

## Chapter 2

# Economic Profit vs. Social Benefit: An Approach to the Pharmaceutical Industry

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### **ABSTRACT**

*There is currently a wide-ranging debate on whether it is ethical for pharmaceutical companies to profit and obtain large economic benefits by patenting and controlling the sale of essential medicines that can save thousands of lives, or, on the contrary, whether these medicines should be considered social products and offered at low prices so that anyone, in any country in the world, regardless of their purchasing power, can have access to them. This debate has intensified since health was considered a fundamental human right by the World Health Organization (WHO) and was expressly included in the Sustainable Development Goals (SDGs) adopted by the United Nations (specifically, in Goal 3: “Health and Well-Being”). Consequently, the overall objective of this chapter is to reflect on these questions: Should economic interests prevail over social ones in the case of essential life-saving medicines? Should the fundamental right to health prevail over the right granted by a patent? How far should corporate social responsibility (CSR) go in the pharmaceutical industry?*

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## **INTRODUCTION**

There is currently a wide-ranging debate on whether it is ethical, for pharmaceutical companies, to profit and obtain large economic benefits by patenting and controlling the sale of essential medicines that can save thousands of lives; or, on the contrary, these medicines should be considered social products and offered at low prices so that anyone, in any country in the world, regardless of their purchasing power, can have access to them.

This debate has intensified since health was considered a fundamental Human Right by the World Health Organization (WHO) and was expressly included in the Sustainable Development Goals (SDGs) adopted by the United Nations (specifically, in Goal 3 - *“Health and Well-being”*).

On the one hand, it must be recognized that pharmaceutical companies invest large amounts of money in research and development (R&D), in an environment of great uncertainty. For months, and even years, they invest in research, but nothing guarantees that they will finally find an optimal new drug, and before any other company. The patent is a stimulus for these companies, because it protects them from possible “copies” and allows them to recover this investment, guaranteeing them a monopoly on their product for a certain period of time.

Thus, for example, there was a race against time to find a vaccine against COVID-19 in 2020. Pharmaceutical companies spared no effort, investing enormous resources to be the first to obtain the long-awaited vaccine, so wanted worldwide.

As companies, their objectives are to be profitable, to offer more value to their shareholders, to reinforce their corporate image, as well as to consolidate their position in international markets by offering a unique, essential, or even “revolutionary” product to deal with a certain disease.

However, on the other hand, ethics comes into play. Focusing only on the economic benefit provided by a patent, by setting a price that maximizes profits for the company that takes advantage of its monopoly situation (thus controlling the supply of that product on the market), can make that price too high in some developing countries, where the majority of the population does not have sufficient purchasing power to have access to drugs. Thus, diseases that could be treated and cured with these drugs continue to ravage the populations of these countries.

In this sense, some non-governmental organizations (NGOs) demand low prices for certain drugs that could save many lives, and they consider that these drugs should be declared social products. But this would imply that pharmaceutical companies should then receive public and/or private funds on a continuous and regulated basis, so that their existence would last over time and, even if lower economic profits, or even losses, were generated, these private companies would not be affected by this (as they would then cease to be attractive to their investors). Only in this way

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