

UNETHICAL PRACTICES OF PHARMACEUTICAL COMPANIES DURING THE COVID-19 PANDEMIC

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# 1. Introduction

COVID-19 has become an integral part of people's lives in the 21st century and has changed the lifestyles of many people. In general, people have no choice but to get vaccinated to reduce the chances of getting sick and in some cases, to avoid getting penalties from the governments (Foreman et al., 2021). As the demand for vaccines grows every day, pharmaceutical companies have begun to capitalize on the pandemic. The major issue with vaccine manufacturers has been their influential role in limiting fair access to life-saving vaccines by putting profit before human rights and responsibilities. During the coronavirus pandemic, the vaccine manufacturers have earned millions of dollars. Musra (2021) concluded that the pharmaceutical company Moderna in 2020 made a profit 13 times more than in 2019. Comparing this to the 2% increase in profit for Pfizer, it is clear that the pandemic has become a lucrative source of profit for the pharmaceutical organizations.

The companies have modified their business strategies such that wealthy nations are able to hoard vaccines and lower-income countries (LICs) are facing shortages (Mahase, 2021). This report will thus argue that the pharmaceutical companies should adjust their engagement in vaccine distribution and refrain from discriminatory treatment in vaccine rollout for generation of profit for a fair distribution. The report will first provide a brief description of how the industry works, followed by a deeper study of how exactly the companies are using the pandemic to their advantage and an explanation of why it is an unethical practice. It will also discuss the importance of the companies’ actions and what they should do to be more ethical.

# 2. Business Model

Pharmaceutical companies have very similar business strategies as they depend on their drug research and development departments. The companies can benefit the most by selling vaccines at a lucrative price from countries that allocate large government budgets for protecting their citizens. However, donating or pricing newly developed vaccines cheaply may significantly reduce profitability because of their high fixed costs for the manufacturing equipment and labs (Harrison et al., 2017). For the period 2020, there are two main companies, namely Pfizer and Moderna that have supplied vaccines around the world. They will be promptly described below to describe the general nature of the industry.

## 2.1 Pfizer

Pfizer was founded in 1849 in New York by ​​Charles Pfizer and Charles Earhart. Nowadays, the global revenue of Pfizer Inc. is 41.9 billion USD (Pfizer, 2020). The pharmaceutical industry depends on legal and technological factors; as such, the company is undergoing constant changes that affect the company's market capitalization. For Pfizer, the total research and development cost for each Food and Drug Administration-approved drug between 1997 and 2011 amounted to 7.7 billion USD. In 2006, a study estimated that the cost of producing and delivering a new drug to market would be around $ 2 billion. Information collected since 2012 has shown that the cost of one drug for the largest manufacturers has grown to more than 5.5 billion USD and will continue to grow every year. Currently, Pfizer is using a pricing strategy. As a result of using this strategy, the company annually increases drug prices, thereby attracting public attention and various scandals on social networks (Harrison et al., 2017).

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## 2.2 Moderna

Moderna was established in 2010 with one of the major investors being AstraZeneca, which provided more than 200 million USD for various studies. The company went public in 2018 with a valuation of over 7 billion USD. The business model of this company was initially built not around the creation of new drugs from proteins and chemicals but from mRNA. With this strategy, the company got its name in the market and achieved tremendous success (Musra, 2021).

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# 3. COVAX Model

Gavi, the Vaccine Alliance, has defined COVAX to be a global solution to COVID-19 pandemic through an international alliance between national governments, global health organizations and manufacturers (Eccleston-Turner & Upton, 2021). The aim of the COVAX system is to ensure unbiased and equitable access to vaccines for everyone. Vaccines are distributed in two phases according to this model. In the first phase, distribution occurs based on the population size to ensure equal distribution. Only after 20% of the population of each country is vaccinated, the second phase begins, and vaccines are allocated based on the specific needs and risk profile of the countries (ibid).

COVAX is the only available options to get access to the vaccines for most of the LICs since the nations would otherwise not be able to afford these vaccinations. However, existing global manufacturing capacity for making the vaccines is only limited. This further necessitates the need for distributing the vaccines as fairly as possible but also simultaneously reduce the number of deaths or amount of harm caused.

# 4. Unethical Practices

## 4.1 Vaccine Distribution

COVAX has achieved significant progress in just six months as 139 countries have already received 200 million doses. However, an unacceptable picture of global vaccine distribution is seen across the world (www.unicef.org). In total, more than 87% of the 700 million globally administered vaccine doses have been distributed to HICs and around 0.2% to poor nations. According to Amnesty International (2021), only 3.4% of Moderna’s 2021 production and 8% of Pfizer’s is due to go COVAX as they have reserved most of their vaccines for HICs through private bilateral agreements. Studies done by Sung et al. (2021) demonstrated that other major manufacturing companies also have the most contracts with HICs only (49%).

## 4.2 Bilateral Agreements

Sung et al. (2021) concluded that bilateral deals are dominant in the supply agreements covering 62% of all the contracts until August 2021. Due to the low engagement of the companies through COVAX and the lack of vaccines secured by COVAX, a few LICs have arranged bilateral contracts with the companies. However, since demand is higher than supply due to manufacturing constraints, bilateral agreements are more expensive. Thus, LICs are ending up paying more than anticipated which contradicts the objectives of COVAX (Eccleston-Turner & Upton, 2021; Mahase, 2021).

There is also very little information available concerning the bilateral contracts between pharmaceutical companies and national governments since vaccine developers have been reluctant to publish commercial contracts or any detailed information about the contracts. The secrecy of vaccine supply agreements has limited the ability of countries to negotiate vaccine contracts and many countries have had to agree on contracts blindly (Eccleston-Turner & Upton, 2021; Sung et al., 2021).

## 4.3 Equitable Pricing

In equitable pricing, prices and buyer’s ability to pay is linearly proportional. For instance, LICs will be charged less because of their low affordability and HICs higher. Sung et al. (2021) argue that vaccines should use equitable pricing for it to be fair. However, they reported that it has been difficult to assess the fairness of vaccine developers regarding pricing, as only 52 out of 200 contracts were published publicly. Shockingly, none of the known contracts were about LICs which further begs the question of transparency of these companies.

Furthermore, the prices fixed by the bilateral deals are repeatedly much higher than the COVAX deal (3$ per dose). The prices from the 52 contracts were also analyzed by Sung et al. (2021) for equitable pricing, but no correlation was found except for Pfizer. All the other companies thus have not used the principles of equitable pricing. However, additional analysis is needed and can only be conducted if the manufacturers publish the relevant data.

## 4.5 Profit Generation

Considerable amount of risk and reward exist in the pharmaceutical companies as mentioned before. However, these risks are also mitigated when substantially large fundings are made by governments or public as seen during this pandemic (Eccleston-Turner & Upton, 2021). By numbers, Pfizer, Moderna and Janssen are the largest recipients of donations. They have also acquired large profits despite publicly announcing that they were not aiming for profit last year. Pfizer is expected to earn a revenue of 33.5 billion USD and Moderna 5.9 billion USD by the end of this year. All other major manufacturers such as Janssen, Sinopharm, AstraZeneca-Oxford are also expected to be profitable from the sale of their vaccines (Sung et al., 2021).

## 4.6 Patent Rights

Temporary suspension of patent rights is currently being backed by the World Health Organization (WHO) and a hundred countries including a few major powers such as China, the United States and Russia. However, the attitude of the companies regarding the scheme is conflicted. While AstraZeneca agreed to provide royalty-free licenses, Pfizer and Janssen strongly criticized the proposal. Pfizer, Moderna and Janssen have also made more than 80% of their manufacturing contracts in HICs except for AstraZeneca. Nevertheless, the LICs are still struggling to access the know-how of the companies (Sung et al., 2021).

# 5. Fairness of COVAX

Until now, the COVAX model was assumed to be the best representative of a multilateral agreement as the majority of the researchers have analyzed the actions of the companies using COVAX as a benchmark. However, it is also necessary to examine the model itself before asking the companies to donate and/or reserve their vaccines in order to fully utilize their efforts.

Although COVAX is deemed to be fair as it expresses equal concern for all countries, the proportional allocation system mistakenly assumes equality for equitability (Sharma et al., 2021). Equally populated countries can face different levels of risks from COVID-19, but the first phase of COVAX model simply ignores that. The major argument behind COVAX is that it gives an incentive to the wealthy nations, thus in turn the vaccine manufacturers, for joining the agreement. However, the allocation based on 20% of the population is unlikely to be a compelling inducement for the HICs. This is already seen by the participation of wealthy nations outside COVAX to secure much larger doses for the rest of their population. This phenomenon is also known as “vaccine nationalism” (Herzog et al., 2021; McAdams et al., 2020; Zhou, 2020).

A new model proposed by Emanuel et al. (2020) aims to fight against vaccine nationalism and overcome the shortcomings of COVAX. In this Fair Priority Model (FPM), vaccines are distributed in three phases: in the first phase, the aim is to reduce the number of deaths by using “standard expected years of life lost” averted per dose. The second phase tries to minimize the economic and social harms and the last phase finally begins to end transmission in the most contagious areas (Herzog et al., 2021). Thus, the FPM tries to prioritize countries with the most risks of harm in a fairer manner than COVAX. Global organizations such as WHO and national governments should thus take the first step in improving the distribution system for any donations made by the pharmaceutical companies to be effective.

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# 6. Acting Ethically

In the following discussion, the reasons for compelling the companies to act ethically will be argued. Specifically, the issue will be looked at both from the perspective of the companies and the society by considering the principles of corporate social responsibility and a few ethical theories.

## 6.1 Corporate Social Responsibility

Businesses are increasingly expected to consider the welfare of the society alongside their goal of profit maximization to be sustainable in the long run. Corporate social responsibility (CSR) thus requires moving beyond instrumental goals and instead addressing the necessities of all stakeholders. The pandemic has also further fueled the need for CSR, as people are consciously expecting good deeds from the for-profit companies. As the expectations are changing, businesses have to reconsider their business practices and priorities to match. Failure to do so may perpetually change the way society perceives the business and reduce profitability. As such, pharmaceutical companies are no exception; instead, they are even more in the spotlight for public scrutiny than a regular business, as the companies are one of the major players with key control over the spread of the pandemic (Manuel & Herron, 2020).

CSR activities in pharmaceutical industries include differential pricing, bolstering infrastructure for deploying medicines in LICs and conducting research for neglected illnesses etc. In differential pricing, prices should be set by considering the ability of each country in question. Thus, LICs should be charged less than HICs according to the CSR principle. As discussed earlier, this is also known as tiered pricing, and for it to be fair, companies are required to publicly disclose the details of the bilateral contracts between them and each nation (Manuel & Herron, 2020; Sung et al., 2021).

The pharmaceutical companies may be tempted to make short term profit to survive during the pandemic by signing the bilateral deals for a higher price than through COVAX. However, their brand image will be hurt if it becomes public knowledge. On the other hand, brand loyalty can increase if the companies engage in CSR activities. Moreover, they can attract further funding for their research projects due to CSR being one of the key criteria venture capitalists apply for considering new investments nowadays (Manuel & Herron, 2020).

Social pressure may be the most effective method to oblige the companies to engage in more CSR activities. For instance, Oxfam, a charitable organization, protested to cut drug prices and promote antiviral medication to LICs. Owing to the pressure, the price of the drugs has dropped by 99% over the past decade. The vaccine manufacturers can also take similar leads to become the pioneer in CSR and utilize first-mover advantage (Sung et al., 2021).

## 6.2 Morality

From an ethical perspective, it is a moral duty of the companies to act responsibly and ethically to help end the pandemic as best they can (Emanuel et al., 2021). According to non-consequentialist analysis, Kantian ethics suggest that people should be treated as an end and not as a tool or mean, and Rawls’s theory of Rights and Justice advocate that as human beings are distinguished entities, there should be simultaneous fair treatment of individuals in a certain situation. Moreover, Rawls would argue that the minority and vulnerable group should be protected, and any inequality may be present solely if it benefits everybody (Manuel & Herron, 2020). Thus, business leaders should consider the ability of LICs in pricing and distributing their products fairly for morality.

On the other hand, consequentialist perspectives such as egoism and utilitarianism look at the consequence of an action and not the means or intention. Egoism theory would suggest maximizing the utility of the company solely. In this case, any means attained to maximize the shareholder value will be justified. Although it may be appealing to the company shareholders at first glance, such a perspective fails to take the broader picture in mind as there is also a risk of negative public outcry. To the contrary, utilitarianism argues to maximize the utility of the whole community, and it would also suggest taking the human sufferings into account together with any potential loss of sales (Manuel & Herron, 2020; Savulescu et al., 2020). From a moral standpoint, utilitarianism coupled with Rawls’s ethics of Rights and Justice are more suitable for taking a decision in times of a disaster such as the pandemic.

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# 7. Recommendation

## 7.1 Patent Pledges

Pharmaceutical companies completely giving up patent rights may be an attractive option from the perspectives of local manufacturers. However, it is not effective according to the theory of Tragedy of the Commons. The shared resource is presumably overused and depleted if it is uncontrollably consumed. Ownership of goods and services such as patent rights avoid the Tragedy of the Commons (Yuan & Li, 2021). Thus, a better option would be to take a milder approach such as patent pledge. Patent pledge can be defined as a public statement where a patent holder agrees to out-license their know-how temporarily for little or no remuneration. The key advantage of patent pledges is that it can reduce the tension between public health and patent protection by balancing short-term losses and long-term profits. Companies that decide to patent pledge will suffer some losses in the short run, however the overall societal wellbeing will be improved. Moreover, patent pledgers who pursue continuing development strategy, may in fact benefit in the long run by gaining competitive advantage and cooperative assistance. However, the companies should be in an affluent position with enough cash to consider the waiving of patent rights because of the potential losses in the short-term (ibid).

## 7.2 Tiered Pricing

Out-licensing company know-how through patent pledges will not solely solve the problem alone as the main issue is limited manufacturing capacity. The world currently does not have the capacity to produce enough vaccines at one go. Thus, the companies would also have to distribute the scarce vaccines on a fair basis such as according to the needs and financial ability of the countries (Eccleston-Turner & Upton, 2021). This can be partially achieved by employing the tiered pricing method mentioned earlier where LICs will pay less than wealthy nations through bilateral agreements. The companies need to also ensure reserving sufficient vaccines for the participating countries in a multilateral agreement. The wealthy nations should not be allowed to hoard vaccines unless the minimal need of LICs is fulfilled (Emanuel et al., 2021; Sung et al., 2021).

## 7.3 Multilateral Approach

The companies can also participate in fully multilateral deals to distribute all the vaccines via multilateral agreements such as FYP on the basis of need. However, the governments need to first agree on this new model or any similar approach where the needs of the countries will be prioritized first. It is also essential to disclose the contract details publicly for the process to be transparent (Emanuel et al., 2021; Herzog et al., 2021).

# 8. Conclusion

From the above analysis, it is apparent that the major pharmaceutical companies have indulged in unethical practices during this pandemic in one way or another. From reserving large portions of the vaccines to HICs to employing discriminatory pricing, the companies have modified their business strategies to substantially profit from the pandemic. COVAX, one of the biggest international coalitions, is also being hindered by their actions to achieve its full potential.

A serious disaster such as the pandemic that has cost millions of people’s lives should not be taken as an opportunity in any case. Businesses need to both believe and practice moral philosophies to sincerely help the people. Nevertheless, it is also profitable for the companies to do so according to the principles of CSR, as failing to keep the corporate image unscathed and cater to the very needs of the customers they serve will only be harmful for the companies in the long run.

However, it is important to note that the companies will need to choose the best course of action for them according to their specific business structure. For well-established companies such as Pfizer and Moderna, temporary patent pledges alongside large donations to multilateral facilities (COVAX or FPM) may be both feasible and sustainable. However, other companies will first need to ensure enough liquidity for the short-term before embarking on CSR activities. Nonetheless, the companies should employ some form of tiered pricing so that all the countries are able to afford the vaccines according to their financial ability.

Nevertheless, it is crucial for the national governments to uphold equality by dethroning vaccine nationalism. Governments thus also have the responsibility to not engage in bilateral contracts nor tempt the companies by offering lucrative prices. Moreover, WHO and the national governments should critically examine the existing COVAX model to ensure a fairer distribution of the vaccines so that the donations made by the companies are allocated effectively.

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