
Case Analysis

The Protest Game: Animal Rights Protests and the Life Sciences Industry

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In 1997 a small group of animal rights protesters devised a strategy of legal and illegal protests that almost closed down one of Europe's largest animal testing firms, Huntingdon Life Science (HLS). The animal rights protesters successfully disrupted the operations of HLS and severed its links with some of the world's largest financial institutions. This case study examines the "protest game" that was played between the animal rights protesters, HLS, and its business partners. In the first section, I describe the interactions between the parties to the dispute, applying negotiation analytic concepts to better explicate the structure of the game, the alternatives available to the players, and the psychological heuristics and biases that influenced decision making. The conclusion suggests alternative ways in which the protesters and the life sciences industry could resolve the dispute over the ethics and cruelty of animal testing.

Key words: negotiation analysis, protest game, life sciences, animal rights, game theory.

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Introduction

Protest groups around the world target a multitude of firms every year. In the late 1990s, Greenpeace protested successfully against the Royal Dutch/Shell plan to dump the Brent Spar oil rig at sea. For several years, thousands of people boycotted Nestlé products because of the company's heavy marketing of baby food in developing countries. From 1999 onward, antivivisectionists in the United Kingdom targeted the animal testing firm Huntingdon Life Science (HLS).

Protests against firms are motivated by people's perceptions that the firm's operations result in such negative consequences as environmental damage, ill health, or military repression. The characteristics of protests vary. They are legal and illegal, peaceful and violent, local and global, and can involve a handful of dedicated activists or as many as thousands of angry citizens.

Negotiation scholars have investigated the nature and dynamics of protests and disputes (Rubin, Pruitt, and Kim 1994; Susskind 2002). Within the context of conflictual negotiations, research has also focused on barriers to conflict resolution (Arrow et al. 1995). This article contributes to the existing literature by applying a negotiation analytic perspective to the case of the protests against HLS, one of the world's largest animal testing laboratories. Beginning in 1997, antivivisection protesters have used both legal and illegal protests in an effort to shut the company down.

Animal testing, especially when animals are harmed as a result of the testing or are killed at the conclusion of the test, raises very real ethical questions. For some people, animal testing is morally wrong. For others, when animal testing produces drugs that save or improve human lives, the end justifies the means. I do not intend to address the ethical or moral dimension of animal testing in this article, nor do I advocate a particular moral perspective. I do believe, however, that dispute resolution professionals should take a stand against violence and illegal actions, no matter how noble the protesters' goals. This is especially true in democratic societies such as the United Kingdom and the United States, where protest groups have legal and nonviolent options for influencing public attitudes and for shaping public policy. The purpose of this article is to examine what happened in this specific dispute and to generate ideas about how dispute resolvers could act to prevent such protests from escalating into violence and illegality and to reduce the impact when they do.

The dispute between HLS and animal rights protesters whose actions were loosely coordinated by a small organization called Stop Huntingdon Animal Cruelty (SHAC) merits investigation for three reasons. First, the extreme and uncompromising demands of the protesters — that HLS close and go bankrupt — make the case study interesting because the dynamics of the interactions put this dispute at the “pure conflict” end of

the conflict-to-cooperation continuum. Second, the protest has had a huge financial impact, resulting in costs to the UK life science industry and to their suppliers that are estimated by industry experts to exceed \$100 million. Third, the protests have reduced the number of animal tests conducted in the UK, which may have retarded research into treatments for diseases such as Alzheimer's, Parkinson's, and HIV.

To explicate the structure and dynamics of this dispute, I will first provide a brief overview of the negotiation analytic methodology. Next, I will describe the protests against HLS and its network of business partners and employees. In the article's third section, I will assess the dynamics of the dispute. Finally, I will examine what lessons I believe can be learned from this particular dispute.

Applying Negotiation Analysis to Disputes

Negotiation analysis is a well-documented conceptual framework for generating insights into negotiations and for formulating advice for negotiators (Raiffa 1982; Sebenius 1991; Raiffa, Richardson, and Metcalfe 2002; Lax and Sebenius 2006; Watkins 2006). Negotiation analysis draws on concepts from game theory, decision analysis, and psychology to provide coherent explanations for the results of interactions among behavioral decision makers. Based on these concepts, the mission of negotiation analysis is to provide a specific individual with advice on the most beneficial sequence of actions to take in a particular dispute or in a particular kind of dispute.

In this article, I make three explicit assumptions within the negotiation analytic framework. First, my analysis does not assume that the best approach to resolving the dispute is for the parties to negotiate. Negotiation analysis embraces multiple forms of decision mechanisms such as individual decisions, voting, auction mechanisms, or negotiation. In the following analysis, I make no assumption that two players will, could, or should negotiate to resolve their differences because such an assumption implies that players *should* have an inherent preference to negotiate. The negotiation analytic approach loses its potency and comprehensiveness if we assume that individuals *should always* negotiate.

Second, my analysis takes into account the impact of resource limitations on what actions players can feasibly take. Negotiation advice often makes a heroic assumption about the level of resources available to a decision maker. Resources include time, money, people, relevant experience, language fluency, and so forth. Rarely do negotiators have sufficient resources to plan, analyze, implement, and monitor as theoreticians advocate. For the time-pressed business executive, finding time to analyze a dispute and acting based on the analysis can be exceptionally challenging. Resolving a crisis triggered by an extreme protest is not an activity that business people have a great deal of experience with, and they may not have the transferable expertise to deal adequately with such a situation

(Bazerman and Neale 1992). They often need to find a solution as quickly as possible, their firm often lacks the organization or expertise to support them, and they may find it hard to garner budgetary support for their proposals (Watkins 2003).

Third, academic literature on negotiation and conflict management is often biased toward achieving morally desirable outcomes and giving lawful advice. This is unsurprising. Which scholars want to be accused of advising hostage takers, violent protesters, rapacious asset strippers, and unpleasant dictators? But this article questions the implicit policy of not anticipating morally questionable moves or unlawful actions. A refusal to analyze the likely moves of an immoral or violent player leaves the analysis incomplete (Schelling 1960). It assumes that all players will make moral and lawful moves. In the context of the HLS dispute, such an assumption is not empirically accurate because some protesters have been imprisoned for committing violent acts.

The HLS Dispute

HLS, now trading as Life Science Research, is one of the largest animal testing firms in the world. It performs tests on animals on behalf of pharmaceutical and chemical companies that need to comply with government regulations requiring test results on animals for drugs that treat such diseases as Alzheimer's, Parkinson's, diabetes, and multiple sclerosis. HLS also carries out tests on animals to meet regulatory requirements for herbicides and food additives. More than 95 percent of the tests are carried out on rodents, but a small percentage are conducted on primates to comply with government regulations. To complete the test results, virtually all animals are killed because researchers must perform post-mortem examinations to learn whether and how the toxicity test has affected the animal's internal organs. In 1999, HLS was headquartered outside the town of Huntingdon in the United Kingdom. The firm was listed on the London Stock Exchange, with approximately one thousand employees.

In 1997 HLS came under intense public scrutiny after undercover video footage of incidents of cruelty in the lab were shown on UK national television. In the video, lab technicians were shown hitting puppies and shouting at them. The British government launched an investigation and two HLS employees were prosecuted for "gross and unnecessary cruelty." The UK Home Office threatened to revoke HLS's license to operate the animal testing facility unless changes were made to ensure compliance with the Animals Scientific Procedures Act of 1986, which regulates the granting of licenses for animal testing. Since this incident in 1997, no other prosecutions have been made of HLS staff on the grounds of animal cruelty despite further undercover investigations by animal rights activists who gained access to HLS facilities as staff members.

In December 1999, ten UK-based animal rights activists founded SHAC, with the explicit goal of shutting down HLS within three years. The members of SHAC, led by Greg Avery and Natasha Avery, stated that animal testing is unnecessary and cruel and should therefore be stopped, an objective shared by many but not all other animal rights organizations. (Some groups take a more moderate stance. The Humane Society of the United States, e.g., has animal welfare objectives such as reducing suffering, advocating sensible public policies, investigating cruelty, enforcing existing laws, and educating the public.)

In this article, I analyze the methods used by SHAC and its supporters to try to shut down HLS's animal testing operations. Evidence from newspapers and the SHAC website indicates that SHAC activists number less than two hundred in the UK but that the group has about ten thousand supporters worldwide (*Wall Street Journal Europe* 2001). The "anti-HLS protesters" that I refer to here comprised a loosely coordinated group of animal rights activists, to some extent lead by SHAC, but not necessarily belonging to that organization.

The strategy of the animal rights protesters opposed to HLS differed from the traditional campaigns of more established animal rights groups and more moderate animal welfare organizations in several ways. First, the anti-HLS protesters targeted their actions not just against the primary target, HLS, but also against secondary targets such as customers, bankers, shareholders, and suppliers. Second, the anti-HLS campaign focused on individuals within firms. Third, the anti-HLS activists acquired confidential information such as lists of shareholders, and the names, addresses, and telephone numbers of HLS employees. This enabled them to escalate the intensity of protests beyond petitions and legal protests to include illegal activities such as sending threatening letters and making threatening phone calls.

The leaders of SHAC distributed this information and encouraged activists to target firms and individuals connected with HLS while attempting to stay inside the law. But the British press documented hundreds of incidents of illegal activities directed by animal rights activists against employees, customers, suppliers to, and shareholders in, HLS, including eleven arson attacks in 2001 on cars belonging to HLS employees (Taverne 2001) and a violent attack with a baseball bat on Brian Cass, the CEO of HLS, for which one animal rights activist, David Blenkinsop, was jailed for three years (BBC 2001b). SHAC leaders were careful to avoid making public statements explicitly encouraging illegal actions because they feared arrest, but, nonetheless, in 2002 Greg and Natasha Avery were jailed for twelve-months for conspiracy to incite a public nuisance.

Successes in the anti-HLS protest campaign came quickly. From a leaked financial report, the protesters discovered that the UK Labour Party's pension fund owned 75,000 shares of HLS stock. The Labour Party had been elected to government in May 1997, helped by a donation of one

million pounds from animal rights groups. The party had made a pre-election pledge to improve animal welfare. The protesters immediately targeted the Labour Party. Facing pressure from the public and from pro-animal rights members of Parliament inside the party, such as Sports Minister Tony Banks, the trustees of the pension fund instructed its fund manager Phillips and Drew to sell all the pension fund's HLS stock in February 2000 (Boggan 2006).

Buoyed by this early victory, the protesters sequentially targeted HLS shareholders and financial services providers with the objective of stopping them from providing services to HLS. In February 2000, in response to threats from SHAC and vocal protests in the City of London, Philips and Drew sold its own 31 million HLS shares causing the company's share price to plummet by 80 percent (Taverne 2001).

The support of financial service providers for HLS fell one after the other like a line of dominoes. In March 2000, Schrodgers and Mercury Asset Management sold out, next came WestLB Panmure, Trimark, HSBC, and Citibank. In January 2001, the Royal Bank of Scotland (RBS) refused to renew its portion of a 22.5 million pound loan to HLS after a notice was posted on the SHAC website stating that "RBS/NatWest . . . must learn that to betray the animals inside HLS is a decision they will regret for years to come" (BBC 2001a). RBS had recently acquired NatWest Bank, which had made the original loan. Because of its links with HLS, NatWest bank branches had been targeted by antianimal testing demonstrations — automatic teller machines had been jammed with glue, and NatWest directors had received threatening letters (*Forbes* 2002). The nonrenewal of the credit agreement by RBS brought HLS to the brink of bankruptcy. In an unprecedented move, the UK government-controlled Bank of England agreed to act as the HLS banker because no commercial banks would finance the firm's need for working capital.

In a move that contradicted the trend, in late January 2001, Stephens Inc., an Arkansas-based investment bank, decided to invest in and provide credit to HLS. Interviewed by the *Wall Street Journal* on April 27, 2001, the chairman and chief executive of Stephens Inc., Warren Stephens, called the defections of other HLS investors "pretty spineless" (Naik 2001). Prior to the investment decision, nobody at Stephens Inc. had been subject to threats, and, from a financial perspective, the deal made sense for the firm. The investment gave Stephens a 15 percent stake in HLS, making it the largest shareholder. The deal with Stephens, which importantly included renewed commitments from such customers as pharmaceuticals giant GlaxoSmithKline (GSK) to continue working with HLS, was depicted in the media as saving HLS from bankruptcy.

Despite the new infusion of funds, the anti-HLS campaign continued to weaken financial support for the company. In February 2001, Merrill Lynch severed ties with HLS after protests outside directors' homes in the UK

(Kenyon 2001). Later in the year, Winterfloods stopped acting as a London Stock Exchange market maker for HLS following anti-HLS protests outside employees' homes involving as many as sixty protesters (Alleyn 2001). Dresdner Kleinwort Wasserstein soon followed suit. As a result, the London Stock Exchange was obliged to delist HLS because it lacked sufficient market makers to comply with market rules. In October 2001 the firm was also delisted from NASDAQ.

In early January 2002, Warren Stephens, who had been bullish just a year earlier, announced that his firm had entered into an agreement to sell all its stock and debt investments in HLS at a loss of five million dollars. Stephens was quoted in the *Arkansas Times* on January 25, 2002 saying: "I would be joking if I didn't admit that it [the campaign] had an effect." His home in New York had been vandalized just a few days earlier by a group claiming to be the Animal Liberation Front.

To protect shareholders from secondary targeting, HLS reincorporated in Maryland, a state that has more restrictive shareholder privacy laws than the UK, and changed its name to Life Sciences Research Inc. (LSR). (Maryland's state legislature has adopted a version of the Model Business Corporation Act which allows investors with less than a 5 percent stake to remain anonymous, while shareholders with bigger stakes are only disclosed to other large shareholders.)

But the relocation to the United States and the name change did not stop the anti-HLS campaign. Large shareholders such as Quilcap sold off their shares in 2002. In March 2003, HLS auditor Deloitte decided not to apply to be retained again following "home protests" against several Deloitte employees in the UK. John Connolly, senior partner at Deloitte UK, said in an interview with the *Financial Times*: "We do not like to walk away from a client in circumstances of intimidation. I cannot recall us ever doing it. But we had to protect our people" (Parker 2003). Despite the relentless protests, HLS revenues for fiscal year 2003 were still \$120 million, and it counted forty-eight of the world's top fifty pharmaceutical companies among its customers. Because of the commitment of HLS's pharmaceutical customers and the unprecedented support of the Bank of England, the protesters failed to close down HLS.

In 2003, the Labour government decided take more serious action against animal rights activists. In meetings with government ministers, representatives of the UK's life science industry made it clear that hundreds of millions of dollars of research and development investment were at risk if the UK government failed to stop illegal animal rights activities. As a result of this lobbying, on June 22, 2003, two amendments to the Antisocial Behavior Bill were put forward to better protect medical researchers and staff in the life sciences industry from harassment.

In a separate initiative, HLS turned to existing legal remedies to limit the impact of protesters and invoked the Protection from Harassment Act

(1997), which allowed the British courts to grant temporary injunctions to establish “exclusion zones” within which the right to protest is curtailed. The exclusion zones can range from fifty meters to several miles. HLS applied for and was granted several injunctions against protests in the proximity of its offices and laboratories and also in the proximity of employees’ homes. HLS customers and suppliers took the same approach. For instance, in August 2003 a judge granted “exclusion zones” to five Japanese customers of HLS.

The influential National Association of Pension Funds (NAPF), whose members control 20 percent of the shares on the London stock market, also formulated a plan to prevent a repeat of the campaign of intimidation against HLS. NAPF’s stated intent was to provide funds to offer collective protection to individuals and companies targeted by activists. One option under consideration was to offer a financial reward — possibly as high as ten million pounds — to people who informed on organized groups like SHAC. Other possibilities included providing a support service with a telephone helpline for people who were victims of harassment and financing the hiring of extra police officers.

But in August 2004, the NAPF reversed its position. The association issued instructions to its board and council members not to speak to the press amid fears that they could be targeted by animal rights extremists. By October 2004, the NAPF initiative appeared to have failed completely when the association announced that they were unable to recruit a chairman to take the committee’s work forward. None of the NAPF plans were successfully implemented.

In July 2004 the UK government published a white paper that set out a more comprehensive strategy for countering animal rights extremism. This white paper proposed legal changes to stop protests against individuals and also included the creation of a police coordination team to deal with extremists. Soon after the government’s announcement, on July 28, 2004, GSK, the UK’s largest pharmaceutical firm, held its annual general meeting. At the meeting, CEO Jean-Pierre Garnier claimed that the industry was “being terrorized” by animal rights extremists and stated that the firm had spent “tens of millions of pounds” to protect staff, labs, and offices from protesters. He went on to say that “at regular meetings with ministers, we [GSK] have said that we cannot continue to function unless you [the government] deal with the animal rights issue. The implications economically are desperately serious” (BBC 2004).

In September 2005, LSR announced its intention to upgrade its stock market listing from the over the counter (OTC) Bulletin Board to the New York Stock Exchange (NYSE), but the NYSE requested that it delay the move without offering an explanation (Tomlinson 2005). In June 2006, after being publicly identified as LSR’s largest institutional shareholder, Dresdner Bank sold its entire holding representing almost 5 percent of LSR’s stock.

In May 2007, thirty-two animal rights activists were arrested and nine were charged with criminal offenses in a police operation covering the UK, Belgium, and the Netherlands that involved seven hundred police personnel (Jack and Burns 2007). Two of those arrested on the charge of conspiracy to blackmail were SHAC leaders: Greg and Natasha Avery. The trial will take place in June 2008 and they remain in custody until that date, according to the UK's National Extremism Tactical Co-ordination Unit. As of this writing, LSR still exists as an ongoing business. The firm had revenues of \$226 million and income of \$16 million for its most recent fiscal year.

Without doubt, the animal rights movement has had a very significant impact on HLS, the life sciences industry, and life sciences research in the UK. These impacts have taken several forms. First, hundreds of people in the life sciences industry have suffered from harassment, intimidation, and defamation. Second, the industry as a whole has had to spend tens of millions of dollars to secure its facilities and protect its employees' homes. In January 2005, the Association of the British Pharmaceutical Industry released figures showing that in 2004 a total of 113 firms stopped supplying animal research firms as a result of protests and intimidation, and there were 108 campaigns of threatening and abusive phone calls, and 177 instances of damage to property by animal rights activists. Third, the UK government has had to invest in substantial additional police resources to monitor demonstrations and to enforce the respect of exclusion zones. Finally, it is possible that the actions of animal rights activists have slowed down the search for remedies for human diseases and illnesses such as Parkinson's, Alzheimer's, and AIDS.

Analyzing the Dispute

How were a small number of determined protesters able to have such a major impact on life sciences research in the UK? In this section of the article, I will apply some concepts from negotiation analysis and game theory to arrive at some explanations

The Protest Game: Low Commitment

The anti-HLS protesters defined the rules of the game, and initially HLS and its business network played according to the protesters' rules. The series of protests mounted against HLS's trading partners followed the same pattern. Initial requests to stop trading with HLS escalated into direct action and then intimidation tactics against the trading partner's employees. These interactions can be simplified into an iterative game with two strategies for the target of the protest, the firm, and three strategies for the protest group (see Figure One). The purpose of doing this is not to provide a mathematical analysis of the dispute, but to provide a framework for a simplified understanding of the dynamics in the situation and how they could be changed or better managed. Certainly the dispute could be modeled in other ways involving different players, strategies, and payoff matrices.

Figure One
The Protest Game with Low Commitment

		Protest group		
		No protest	Legal protest	Illegal protest
Firm	Trade	(10, -15)	(5, -10)	(-20, -5)
	Do not trade	(0, 20)	(-10, 15)	(-15, 10)

Figure Two
The Protest Game with High Commitment

		Protest group		
		No protest	Legal protest	Illegal protest
Firm	Trade	(55, -15)	(50, -10)	(40, -5)*
	Do not trade	(-50, 20)	(-60, 15)	(-65, 10)

In Figure One, the firm can either decide to continue trading with HLS by playing the “trade” strategy, or the firm can decide not to trade with HLS. The protest group can choose between not protesting against the firm (“no protest”), making a “legal protest,” or making an “illegal protest.” The standard game theoretic assumptions can be assumed to apply. The strategies available to the players are fixed — they have to choose among predefined alternatives. Second, the players have perfect information about payoffs and preferences, and this information is common knowledge — meaning that they know what the most valuable outcomes are for themselves and for the other side, and both players know that the other side has this information. Third, the players must make simultaneous choices, rather than consecutively, and no collusion can be assumed to apply. In other words, the players cannot discuss beforehand which strategy to pursue. The payoffs for the firm in Figure One reflect the firm’s low level of commitment to the trading relationship with HLS compared to the higher level of commitment they show in Figure Two.

The payoff numbers are for illustrative purposes and represent the values — however the players wish to define value — of the different

consequences, with higher values preferred. In constructing the payoffs, I assume that if a firm trades with the target of the protests, the protesters receive a negative payoff because their mission is to shut down the firm. The game theoretic payoffs also assume that because it is their preference to prevent firms from trading with the target firm, the more powerful their protests, the higher their valuation. Hence, the “trade” and “illegal protest” combination is preferable (-5) to the “trade” and “legal protest.”

This preference structure explains the difference between extremist protesters and more moderate groups. The anti-HLS activists defined themselves as a different group by escalating protests into illegal activities. The payoff structure is based on the protesters’ actions. As soon as anti-HLS protesters became aware that a new firm was trading with HLS — such as Stephens Inc. in 2002 or Dresdner Bank in 2006 — they immediately launched a campaign to break the relationship. This explains why the payoff for the combination of “trade” and “legal protest” is less detrimental (-10) than the interaction for “trade” and “no protest” (-15). When a firm stops trading with the target, the preferred payoff cell for protesters is “no protest” and “no trade,” which is valued at 20 for the protesters. This reflects the real-world actions of the anti-HLS protesters — they immediately switched their protest activities to a new target.

The payoff logic for the firm is simpler. By trading with the target of the protest, they achieve a financial benefit when there is no protest (10). But as soon the protest begins, the value of that outcome falls to 5, and crucially, an illegal protest results in a negative payoff of -20 for the firm. In other words, any financial benefit achieved from the business relationship is outweighed by the costs and risks incurred by the impacts of the illegal protest.

Assume the first pair of strategies chosen by the players is “trade” and “no protest,” resulting in a value of 10 for the firm and -15 for the protest group. In the next iteration, if both players assume the other will choose the same strategy as in the previous round, the protest group has an incentive to switch to a legal protest strategy, and the firm has an incentive to continue trading. The payoffs for “trade” and “legal protest” are 5 for the firm and -10 for the protest group. Connecting this situation to the real world, this means that while the legal protests are an annoyance for the firm, the trading relationship overall is still profitable. In the third round, assuming both players expect each other to play the same strategy as previously, the protest group will switch to an illegal protest. This is the worst payoff for the firm, so in the next round it has an incentive to change its strategy to “do not trade.” As structured, this game has no equilibrium and there is no dominant strategy for either player. No pair of strategic choices would result in the two players having no incentive to change their strategy. In the “no protest” and “no trade” cell, the firm has an incentive to switch to “trade.” If the firm has selected “trade,” then the protest group always has an

incentive to escalate its protests. This indeterminacy reflects the inherent instability of the interaction between the firm and the protesters. The end result is that “rational” players have an incentive to move continuously through a cycle of escalation and de-escalation.

By relaxing the game theoretic assumption that there is no preplay communication and assuming the protest group can *threaten* to start protests again if the firm begins trading again, which SHAC actually did through letters and its website, we can understand why the strategy pair “do not trade” and “no protest” became a behavioral equilibrium. The SHAC website lists dozens of firms that have publicly committed to not working with HLS and that have stuck to that commitment for a number of years. While SHAC is active, these firms will remain wary of the tacit threat of legal and illegal protests from animal rights activists. Indeed, SHAC publishes warnings to firms that they must not start trading with HLS again.

In reality, the pattern of strategic interactions varied for different firms. HLS’s banker, RBS, faced both legal and illegal protests before acceding to the protesters’ demands. They moved from “trade” and “no protest” (10, -15) into “trade” and “legal protest” (5, -10) up to “trade” and “illegal protest” (-20, -5) before switching to a “no trade” strategy. Financial services firms such as Schrodgers and WestLB Panmure anticipated the escalation of the protests and moved quickly to stop doing business with HLS before they were affected by illegal protests. This was the most rational action, because they moved from “trade” and “no protest” (10, -15) to “no trade” and “no protest” (0, 20). By contrast, Stephens Inc., which was a passive shareholder in HLS, moved into the limelight and increased its commitment to HLS. In effect, Stephens Inc. indicated that they wanted to “play the game” by beginning in the “no trade” and “no protest” cell with a payoff of (0, 20) and then moving into the “trade” and “no protest” cell (10, -15). The NAPF stated a desire to play the game by raising a fund to support actions against illegal protests. After further analysis, however, NAPF chose not to play the protest game.

The Protest Game: High Commitment

The pharmaceutical industry was also forced to play the protest game with the anti-HLS protesters. The difference is that for the life sciences firms, the value created by their business with HLS far exceeds the profit that the financial firms accrued from their relationship with HLS, thus making the life sciences firms higher commitment players in the protest game. In addition, their reliance on HLS as a business partner was far more significant at an operational level. Backing away from a relationship with HLS would have been just as likely to transfer the protests to their new supplier of animal testing services. This commitment and interdependency between the life sciences firms and HLS leads to a different payoff matrix as shown in Figure Two.

As in the low-commitment matrix (Figure One), the payoffs for each player in the high-commitment matrix reflect the value the players attach to

the outcomes resulting from the interactions of their strategies. The two games differ significantly. First, a “trade” strategy for the life sciences firm always has a positive payoff no matter what level of protest, and a “do not trade” strategy always has a negative payoff. Importantly, a “trade” strategy for the firm dominates a “no trade” strategy irrespective of the protest group’s actions. The protest group’s least bad payoff (-5) arises from selecting an “illegal protest” strategy. It has no incentive to switch from “illegal protest” to another strategy because the other strategies offer lower payoffs. The strategy pair of “trade” and “illegal protest” are in equilibrium — there is no incentive for either player to change its strategy assuming the other player does not change its strategy as well.

This game theoretic analysis of the actual situation helps clarify why the life sciences firms that relied on HLS for animal testing services have been locked in a conflictual situation with the anti-HLS protesters for nine years. For the life sciences firms, switching their strategy to “do not trade” would have significant negative consequences, so they have no incentive to switch. For the anti-HLS protesters, de-escalating their protests results in a worse payoff than continuing them. Given the preferences of both groups, there are no incentives to change strategies. The analytical conclusion is supported by the case study material. To continue normal business operations — developing and testing drugs — pharmaceutical firms such as GSK and Yamanouchi had to show resolute and unwavering commitment to HLS. When Stephens Inc. decided to invest in HLS, this deal was secured on the basis of renewed commitment from the life sciences firms to buy services from HLS.

Distortions in the Perception of Risk

What explains the different decisions made by the different firms when faced with the anti-HLS protests? Research into distortions in risk perception seems to provide some insight into such decisions. For example, researchers have investigated how different stimuli affect consumers’ insurance-purchase decisions (Johnson 2000). According to Eric Johnson and his colleagues, experiments have shown convincingly that graphic and dramatic information can distort people’s assessment of risk and therefore their willingness to buy insurance — even if they know that the dramatic information is not valid. There are multiple factors that can account for distortions in the perception of risk, including the size or the probability of the risks they face. Studies by Sarah Lichtenstein and her colleagues (1978) found that people systematically overestimate more vivid causes of death such as car accidents, as compared to less dramatic causes. It is probable that vivid media reports that contained photographs of the gash in the head of Brian Cass, burnt-out cars after arson attacks, and vandalized homes caused individuals trading with HLS to overestimate the size of the risks they faced and the probability that they would be affected by negative

consequences. This helps to explain why so many firms rushed to “insure” themselves against these risks by not trading with HLS.

Loss-Aversion Results in Different Decisions for Different Firms

In the HLS dispute, the decisions of finance firms and life sciences firms demonstrated that they are loss averse, but with different consequences. Loss aversion is a decision-making bias that asserts that when people make decisions, they compare the expected consequences from alternative choices relative to a reference point (often the status quo) and are influenced more by potential losses than by potential gains (Thaler 1992; Rubín, Pruitt, and Kim 1994; Kahneman and Tversky 2000). Finance firms such as Merrill Lynch and RBS proved to be loss averse. The anti-HLS animal rights protesters framed the choice for these firms as either: making a small profit from working with HLS but facing potentially huge financial costs and personal risks resulting from illegal protests and intimidation, or making zero profit from HLS and facing zero financial costs from protests. Most likely, loss aversion influenced the finance firms to select the second alternative.

Loss aversion also seems to have influenced the decisions of HLS customers such as AstraZeneca and Sankyo Pharmaceuticals. These life sciences firms feared that, if they allowed the protesters to close down HLS, they would lose a strategic supplier and, because they had to conduct tests on animals to get their products to market, an inability to do so would be catastrophic for their business. In his testimony to the United States House of Representatives Subcommittee on Crime, Terrorism, and Homeland Security, GSK’s vice president for corporate security and investigations, William Trundley, argued the legal necessity for GSK to test new medicines on animals to assess their safety before administration to humans. He explained that, as a result of this requirement, GSK had a “business relationship” with HLS and, since January 2005, “GSK employees and our friends and family have been subjected to approximately seventy-five intimidating and threatening home demonstrations and ten cases of criminal damage to property in the United States” (Trundley 2006).

The choice for GSK and other life sciences firms was either to maintain their relationship with a strategic supplier while incurring potentially large costs from increased security spending, or to face large losses from ending a strategic relationship and breaking the industry supply chain while avoiding security costs and risks to employees. Loss aversion can therefore work both ways: it explains why the finance firms gave in to the protesters but also why the HLS customers stuck with the company.

Social Proof Creates a Domino Effect in Response to Crises

Virtually all of HLS’s financial service providers ended their relationship with the company over the course of three years. What psychological

factors might have influenced this domino effect? Researchers have identified a phenomena they call “social proof.” According to this theory, when people are uncertain about what to do, they observe the actions of people they consider to be like them for guidance as to what action they should take (Cialdini 2001). The sale of HLS shares by the UK Labour Party’s pension fund and by HLS’s leading shareholder, Phillips and Drew, created a precedent that dozens of other financial firms copied. Faced with a potential crisis triggered by threats from animal rights activists, the executives at financial services firms followed the social proof principle: they viewed their behavior as correct and defensible because other similar firms had done exactly the same thing.

Negotiation-Analytic Advice for Protest Situations

In this section, I consider the events of the HLS dispute and offer recommendations for individual decision makers in target firms involved in a protest game.

Break up Tacit Coalitions and Negotiate with Moderates

Many company decision makers in target firms outside the life sciences industry fell into the trap of responding too quickly to the illegal anti-HLS protests instead of analyzing the different protest players and their interests in a network (Watkins 2002). They failed to engage with moderate animal welfare groups that, while opposed to animal testing, would not resort to illegal means to achieve their goals. To break out of the conflict situation that, in the mind of company executives pitted all financial services firms trading with HLS against all animal rights protesters, target firms would, I believe, have benefited by entering a structured dialogue with moderate protest groups. A well-developed framework for communication between industry and animal welfare groups on animal testing already exists; it addresses such issues as the number of primates and dogs (as opposed to rodents) involved in tests, the total number of tests performed, tighter monitoring of animal testing laboratories, and funding for alternative approaches to testing. In a negotiation context with highly emotional issues and strongly divergent interests, a neutral mediator would bring significant value to structure and manage the negotiation process. The involvement of mediators has proved to be successful in a wide range of equally intractable conflicts involving deeply held ethical values such as environmental disputes (Susskind, McKearnen, and Thomas-Larmer 1999).

Turn Stalemate into an Opportunity for Dialogue

The ability of extremist anti-HLS protesters to carry our illegal protests has been curtailed by the Serious Organised Crime and Police Act 2005, which introduced new legislation in the United Kingdom to deal with extremist tactics such as home protests, email harassment campaigns, and economic damage. The life sciences industry lobbied the British government to

introduce these measures to better protect employees subject to illegal animal rights protests. Under this legislation, several activists have been prosecuted and jailed for offenses such as blackmail, possessing an explosive substance, theft of documents from an employer, threatening to cause physical harm, and harassment (UK Home Office 2005). Despite the new legislation and the creation of a specialist police team focused on animal rights extremists called the National Extremism Tactical Co-ordination Unit, the UK life sciences industry has not entirely stopped protesters from disrupting their business. In 2008 the situation is one of stalemate (Rubin, Pruitt, and Kim 1994). The life sciences industry and animal welfare groups, I believe, should use the stalemate as an opportunity to engage in a broader dialogue to identify feasible joint objectives on animal testing.

Redesign the Game

The most competent negotiators shape the game (Watkins 2006), or as David Lax and James Sebenius (2006) exhort: "Scan widely for potentially advantageous elements; don't accept the current set-up as fixed." Central to the HLS case study is the fact that the extremist anti-HLS protesters unilaterally defined the rules of the game and that the target firms made no visible attempt to reshape the rules, the players, or the strategies for several years. By playing the same game against multiple target firms, the protesters reinforced the psychological acceptance of the rules in the market as a whole. Whether target firms were passive like Deloitte or active like Stephens Inc., the structure as created by the protesters guaranteed they would lose.

How should target firms have responded? A vast array of analytical techniques are available to individual decision makers to reshape the negotiation context and restructure the game to enable more value-creating alternatives by considering issues such as scope, sequence, process, backward mapping from the ideal solution to the current situation, inclusion of additional parties and interests, and identification of potential blocking factors (Lax and Sebenius 2006). The approach of the life sciences industry to reshape the game was to strengthen police powers and to focus on prosecuting illegal protesters. These efforts succeeded in the short term, with several animal rights activists jailed for illegal activities, including the leaders of SHAC. This legal redefinition of the game, however, fails to address the underlying interests of the different parties and is unlikely to result in a stable long-term solution. More creative analysis and reshaping is required to avoid the reoccurrence of illegal protests, which are detrimental to those firms and individuals who are targeted by protesters and which appear to do little to reduce animal pain and suffering.

Conclusion

Animal testing for medical research and drug testing is a legally required but controversial activity that raises profound ethical questions. This article has

examined the rise and, to some extent, the fall of illegal animal rights protests directed against the animal testing firm HLS and its business partners. A group of animal rights protesters, numbering no more than two hundred people, deliberately created a protest game with the goal of preventing HLS from conducting tests on animals that they considered to be unnecessary, cruel, and painful. This conflict is interesting for the dispute resolution professional because of some of the unique features of the anti-HLS protests:

- *Illegal protest activities.* The vast majority of people involved in animal welfare and animal rights groups pursue their objectives through legal protests. What set apart some of the anti-HLS protests was the willingness of a small group of individuals to undertake illegal activities such as arson, vandalism, blackmail, and harassment. This transformed the risk perceptions of decision makers in the firms that were targeted.
- *Secondary targeting.* As well as conducting protest activities directly against HLS operations, the protesters also protested against secondary firms that provided vital business services to the primary target. Some secondary targets demonstrated low levels of commitment to HLS. The protest strategy aimed at breaking up the HLS business coalition proved to be very effective for several years.
- *Targeting individuals.* Many protest groups target their activities against an organization or conduct activities such as writing petitions and organizing street marches. The anti-HLS protesters unpacked individuals from the organizations they targeted and used pro-animal welfare contacts inside firms and publicly available information to protest directly to decision makers via home protests, e-mails, letters, and phone calls. This individual targeting also spilled over into illegal activities such as threats of physical violence and blackmail.
- *Few resources, many impacts.* The illegal anti-HLS protests were conducted by a small group of people. The National Extremism Coordination Unit has prosecuted fewer than fifty people for illegal animal rights activities in the UK in the last two years. But the impact of their activities was huge in terms of extra security and policing costs, lost investments, and control over decisions made by some of the world's largest firms. This clearly demonstrates the power of controlling the game.
- *Low-commitment/high-commitment players.* While the protest game had the same structure for financial services firms and life sciences companies, the intensity of their preferences for different outcomes was revealed by their willingness to keep playing the game. The financial firms quickly capitulated to the protesters' demands, while life sciences companies continued to trade with HLS and endure a conflictual stalemate.

- *Lengthy delay until conflict de-escalation.* The protesters targeted HLS and other firms over a seven-year period. The turning point came after the creation of the UK's National Extremism Tactical Coordination Unit in 2005 and the prosecution of animal rights extremists in 2006 and 2007.
- *No long-term process for conflict resolution.* The prosecution and jailing of a few animal rights activists does not resolve the profound conflict of values between those who support legal animal testing and the animal welfare and animal rights groups that believe that all animal testing is unnecessary and cruel. The life sciences industry, I believe, should participate in the design of negotiation processes that will help avoid the future resumption of illegal protests.

The reactions of firms, industry associations, moderate protest groups, and the government to the dispute with the extreme protesters clearly indicates that they failed to develop a coherent strategy to resolve this dispute. The targeted stakeholders had opportunities to reframe the game by initiating a public debate about their clashing values, by restructuring the game into alternative strategies, by analyzing the role of resources, and by examining their own risk perceptions and coalition-building potential. Instead, their knee-jerk reactions and ill-advised confrontations with the protesters kept the dispute alive. Despite the recent prosecutions of a few animal rights protesters, the fundamental issues and conflict of interest in the dispute have not been addressed. Dispute resolution professionals should be directly involved as neutral mediators and facilitators to create a negotiation process that will avoid the recurrence of illegal protests and clarify the path to reductions in the use of animal testing in medical research and drug development.

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