Do investors have a right to know about a CEO's illness?

Four professionals offer expert advice

The Problem

Steve Jobs' health came under scrutiny recently after the Apple chief executive's gaunt appearance at the company's developer conference revived memories among observers of his battle with pancreatic cancer in 2004. An analyst subsequently inquired after the CEO's well-being on a conference call. The company has said that its founder is merely suffering from a common bug.

To what extent should any chief executive feel obliged to divulge health details to investors? Is it simply a private matter? And what is the best response when such questions are raised?

THE ACADEMIC
Frank Partnoy

The controversy about Mr Jobs illustrates a gruesome reality: a company's share price includes the value of an insurance policy on the CEO's life. If Mr Jobs died unexpectedly, Apple's share price would plummet. Even worries about his cancer cause a price decline because of the increased chance of his untimely demise.

For most companies the opposite is true. Academic research shows that most shareholders make money when the CEO dies unexpectedly. The share price goes up because shareholders believe a new CEO will add value, or in some cases because they are unlikely to bilk the company as much. The classic example is Armand Hammer, the head of Occidental Petroleum, whose share price rose by half a billion dollars the day he died.

The rule for CEO health disclosures should be the same as that for any inside information: disclose material facts you know or abstain from trading in the company's shares. The disclosure obligation should be high for CEOs who are very good, such as Mr Jobs. But it should be even higher for CEOs who are very bad. Ironically, average CEOs have a better claim to privacy, because fewer people care about their health.

The writer is a professor at the University of San Diego School of Law

THE PR
Howard Lee

If an executive so intimately entwined with a business is close to stepping down, for whatever reason, then the market will take a view. But individuals, however high-profile, have the right to protect their own privacy. No one wants to see a run on the stock price on the back of unsubstantiated rumour. But nor does anyone need to intrude into an individual's personal circumstances.

The role of the board is crucial here. They have a responsibility to protect shareholders from the influence of untoward speculation and need to be certain of the facts before appropriate decisions and relevant announcements can be made. If an individual dominates a company and its board so completely, then clarity can sometimes be compromised. Of course, demonstrating the breadth of the management team is important for any company, particularly one with a strong figurehead.

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THE EXECUTIVE
Ben W. Heineman, Jr

A CEO's health issues should be disclosed when they will significantly affect her capacity to lead the corporation. This can be the result of a sustained inability to function or a life-threatening illness or some combination of the two - factors that would influence a reasonable investor in making an investment decision or that are likely to move the stock. These are, of course, the general materiality standards under US and EU securities laws. But the regulators have not sought to define when CEO health events require disclosure. No matter. Such disclosure should occur either because of a careful interpretation of the law or because good governance requires it.

CEOs are public figures. They should waive any privacy limitations imposed by law or by' personal preference. Apple's obfuscatory answer to questions about Steve Jobs' health is exactly the wrong way to go. In light of serious medical issues in the past, Apple should say that his illness has recurred or that it has not.

The writer is former senior vice-president and genera! counsel of General Electric and helped shape the public disclosure of Jack Welch's coronary artery bypass surgery in 1995. He is author of High Performance with High Integrity

THE CONSULTANT
Joel Kurtzman

Here is a little test to determine whether the illness of a leader of a public company should be disclosed. If the company were family-owned and the CEO were the owner's son or daughter, would the illness be serious enough to tell the old man? If the answer is yes, then the company should inform its shareholders.

Individuals have a right to keep their personal life private. But when they have senior roles in public companies their responsibilities change. Investors entrust them with money and rely on them to produce results. As part of the bargain leaders are paid well but give up some of their rights, among them the right to absolute privacy.

While the details of an illness should remain personal, the ability of a senior executive to lead the company is more than personal. Therefore it should be made public. For shareholders, a CEO who is seriously ill is not much different from one who is under indictment or otherwise hobbled in their capacity to carry out the job. When that happens it is time to tell the owners so they can make plans.

The writer is chairman of the Kurtzman Group and co-author of Global Edge: Using the Opacity Index to Manage the Risks of Cross-Border Business

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