Walmart opened its first store outside of the United States in Mexico City in 1991 as a joint venture with Cifra. Walmart acquired Cifra in 1997 and three years later the company’s name changed to Walmart de Mexico (Walmart Corporate, n.d., para. 1). Walmart accelerated building in Mexico so that by 2011, 20% of all Walmart International stores were in Mexico, opening 431 stores in that year alone (Clifford & Greenhouse, 2012). Walmart is Mexico’s largest retailer and its largest employer with 209,000 associates (Malkin, 2012, para. 8). In late April 2012 the New York Times alleged that in its eagerness to expand in 2006 Walmart violated the US Foreign Corrupt Policies Act (FCPA) (Barstow, 2012). The report caused a furor that sent Walmart’s stock tumbling from $62.45 a share to $59.15 in a matter of days, representing a loss of $10 billion (Walmart Bribery, 2012). The New York Times further claimed that Walmart executives knew of the $24 million dollars in bribes to government officials and others, and actively worked to cover up the corruption (Barstow, 2012).

At the center of the controversy is the distinction between “grease payments” and bribes. Facilitative payments, as grease payments are known in legal language, help an activity happen more quickly than it would have had no payment been made. A bribe causes something to happen that would not have occurred at all without the payment. In many countries, facilitation payments are standard business practice. The FCPA, passed into law in 1978 after the Watergate scandal, permits these types of payments, but outlaws bribes. A Walmart investigator found evidence that the FCPA had been violated, and a top Walmart executive told reporters that he had personally ordered bribes to be paid to local officials who could smooth the way for zoning approvals, reductions in environmental impact fees and gain the support of neighborhood leaders (Barstow, 2012).

Walmart’s Vice President of Corporate Communications quickly announced that it had tasked one of its lawyers, a former federal prosecutor, to serve as its FCPA compliance officer. The Youtube message reminded viewers that Wamart had already put into place a worldwide review of its anti-corruption program in March 2011. Wal-Mart pledged its full cooperation with investigations opened by the US Justice Department, the government of Mexico, and the U.S. Securities and Exchange Commission , and an inquiry launched by the House of Representatives. Wal-Mart consistently declined to publicly address the New York Times allegations.

The bribery scandal called unwanted attention to Walmart’s expansion plans in the United States, plans which called for opening Wal-Mart stores in cities such as Chicago, New York, Boston, San Diego, and Los Angeles. City governments and local businesses had long opposed locating Walmart within urban areas, citing unfair business advantage over small retailers, potential traffic and pollution problems, and Walmart’s employment practices. Local governmental representatives and city residents all over the world called for inquiries into whether local officials had received contributions from Wal-Mart (Clifford and Greenhouse, 2012).
A Walmart department manager in Mexico gathered thousands of signatures to an online petition urging the company to launch an outside investigation into corruption and the resignation of both the CEO and Chairman of the Board of Directors. The California State Teachers’ Retirement System, which owned a significant number of Walmart shares, sued its executives and board members and sought changes in the company's corporate governance. A group of New York City pension funds said they would vote against reelecting five Walmart directors. Yet in spite of all of the negative reactions, a month later Walmart stock had gained three dollars a share and the company reported a first quarter profit increase of 10% (cite).

The Walmart revelations prompted new debate over the scope of the FCPA. Was Walmart only doing what had to be done in order to do business in Mexico? Critics of the FCPA claim that the law hampers US companies in successfully competing in the global marketplace (Miron, 2012; Wagner, 2012). Other countries have similar laws, but the laws are weak, difficult to enforce, and as a result are seldom followed. In October 2011 the Organization for Economic Cooperation and Development (OECD) cited Mexico for its lax criminal enforcement of corruption laws (OECD, 2011).

Proponents of the FCPA and similar laws, such as the British Bribery Act, say that facilitation payments slow sustainable development, and thus disproportionately affect the world’s poor (OECD, 2011). According to the OECD, “millions of dollars are squandered on bribes paid to public officials in exchange for business advantages. The result: shoddy roads, crumbling bridges, sub-standard hospitals and schools, and food and drugs that don’t meet safety standards” (Foreign bribery, 2012, para. 2). Thirty-nine countries, including the US and Mexico, have signed the OECD Bribery Convention and agreed to follow its recommendations.


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Case questions

1. Which of the 4 approaches to social responsibility does Walmart appear to take? Give at least two reasons for your choice.
2. Explain how Walmart’s actions have affected at least 2 different stakeholder groups.
3. Should the FCPA be less strict or should it be more vigorously enforced? What would the consequences be for either position?

References


The OECD acknowledges progress made, and says Mexico should further prioritize fighting foreign bribery. (2011). Organization for Economic Cooperation and Development. Retrieved from http://www.oecd.org/document/2/0,3746,en_21571361_44315115_48891906_1_1_1_1,00.html