, conferences and training sessions. While the investigation was underway Chinese authorities have detained four GSK China employees (including the head of the legal department, the head of business development and two vice presidents—all Chinese nationals).

This is one of many recent bribery scandals involving prominent multinational corporations in China. In 2013 alone, such firms as Novartis, Eli Lilly & Co., Rolls Royce, JP Morgan Chase & Co, Sanofi, Danone, and Avon Products Inc. either launched internal investigations or were probed by Chinese, US and/or British anti-corruption agencies regarding improper conduct in China. The bribery case against Avon was so serious that in the second half of 2013 its stock lost a third of its value in part due to anticipated fines imposed by US authorities.

In China, gift-giving among business partners and friends is ingrained in the country's social fabric and still a strong cultural expectation. The line is blurred between proper and improper business dealings because so many Chinese companies that foreign multinationals conduct business with are state-owned, which makes their employees government officials. Similarly, the healthcare industries have been a major source of litigation because China's doctors and other medical professionals are typically government employees (and, as such, poorly compensated, thus prone to accept cash or gifts).

This pervasiveness is confirmed by Transparency International's annual survey. In 2013, China was the 80th least corrupt country out of 177. Ten years prior, in TI's 2003 survey China ranked 66 out of 133. This means that China has not made any significant progress, remaining in the middle of the pack. Another 2013 survey examined 100 multinationals in 16 nations, including India, Russia and Brazil, and found Chinese companies were the least transparent and most prone to corruption. “China is an environment where petty corruption is common and tolerated,” summarizes Daniel C.K. Chow, a law professor at Ohio State University, and former legal counsel of Procter & Gamble China Ltd. As a result, Chinese authorities are "making examples of certain multinational companies, like GSK".

"I am obviously unhappy with what we have been accused of in China," GSK's chief executive Andrew Witty said. "We are working very closely with the Chinese authorities and respect the process." GSK has also decided to report itself to the US Department of Justice and the Securities and Exchange Commission as well as the British Serious Fraud Office.

In the third 2013 Quarter the Chinese inquiry into GSK led to a 61% drop in drug-and-vaccine sales for the China division, followed by another drop of 18% in the fourth quarter. Deutsche Bank analysts described this sales decrease as "dire", and steeper than expected. Although China represented only 3.6 percent of GSK's global drug sales for 2012, the company has been investing substantially in the country, employing 7,000 who operate five factories and a research center. Globally GSK turnover rose 1% to £26.5bn in 2013, while pre-tax profits inched up by 0.7% to £6.6bn.

In May 2014, things took a turn for the worse. While GSK had publicly dissociated itself from the wrongdoings of what they described as a handful of rogue mid-level managers, the Chinese Police accused Mark Reilly, the former Head of GSK China to have orchestrated the bribery scheme along with Mr. Zhang, the company's HR director, and Mr. Zhao, the head of Legal Affairs. The Chinese authorities went as far as accusing Reilly of attempting to bribe Shanghai and Beijing officials to prevent investigations.

Six other foreign pharmaceutical companies who were using the same Shanghai travel agency as GSK are worried that similar charges could be brought against their own executives. Off the record, they expressed suspicion that the government crackdown was a way to pressure foreign pharmaceutical firms to lower their drug prices in China, as the government has repeatedly voiced concerns over unreasonably inflated prices.

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