



Chapter 4

Ethics in marketing communications

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Ethical considerations – questions of right and wrong – are an inseparable part of real-life marketing communications. Any part of an organisation's marketing communications can send messages about its ethical stance, either intentionally or otherwise. Organisations need to cultivate an active awareness of the ethical consequences of their marketing communications.

Aims and learning objectives

The aims of this chapter are to introduce ideas of business ethics and to review how they are relevant to marketing communications.

The objectives of this chapter are to:

1. review briefly the main ideas in ethics and the way they are applied to business in general;
2. discuss the differing viewpoints of the ethics of marketing communications as a whole;
3. understand how ethical considerations, such as truth-telling, respect for personal privacy, the treatment of vulnerable groups and questions of taste and decency, affect specific issues in marketing communications;
4. introduce frameworks and models that can help managers to think through these issues in planning their marketing communications.

For an applied interpretation see Richard Christy's MiniCase entitled *Pure and simple fashions* at the end of this chapter.

Introduction

Something that is functionally effective may or may not be ethically acceptable.

In this book, the word ‘good’ is probably used dozens of times, often in the sense of ‘likely to contribute to effective marketing communications’, or something similar. ‘Good’, however, can also have a moral, or ethical (the two words are used interchangeably here), connotation, which may be quite distinct: something that is functionally effective may or may not be ethically acceptable. This chapter looks at how ethical questions of good and bad or right and wrong might be applied to marketing communications.

Familiar concerns

How do these questions make themselves felt in real life? Everyone will have their own list, but common concerns include:

- misleading or false advertising;
- shocking, tasteless or indecent material in marketing communications;
- high-pressure sales techniques, particularly when applied to vulnerable groups;
- telesales calls, or ‘spam’ emails that seem to intrude on personal privacy;
- PR communications that seem to distract and obfuscate, rather than inform;
- the payment of bribes to win business.

Why is it worth paying attention to these matters? For many, the main reason for wanting to understand how ethics may bear upon marketing communications will be a natural desire to know how good things can be promoted and bad things avoided. For others, interest in these questions will result from a realisation that if a company conducts its marketing communications (or any other aspect of its business) in a way that others find unethical, then it may have negative consequences which can outweigh any functional benefits. Finally, many may believe that there is no necessary contradiction between being effective in business and behaving ethically, and perhaps even that true, long-term effectiveness in business is more likely to be achieved by companies that set and stick to high ethical standards.

Importance of judgement and experience

There has been a growing emphasis on business ethics in recent years, partly as a consequence of an increased public interest in how businesses behave (i.e. not just in the products and services they produce) and a more skeptical and less respectful attitude to the place of business and business people in society. This growing awareness has also been fuelled by a far wider availability of information about corporate actions: it is much more difficult to keep things permanently secret in the Internet age. As a subject, business ethics addresses itself to the complete range of activities of an organisation, part of which

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concerns the ethical implications of the way an organisation approaches its marketing communications. As we shall see, many of the issues that arise are not simple ‘black-and-white’ questions, but more complex situations in which judgement and experience have to be applied to arrive at an ethically acceptable solution.

For example, most people would presumably object to a sales presentation, the content of which was designed to mislead consumers about a product or deliberately make false claims about its benefits, but few would go as far as to require every marketing communication to provide full ‘warts and all’ detail about the advantages and possible disadvantages of buying and using the product. Finding the balance between these two extremes is not wholly an ethical question – practical and legal issues, for example, are also likely to intrude – but one in which an understanding of ethics as applied to the conduct of business can be very valuable.

This chapter provides a brief introduction to some of the main ideas in ethics and to the way in which ethical thinking can be applied to business. For all that common sense plays a major role in the resolution of many real-life ethical questions, these issues can be highly complex, with solutions sometimes depending strongly on the approach adopted to analysis. Understanding moral concepts may help a decision-maker to analyse the ethical ramifications of a situation in order to make a better ethical choice. Sometimes, in real-life business situations, resolving to do the right thing can be easier than determining what the right thing actually is.

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Ideas in business ethics

Ethics is the study of morality: those practices and activities that are importantly right and wrong (De George, 1999); business ethics considers the application of ethical principles to the conduct of business. This distinction may seem obvious, but it makes an important point: just as medical ethics considers the application of ethics to medicine, business ethics is about the way general ethical principles should be applied to business. In particular, business is not 'exempt' from the moral considerations that apply to human affairs in general, nor should a separate set of moral standards be developed for the set of human activities that fall under the heading of business (or marketing communications in particular).

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Questions of right and wrong have occupied thinkers and writers over many millennia, and it is impossible to provide anything but a superficial overview in the space available here. Those who wish to follow up in more detail some of the theoretical ideas mentioned here should consult a specialist business ethics text: Crane and Matten's (2007) book, for example, is one of many in the field that provide a clear and accessible account of the application of ethical principles to business.

Duties and consequences

Two major schools of thought can be distinguished in ethical thinking in Western philosophy, which broadly lie on either side of the means/ends debate:

- The first is concerned with *duties, rights and principles*, and argues that some actions are always bad and others always good.
- The second approach focuses on *consequences*, holding that whether an act is good or bad depends on what happens as a result of taking that action, no matter what the action is. Utilitarianism is a well-known form of this approach, seeking to identify actions that (very broadly) can be expected to result in the greatest good of the greatest number.

Problems of the main approaches

To make this distinction is to oversimplify a very complex and long-running debate and also to overlook the many sophisticated variants and hybrid theories that have been developed. In the course of this debate, the problems inherent in either approach have been well rehearsed – an approach to ethics based on duty alone is likely to be inflexible and difficult to put into practice in a complex real world. By contrast, the alternative approach of considering only outcomes seems unsatisfactory to many. Crude utilitarianism, for example, is (by definition) 'unprincipled' and insufficiently concerned with the idea of justice. Also, in practical terms, it can also be very difficult to arrive at a satisfactory assessment of 'the greatest good', however that is defined.

Neither approach on its own seems to offer a practical and foolproof guide to ethical business decision-making. As has been suggested above, a simple and apparently unarguable

duty-based rule such as ‘Always tell the truth in marketing communications’, may cause problems as soon as we start to plan an advertising campaign. Is it our duty to provide a detailed and reasoned discussion of all of the reasons for and against buying the product, whatever the medium we are using? Must we refrain from using ironic statements that are plainly designed to entertain, rather than inform?

Basing the ethical evaluation of our actions only on the expected consequences brings a separate set of problems. If, for example, a company designs an advertising campaign that most people will find mildly amusing but which a small religious minority will find highly offensive, then the publication of research data showing a weighted average calculation of approval for the adverts will be unlikely to reassure most people’s intuitive concerns about the campaign. In practical terms, it can also be extraordinarily difficult to forecast all of the consequences of a proposed action, however concerned one may be to achieve a balanced assessment.

Table 4.1 Ethical theories – a summary

Ethical theory	Distinctive characteristic	Example
Duties or principles	Good or bad is evident in the act itself, irrespective of the consequences	‘Never tell lies’
Consequences	Whether an act is good or bad depends on what happens as a result of the act	Utilitarianism: ‘take the action that results in the greatest good for the greatest number’
Virtues	Virtues are good qualities in a person’s character that lie between undesirable extremes	‘Study and imitate the behaviours of those who are judged to be good’
Teleological	Goodness or badness judged against the purpose of the organisation	‘A business should not do things that are not consistent with the business purpose’

Other approaches to business ethics

These practical difficulties in applying simple rules or methods to complex, real-life situations have caused many writers in business ethics to leave the theoretical ends/means argument to one side and to propose alternative bases for judging the ethical implications of proposed business actions. Jackson (1996), for example, explains how a focus on moral virtues in business life can provide a much more practical basis for assessing good conduct in business. The concept of virtues seeks to express those qualities and dispositions in a person that will help to ensure a good life, often seeking a ‘mean’ between two undesirable poles. Finding the ‘mean’, however, is far from straightforward. Murphy (1999) argues that a virtues approach is appropriate and useful in analysing the ethics of organisations as well as individuals, and discusses five virtues that are particularly relevant to the ethical conduct of international marketing: integrity, fairness, trust, respect and empathy.

A different alternative is proposed by Sternberg (2000), in which the assessment of business ethics is based upon a definition of the *purpose* of the company (for this reason, her approach to business ethics is described as teleological):

To be an ethical business, an organisation must be a business and must conduct its activities ethically. An organisation is a business if its objective is maximising long-term owner value; a business acts ethically, if its actions are compatible with that aim and with distributive justice and ordinary decency.

(p. 93)

In this definition, ‘distributive justice’ refers to the principle by which rewards are allocated in proportion to the contribution made to organisational ends, while the constraint of ‘ordinary decency’ obliges a firm to refrain from coercion, lying, cheating and so on, whether or not they appear at the time to further the business purpose. These two restrictions acknowledge the vital importance of confidence and trust in the business world.

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In adopting this approach, a manager would be mainly concerned with the consequences of a proposed action, but would concentrate on those consequences that are directly or indirectly relevant to the firm’s long-term interests, rather than seeking to judge what is in the general interest. On first reading, this may seem to some to be nothing more than a formal statement of the ‘Greed is good’ values that are sometimes associated with the aggressive ‘Anglo-Saxon’ model of capitalism of the 1980s. The teleological approach, however, is importantly different from the excesses of that era:

- The concept of ‘long-term owner value’ is not the same thing as that of short-term rewards: the pursuit of long-term value may require very different actions from a policy designed to maximise, say, the next dividend payment.
- The requirement to behave with ‘common decency’ firmly excludes actions on the part of the firm such as lying, cheating, stealing and coercion, no matter how expedient or financially attractive they may seem in the short term: these things are always unethical.
- An intelligently self-interested firm will generally not wish to pursue activities that give it a bad reputation among customers, suppliers, potential recruits and so on, because to do so would be to fail to maximise long-term owner value. As real-life corporate behaviour suggests, a concern for company reputation is sometimes not a guarantee of ethical behaviour, but the teleological principle provides a powerful reason to behave ethically in business.

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This teleological principle, and the primacy it accords to the interests of the shareholders, has been criticised as incomplete by some (see, for example, Crane and Matten, 2007) and many argue for a much more extensive view of corporate social responsibility. However, thinking broadly and clearly about the long-term interests of a business can in many cases help to identify the ethical way forward, as will be argued in this chapter.

Stakeholder theories

Although it is framed in terms that may seem to be disconcertingly stark – even provocative – this teleological principle may help to illuminate the difference between the ideas of ‘stakeholder’ theory and the seemingly narrower concerns of what De George (1999) refers to as the organisational view of business. One example of this view is provided by Milton Friedman’s (1970) suggestion that the social responsibility of business is to use its resources to engage in activities designed to increase its profits, within the ‘rules’ of free competition and without deception or fraud. This type of approach views directors and managers as agents of the owners, with a prime duty to maximise their wealth. By contrast, some forms of stakeholder theory define a far wider set of external interests, to which the firm is in some way ‘accountable’ (see Chapter 8 for a fuller discussion of the implications of stakeholder theory).

Whatever view is taken of a firm’s relationship with, and duties towards, its various stakeholders, the mere acknowledgement of complexity and plurality does not of itself help managers to know what to *do* about this plurality in practice. Managers seeking to ‘balance’ stakeholder interests will quickly encounter the very practical problem of *how* that balance should be defined. Consider, for example, opportunities for a firm to contribute to, or become involved with, charitable causes. The available range of local, national and global causes will in total outweigh any conceivable budget. What is needed is an ethical basis for deciding whether

to lend support at all and, if so, which causes to support. Asking the question ‘Which actions best support the long-term goals of this firm?’ in an intelligent and enlightened way may well help to illuminate the complex ethical issues facing firms today. The word ‘enlightened’ is used here to describe an outlook that deliberately considers the long term as well as the short term, which thinks more broadly than the immediate transactions carried out by the firm and is active and searching, rather than passive.

The teleological principle requires that stakeholder interests be acknowledged and taken into account.

The teleological principle requires that stakeholder interests be acknowledged and taken into account, because not to do so would be a violation of the principle. Importantly, it also provides guidance on *how* those interests are to be taken into account (i.e. by assessing their impact on the long-term interests of the owners of the firm).

The scope of ethical issues in marketing communications

Before looking at the application of these ideas to marketing communications, one or two things need to be clarified. The first of these is the importance of distinguishing between:

- those critiques of marketing communications that are based upon a belief that the activity as a whole is undesirable;
- criticisms of some aspects of marketing communications in practice that are based on an acceptance that the activity is in principle justifiable.

The next section provides a brief review of some of the first type of critique, not least because these arguments are frequently encountered in public debate; in effect, they are part of the world in which marketing takes place. The rest of the chapter, however, concerns itself with the second category of criticisms – ethical issues that are raised by the practice of marketing communications, with a clear implication that advertising, selling, PR and so on are things that can be done ethically or unethically, depending upon the choices that are made.

It is also important to clarify that the discussion here concentrates on marketing communications in particular, rather than marketing in general, meaning that many issues relating to marketing as a whole have been excluded. It is certainly unethical to advertise a product that is known to be so badly designed or manufactured as to be dangerous, for example, but the ethical issue in this case has more to do with the practice of product management than advertising. Those interested in ethical issues affecting marketing in general should consult a specialised text such as Schlegelmilch (1998), or the reviews of the literature presented in Nill and Schibrowsky (2007) or Tsalikis and Fritzsche (1989).

The final clarification is to point out that the main ethical questions in marketing communications are considered one by one in this chapter, rather than looking at the individual elements of the promotional mix in turn. Questions of truth-telling, decency, privacy and so on have some bearing on every part of the promotional mix, although the context of each medium may affect the way in which ethical considerations have to be applied.

Marketing communications: a diabolical liberty?

In Stanley Donen’s 1967 comedy film *Bedazzled* Peter Cook plays a jaded, weary devil, who complains that since introducing the seven deadly sins he has done very little except invent advertising. The line is just a joke, of course, but does rely on one familiar view of advertising:

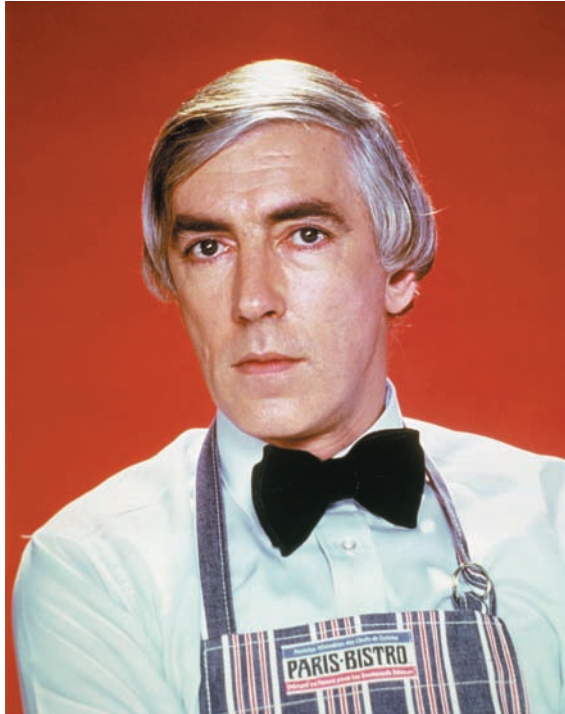


Exhibit 4.1

Peter Cook: joke based on a popular view of advertising as manipulative and bad
Pictorial Press Ltd/Alamy.

that it is inherently bad, manipulative or corrupting. Nor is this disapproval confined to advertising: the image of the smooth, fast-talking ‘snake oil’ salesman is an enduring one, with many modern counterparts. Similarly, the public relations industry has suffered from some extremely *poor* PR in recent years: the term ‘PR’ sometimes seems to be used in a way that is almost synonymous with half-truths, insincerity and manipulation. In contemporary politics, the term ‘spin’ is generally pejorative, suggesting a growing impatience with slick presentation at the expense of candour and truth.

If these views – in effect, that marketing communications is inherently undesirable and unworthy – are taken seriously, then the ethical response must presumably be to indulge in these activities as little as possible, if at all. Happily, however, this is not the only view that can be taken: an alternative view regards marketing communications as playing a key role in the market economy, assisting the process through which consumer needs are identified and satisfied. From this perspective, the ethics of advertising, PR and so on, depend upon how they are carried out: in themselves, these activities are ethically neutral. Most of this chapter takes the latter perspective, but it is certainly worth briefly highlighting the more fundamental critiques of advertising.

Advertising as mass manipulation?

Vance Packard’s famous book on mass communications, *The Hidden Persuaders* (1960), had a major impact. His concern was what he saw as the manipulative, widespread use of psychological techniques in advertising, PR, politics and so on:

[M]any of us are being influenced and manipulated – far more than we realise – in the patterns of our everyday lives. Large-scale efforts are being made, often with impressive success, to channel our unthinking habits, our purchasing decisions, and our thought processes by the use of insights gained from psychiatry and the social sciences. Typically these efforts take place beneath our level of awareness, so that the appeals which move us are often, in a sense, ‘hidden’.
(p. 11)

Today’s hard-pressed advertisers, trying to engage the attention of a sophisticated, knowing and demanding public, might be forgiven for wryly wishing that anything like that level of influence could be achieved. However, Packard’s book provided a powerful expression of a point of view that is often found in press and academic commentaries on advertising, sometimes linked to more fundamental political critiques of the capitalistic society in which advertising takes place. Forty years later, a similar concern was evident in Klein’s (2000) account of the anti-capitalist protests that took place in several cities internationally. One of the strands of this diverse movement has been concern about the dominance of global brands in everyday life.

Pollay’s (1986) review of social science commentaries on advertising drew together a wide range of material into a general framework. This synthesis suggested that advertising was seen – by social scientists – as a powerful and intrusive means of communication and persuasion, whose (unintended) effects could be to reinforce materialism, cynicism, irrationality, selfishness and a number of other undesirable outcomes. Holbrook’s (1987) reply to this paper challenged some of its implicit assumptions (e.g. that advertising is monolithic, somehow acting in concert; that it appeals to a mass audience; that it manipulates social values; that it relies mainly upon emotional impact) and suggested that the ‘conventional wisdom or prevailing opinion’ represented in the Pollay model was unfairly destructive of a much more diverse reality.

Space does not permit anything like an adequate discussion of these serious and important arguments. The important point to be taken forward is that this discussion of ethics in marketing communications takes for granted a number of much broader issues to do with the ethical acceptability of marketing as an activity and of the capitalist system which engendered it. As Robin and Reidenbach (1993) point out:

The degree to which the basic marketing functions are seen to be ethical or unethical must . . . be measured within our understanding of their history, the times in which they are applied, the context in which they are applied, the expectations of society, the requirements of capitalism and our best understanding of human behaviour.
(p. 104)

Truth-telling

The general ethical requirement to tell the truth is one that bears upon every type of marketing communication.

The general ethical requirement to tell the truth is one that bears upon every type of marketing communication. Reflecting the widespread public distaste for lying and deceit, there are plenty of legal and other regulatory deterrents to this type of unethical conduct in advertising, selling, public relations and so on. Clearly, no responsible business will wish to be found on the wrong side of these requirements, but there remains plenty of scope for judgement in respect of which aspects of the truth are to be presented in marketing communications and how they are to be put across.

As discussed at the beginning of this chapter, we expect a salesperson not to lie to us, but few would require from a salesperson a full and balanced account of the advantages and disadvantages of our entering into the proposed transaction. There are perhaps two reasons. Mainly, it is unreasonable to expect the salesperson or advertiser to have enough information

about us to be able to carry this out; also, however, there is a general acceptance that the principle of *caveat emptor* (let the buyer beware) should play some sort of moderating role.

As Sternberg (2000) observes, the aim of a salesperson is to sell the company's products, not to provide consumer guidance. Both buyer and seller have their own interests and it is normally up to either party to look after these interests during the purchase process. Thus, there is no ethical requirement that customers should ensure that the transaction is profitable for the seller, nor – in every case – that the seller must go to great lengths to ensure that the buyer is making a wise and prudent purchase (although many sellers will choose to provide some advice of this nature, in order to appeal more effectively to customers). Much depends on the context of the sales dialogue: the nature of the product or service, the awareness and expectations of the customer and so on (see also Smith's (1995) 'consumer sovereignty' test discussed below). It is also usually important for the seller to make it plain in some way that selling is actually taking place: the Market Research Society, for example, defines the unacceptable practice of 'sugging' – selling under guise (of conducting research). The distinction between selling and giving independent advice is also embodied in the regulations relating to the marketing of financial services in Britain.

Misrepresentation and 'puffery'

Some way short of the extreme of deceit or lying, but nonetheless the wrong side (for most people) of the ethical divide, is the problem of deliberate or reckless misrepresentation in selling. Chonko (1995) defines misrepresentation as occurring when salespeople make incorrect statements or false promises about a product or service. The dividing line is not always absolutely clear: a salesperson can be generally expected to show enthusiasm for the product, which may result in some degree of exaggeration. Up to a point, of course, a sales negotiation can be seen as a performance in which both buyer and seller may make some claims that do not represent their actual or final position. Most, however, would accept this as perfectly normal, perhaps even seeing it as an effective way of identifying and delineating the area within which both buyer and seller are prepared to participate.

Misrepresentation in advertising is likely to be condemned by codes of practice, if not by actual statute. The American Marketing Association's code of ethics, for example, is clear that it is the responsibility of members to avoid false and misleading advertising and sales promotions that use deception or manipulation (American Marketing Association, n.d.). Much advertising, however, contains some degree of what might be called 'embellishment' or 'puffery' – the enthusiastic use of language and images to convey the most optimistic view of the product or service being portrayed. Those who find embellishment to be a natural, obvious and harmless aspect of advertising language will have some difficulty in providing a firm dividing line between harmless embellishment and deception. Chonko (1995) points out that the American Federal Trade Commission regards puffery as acceptable because such statements are not likely to be relied upon by consumers in making their choice. However, this approach seems itself to place great reliance on being able to identify those parts of a marketing communication that *are* likely to be relied upon. Similar issues are raised by the visual images created for advertising, which naturally seek to show the product as appealingly as possible – there will be little serious concern about using mashed potato to represent easily melted ice-cream in an advertising photo session. However, for some products aimed at some audiences – and children's toys are often mentioned in this context – exaggerated images may have a greater potential to delude. These questions are complex in detail: the extent to which consumers should be held responsible for critically evaluating the commercial messages is not a simple issue, since so much depends on the circumstances of an individual case. For Attas (1999), for example, it is preferable to think about the effects of deceptive advertising in terms of the effect on society as a

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It is preferable to think about the effects of deceptive advertising in terms of the effect on society as a whole.



Exhibit 4.2

If this advertising image of ice cream is actually mashed potato, does it matter?

© Brand X/Corbis.

whole (i.e. as if deception at a particular level were commonplace), rather than seeking to make firm statements about the possible effects on an individual.

The importance of context: selling complex products

The importance of context in judging ethical behaviour can be seen in the debate in Britain over the problems arising from the selling of private pensions during the 1980s. In many cases customers were persuaded by salespeople to switch out of existing pension schemes into new schemes whose subsequent performance left them worse off. In these cases the complex nature of the services, together with the unfamiliarity of many of the customers with the various types of product and how to choose between them, led them to place an unusually great reliance on the advice provided by the salesperson. Put another way, the extent to which the buyer was foreseeably *able* to 'beware' in these cases was very limited, which in turn should have placed a greater than normal ethical duty on the salesperson to ensure that the customers were properly informed of the consequences and implications of the switch. The fact that these ethical standards were clearly not met in a large number of cases has caused a great deal of loss, anxiety and inconvenience for the customers who lost out, but also a great deal of difficulty, expense and embarrassment for the pensions industry as a whole. By contrast, while we may view with considerable unease the unfolding consequences of the 2007 'credit crunch' in world markets, we are much less likely to view with sympathy the financial services organisations who bought into the financial derivative products that fell so alarmingly in value.

Writing about ethical issues in insurance selling in general, Diacon and Ennew (1996) point out that marketing transactions in retail financial services have greater than normal potential

for ethical complications. The unavoidable complexity of many financial services products is heightened by the fact that the evaluation may depend upon individual calculations carried out for the customer by the salesperson; also, risk for the customer may be significant, in that the actual benefits received will often depend upon the performance of the economy over a long period. The authors highlight a number of other ethical issues relevant to insurance selling, including:

- the issue of ‘fitness for purpose’ in both the design of the products and the way in which they are matched to customer needs;
- the transparency of the price for these products, such that any commissions payable to the intermediary organisation or individual salesperson are clearly visible;
- the need for truth in promotion, not only in terms of strict factual correctness, but also in terms of what the consumer might be expected to understand from a phrase;
- the effect of the sales targeting and reward systems of the selling organisation on the behaviour of salespeople, particularly in view of the important advisory component of this type of selling.

In their survey of the industry, the authors found some awareness of these ethical issues and also evidence of initial moves to address the main cause of problems: the potentially dangerous combination of commission-based selling and imperfect information on the part of customers.

The serious problems arising from personal pension selling during the 1980s provide an example of how important it is for businesses to maintain an active awareness of the likely effects of their actions. It is difficult to escape the conclusion that a more enlightened assessment of the long-term interests of the business on the part of financial service providers would have helped to avert many of the problems, to the great benefit of all involved. This is easy to conclude with hindsight: the effective ethical businesses are those that manage to cultivate this type of *foresight*.

The relational context and expectations

The importance of the buyer/seller context in which the statement is made is also reflected in Gundlach and Murphy’s (1993) paper on the ethics of relational marketing exchanges. In these exchanges the value of the arrangement for both sides depends critically upon the mutual maintenance of trust, equity, responsibility and commitment (as opposed to the more contractual regulation of shorter-term transactional relationships). Clearly, the expectations as regards the content and openness of marketing communications in the former would be different from the latter. A customer might, for example, feel upset if a car salesperson with whom he had dealt for many years failed to tell him that the model he was buying was about to be superseded, because that would seem to be inconsistent with the trust built up over the years. The same customer might not be at all upset to find the same thing happen with a personal computer bought from a discount store in London, not only because computers are known to date more quickly than models of cars, but also because there was no long-term relationship to be brought into question.

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Truth-telling and PR

The practice of public relations (PR) is also likely to raise many truth-telling issues. The purpose of PR is to create and manage relationships between the firm and its various publics and there must always be a temptation in so doing to place undue emphasis on the positive aspects of the firm’s actions. The question of what is ‘due’ emphasis is no easier in this area of marketing communications than in selling or advertising: a firm must strike an ethical balance,

based on its understanding of its impact on others and its own long-term interests and reputation. Firms that make a habit of using PR techniques to mislead stakeholder groups are in effect consuming in the short term the trust upon which their long-term profitable existence may depend.

Botan (1997) distinguishes between the 'monologic' and 'dialogic' approaches to PR, suggesting that dialogue is a more ethical basis for planning PR campaigns, particularly in an information society. More pragmatically, Barton (1994) warns that, following the major business scandals of the 1980s, courts may increasingly hold PR firms liable for making false or misleading statements on behalf of their clients, placing a prudential burden of proof and research on the PR firms themselves. Onerous though such burdens may turn out to be, they appear to be little different from that which an enlightened view of long-term self-interest on the part of PR firms might indicate – PR firms above all must rely upon a basic level of public trust in their activities if they are to do any good for their clients at all.

ViewPoint 4.1

Business and sustainability: extending the dialogue

One clear trend over the last few years has been the broadening of the range of topics handled in the dialogue between companies and their various publics (or stakeholder groups). Many prominent companies were used to publishing accounts of their activities under the heading of corporate social responsibility: involvement in social projects, charitable donations and so on. With the emerging public concern about the truly global issue of climate change, however, businesses are starting to communicate the actions they are taking to respond to these challenges. In 2007, leading UK retailer Marks & Spencer published its 'Plan A (because there is no Plan B)', which detailed a major programme of investments over the next five years that are designed to reduce the impact of the M&S business on the natural environment. As the company's web site¹ puts it:

Plan A is our five-year, 100-point 'eco' plan to tackle some of the biggest challenges facing our business and our world. It will see us working with our customers and our suppliers to combat climate change, reduce waste, safeguard natural resources, trade ethically and build a healthier nation.

We're doing this because it's what you want us to do. It's also the right thing to do. We're calling it Plan A because we believe it's now the only way to do business.

There is no Plan B.

The second sentence of this quote suggests that both consequentialist and duty-based motivations are at play here: the company expects to win greater respect and affection from its customers by making these investments (which may have competitive significance, of course), but also believes that it should behave in this way anyway. It may also be prudently preparing for more demanding general regulatory requirements in the medium term: by choosing to make these investments early, it will be better placed than companies that wait until they are obliged by governments. In terms of the dialogue between the company and its public, M&S is going to some lengths to raise expectations and to provide regular progress reports against its 'Plan A' targets. As the world continues to wake up to the all-pervasive effects of climate change, we can expect this type of dialogue to become increasingly common.

Question

Review the M&S 'Plan A' web pages. Why, in your view, has M&S embarked upon this programme and what is the evidence for this conclusion?

Task

On the basis of web site evidence, find out what similar initiatives by UK High Street multiple retailers can be observed?

Vulnerable groups

The question of truth-telling leads directly to the special requirements for the treatment of vulnerable groups in marketing communications campaigns. Many countries, for example, have much stricter controls on the content and timing of advertising to children than on advertising in general, based upon an enhanced concern for the potential of advertisements and other promotional material to delude and disturb this audience. From 2008, the UK communications regulator Ofcom banned adverts for junk food from TV programmes aimed at children under the age of 16, reflecting growing concern about the effects on health and the growing levels of obesity in children.² It is perhaps a wholly natural impulse to wish to protect the vulnerable from being led astray, but it would be wrong to see commercial advertising for food products as necessarily dangerous. As Strachan and Pavie-Latour (2008) suggest, those concerned for the well-being of children should take care not to over-insulate children from marketing messages: as adults, they will need to be able to deal with this information in making their own choices about important subjects such as food and nutrition. Responsible advertisers from the food industry could play an important part in that educational process.

These special regulatory actions, however, should not distract attention from the general ethical requirement to design marketing communications that show an enlightened understanding of, and concern for, the needs of the recipient of the communication. The often-discussed tragic problems resulting from the sale of baby milk products in some developing countries had much to do with marketing and other communications from the seller that simply did not take adequate account of the reality of life in developing countries. As De George (1999) observes:

In an attempt to increase sales, Nestlé, as well as other producers of infant formula [milk], extended the sale of their product to many countries in Africa. They followed some of the same marketing techniques that they had followed with success and without customer complaint elsewhere.

One standard technique was advertising on billboards and magazines. A second was the distribution of free samples in hospitals to new mothers as well as to doctors. In themselves, these practices were neither illegal nor unethical. Yet their use led to charges of following unethical practices and to a seven-year worldwide boycott of all Nestlé products.

(p. 264)

In retrospect, it is easy to point out that the company should have paid greater attention to the likelihood in this environment of the product being made up with water from a contaminated source or of the product being over-diluted by users who were unfamiliar with it. Again, firms that cultivate an enlightened awareness of their impact on their surroundings will have a greater chance of perceiving and anticipating these issues before they become problems.

Firms that cultivate an enlightened awareness of their impact on their surroundings will have a greater chance of perceiving and anticipating these issues before they become problems.

Privacy and respect for persons

One aspect of the duty-based view of ethics referred to at the beginning of this chapter is the importance of treating others as ends in themselves, rather than merely as means: in other words, not merely using others, but treating them with the respect they deserve as fellow human beings. This ethical requirement finds a number of potential applications in the world of marketing communications, for example:

- avoiding the annoyance and harassment that can result from the inappropriate application of high-pressure sales techniques;

- respecting the wish that some may have at some times to be private, not to be approached with sales calls and – for some – not to be sent unsolicited direct mail or email communications;
- refraining from causing unwarranted distress or shock by ensuring that the content of any marketing communication remains within generally accepted boundaries of taste and decency.

The first of these issues is perhaps easiest to deal with here: harassment is something that can be subjectively defined (i.e. by the recipient of the unwelcome attention) and no ethical business will wish to cross that line. The fact that sales harassment does take place does not undermine the principle, but rather suggests that some businesses have a flawed view of their long-term interest, or, in the most opportunistic cases, that they are making no plans to have a long-term future. As in some of the other cases discussed above, the need for regulation is primarily to support and reinforce the action that an ethical company would be likely to choose anyway.

Responding to individual preferences for privacy

The issue of privacy is a little more complex, especially if it is treated as a question of ‘rights’. It is not very easy to define a separate and defensible right to privacy in respect of direct marketing approaches. Privacy is essentially a subjective concept, to do with not being perceived or disturbed at a particular time or while engaged in a particular activity. To express this as a right seems to involve a corresponding obligation on the part of others to sense in some way that a person is in a private state and then not to disturb that person, which sounds impractical in many circumstances. In the context of a capitalist society, it is also difficult to think about general prohibitions on the making of commercial approaches.

This is not at all to argue that concerns about privacy in respect of direct marketing have no basis, but rather to suggest that they can be more productively addressed by regarding them as a reasonable request (rather than the assertion of a right) and then considering how an ethical firm ought to respond (Christy and Mitchell, 1999). Privacy-related concerns in this area seem to fall into two main categories: unwelcome sales approaches (e.g. teleselling calls in the evening) and a more general concern about the implications of large amounts of personal data being collected, stored and processed for sale to those involved in direct and database marketing. The latter concern is one that is becoming more prominent in the mass Internet age: the great convenience and value-for-money available from on-line shopping is increasingly tempered by fears of fraud and the new worry about identity theft.

Ethical firms will refrain as far as possible from making unwelcome approaches, for reasons of enlightened self-interest.

In the first case, the ethical response is the same as for sales harassment: ethical firms will refrain as far as possible from making unwelcome approaches, for reasons of enlightened self-interest. They will, for example, support and encourage the development of general schemes through which individuals can signify their general wish not to be contacted. They will also seek out and use mailing lists that are a very close match with their target segments, which will both make the mailing more effective and also reduce the chance of the mailing piece being seen as ‘junk’. They will also provide a clear means for those who do not wish to be contacted to indicate their wish.

An ethical company can also respond to the second and more general concern about privacy, both by offering clear opportunities to individuals to have their details excluded from files and also by ensuring as far as possible that information about individuals used in direct marketing has been ethically collected, processed and stored (e.g. such that it is still up-to-date, thus minimising the risk of, say, causing distress by inadvertently mailing to deceased people). Sometimes, even these efforts may not be enough to avoid causing offence inadvertently, and an ethical firm will ensure that it has in place clear and effective systems to receive and respond to the complaint.

Taste and decency

The question of taste and decency in the content of marketing communications is also one that may have an ethical aspect. This is not only to do with the use of 'pin-up' images in corporate calendars and trade advertising; separate, but related concerns may apply to the use by a charity of particularly distressing images in order to raise funds or even the apparently innocent use of stereotypical images in advertising.

Images of women and men in advertising

The first point to be made is that public standards of what is acceptable in this area clearly change over time. The portrayal of women in early television advertisements, for example, now often seems so obviously inappropriate as to be hilarious: no advertiser adopting a similar tone today could expect to communicate effectively (except perhaps as a spoof). The extent to which contemporary images of women and men in advertising may also be creating stereotypes is beyond the scope of this chapter, but it should be clear that an advertisement that annoys or alienates its target audience is unlikely to be effective. Effective (and ethical) advertisers will wish to treat their prospective audiences with respect, if only because in a competitive market they cannot afford to behave otherwise. David Ogilvy's (1963: 96) often-quoted remark that: 'the consumer isn't a moron; she is your wife', provided a much-needed reminder to fellow advertisers of the need to avoid insulting the intelligence of their audiences. The fact that this (no doubt entirely well-intentioned) advice would probably be expressed differently today also underlines the point that standards and expectations do change over time. Concerns are



Exhibit 4.3

Domestic bliss or cynical stereotyping?
Image courtesy of The Advertising Archives.

expressed not only about the portrayal of women in advertising, but also about the relative exclusion of other groups. In Britain, concern is sometimes expressed in the press about the relative exclusion of ethnic minorities from advertising images in general and from specialised sectors such as the fashion industry.³ Carrigan and Szmigin (2003) comment on the under-representation of older consumers in marketing images, and call on advertisers to avoid giving offence through negative stereotyping and to seek to promote age diversity in their work. More broadly, Borgerson and Schroeder (2002) discuss the way in which advertising images may carelessly stereotype people, groups, cultures and regions for narrow commercial purposes. Ethical advertisers will seek to understand their target audiences well enough to be able

Advertising images may carelessly stereotype people, groups, cultures and regions for narrow commercial purposes.

to communicate effectively, without giving inadvertent offence.⁴ Building up this level of understanding is also very important in a cross-cultural context, where the risk of giving offence inadvertently is much higher. The point is obviously true for international or global marketing, but many domestic markets are also increasingly multicultural in nature.

ViewPoint 4.2

Types of public complaint

The annual report of the Advertising Standards Authority (ASA) provides a crude barometer of public attitudes towards advertising images. For example, its annual report for 2007 states:

In 2007, the ASA received 24,192 complaints about a record 14,080 advertisements. The total number of complaints received increased by 7.9 per cent in comparison with 2006. Although this figure is lower than the all-time high of 2005 when 26,236 complaints were received, the number of ads complained about continued to rise: 2007's total represented an increase of 9.6 per cent on the year before.

Over the years, the most significant cause of complaint about ads has been to do with untruthfulness or dishonesty. There were 12,083 complaints about misleading ads in 2007, 8,946 about offensiveness and 2,452 related to harm. The great majority of complaints came from the public, rather than from industry.

The ten most complained-about campaigns included a diverse mixture of types of advertising: there were complaints about provocative newspaper images, misleading statements about products and services on offer and offensive stereotyping.

On the other hand, the report gives details of a number of cases in which the ASA had decided that the complaint was 'not justified' – six of the ten most complained-about campaigns had received this verdict. Although the general reasons for complaint may not change much from year to year, the adjudication reports on the ASA website do provide an interesting barometer of public concerns.

Source: ASA web site (www.asa.org.uk); accessed 17 November 2008.

Question

Consider the statements made by the ASA on its web site about its approach to dealing with complaints about advertising. Discuss the interplay of ethics based on duties/principles and ethics based on consequences in this approach.

Task

Standards and expectations about things such as taste and decency do change over time. Make notes about the sort of things an organisation like the ASA would need to do to in order to remain sensitive to those changes.

Images designed to shock

The question of the use of shocking images in marketing communications is one in which an organisation would do well to consider its own long-term interest as broadly as possible. In the short term, a shocking image may be effective, but used to excess the tactic will be counter-productive for a growing number of recipients of the message. The controversy resulting from Benetton's famous poster campaigns in the 1990s certainly succeeded in gaining publicity for the knitwear company. As the images used in successive waves of the campaign became increasingly uncomfortable, however, mounting criticism from both the public and from business partners led to the abandonment of the campaign by the company.

ViewPoint 4.3

Finding the balance – good causes

Recent examples of shocking images illustrate the tension between the desire to make a point powerfully and the need to avoid undue offence. In April 2000 Barnardo's, the children's charity, ran a press advertisement featuring a baby sitting alone in a filthy flat and holding a syringe. The advert was headed 'John Donaldson, age 23' and the copy explained how the work of the charity sought to prevent child abuse victims from the bleak future that could await them. Protestors objected that the advertisement was shocking and offensive, but the Advertising Standards Authority did not uphold the complaints, noting that the advertiser had behaved responsibly in researching the advert among its target audience in order to ensure that the message was understood and was unlikely to cause offence.

Three years later, the ASA reported that a subsequent Barnardo's advert – showing a baby with a cockroach (rather than a silver spoon) in its mouth – had generated 475 complaints, which was more than any other national press campaign in the ASA's history. The ASA upheld these complaints, finding that the charity 'had used unduly shocking images and that the photographs used were likely to cause serious or widespread offence'. Barnardo's were saddened by this finding and commented:

While the adverts may have shocked some sensibilities, they succeeded in highlighting the very serious issue of child poverty in the UK and challenging the blinkered views of those who claim that it does not exist. Barnardo's has always fought for the nation's most disadvantaged children and its commitment to do so will continue undaunted.

The purpose of these examples is not to comment on the decisions made, but rather to illustrate the complex issues that have to be weighed in these situations in marketing communications. Barnardo's and other cause-promoting organisations are not businesses in the normal sense, but they do need to make similarly broad and balanced judgements in deciding how to communicate their ideas. The issue remains a live one for advertisers and advertising regulators: in 2007, the Committee of Advertising Practice (CAP) published a special report entitled 'Social good ads can't always rely on shock tactics' (CAP, 15 May 2007). This report reviewed some recent campaigns, including the 'get unhooked' series of ads issued by the Department of Health in the run-up to the ban on smoking in public places, as well as campaigns by the British Heart Foundation, Save the Children Fund and Barnardo's. Some of the complaints had been upheld by the ASA and others not: the report gives some valuable insights into how judgements are made in what will no doubt continue to be a challenging area.

Sources: ASA web site (<http://www.asa.org.uk>), accessed 16 February 2008; Barnardo's web site (<http://www.barnardos.org.uk>), accessed 16 February 2008; CAP web site (<http://www.cap.org.uk>) accessed 16 February 2008.

Question

Summarise the factors that charities and public service advertisers need to consider in order to ensure that their marketing communications are properly effective, without causing unjustifiable offence.

Task

Review the CAP report 'Social good ads can't always rely on shock tactics' (CAP, 15 May 2007) and discuss the findings of this report.

The same concerns may apply to a charity: those appealing for funds to help alleviate distressing problems around the world may be tempted to make use of shocking, real-life images of the situations that they encounter. Being aware of the ever-present risk of ‘compassion fatigue’ on the part of donors, as well as the possibility of causing unwarranted distress to some recipients of the message, most charity fund-raising communications remain within limits of taste and decency for what are likely to be purely prudential reasons.

Public service organisations can also consider the use of shocking imagery to communicate important messages.

Public service organisations can also consider the use of shocking imagery to communicate important messages: adverts against drinking and driving have for many years been deliberately hard-hitting, for reasons that most would accept as justifiable. In 2004, London’s Metropolitan Police published a series of very shocking photographs on posters, beer mats and nightclub flyers.⁵ The images showed the physical decline over several years of real-life drug addicts, in the hope of deterring young people from choosing to go down the same road.

Hospitality, incentives, inducements, and bribery and extortion

The ethical questions surrounding the payment of bribes in business feature prominently in most textbooks on business ethics. These difficult issues need to be mentioned here both because they are important and because they may well involve sales staff. Bribes are unofficial – and usually illegal – payments to individuals ‘to procure services or gain influence’ (*Collins Concise English Dictionary*). These payments may be to secure orders, for example, or to expedite deliveries.

Distinguishing between bribery and extortion

It is useful to draw a distinction between extortion and bribery: the former is demanded by the would-be receiver, while the latter is offered by the individual or organisation wishing to buy the influence. In a situation in which informal payments of this nature are thought to be commonplace, a company’s decision to go along with extortion is ethically different from a decision to offer a bribe. But in either case, the familiar distinction between short-term and long-term benefits is important.

Difficult choices

The ethical company will need to take account of the effects on its image and wider relationships of taking part in bribery or extortion: these illegal practices have harmful effects on local economies and are likely to be regarded negatively by most stakeholders. The normal conduct of business relies heavily upon trust and the rule of law, both of which are undeniably jeopardised by corruption.

For Sternberg (2000), offering a bribe is an attempt to cheat and a violation of ordinary decency, while taking a bribe is a violation of distributive justice: decisions are made because of the bribe, rather than the relevant merits of the business offering. These are difficult questions in practice, which may involve hard choices, including the choice of whether to take part in markets in which corruption is endemic. Dunfee *et al.* (1999) examine the question of bribery in some detail from a social contract theory point of view (based upon a multilayered analysis of what affected parties and society might agree to), arguing that acceptability can only be judged by such a broad analysis. The campaigning organisation Transparency International provides a range of resources on its web site⁶ that help to illustrate the scale and extent of the problems caused by corruption, including the corrosive effects on economic development.

Corporate hospitality: what are the limits?

Far less serious than actual bribery, but arguably on the same continuum, is the question of the scale of entertainment and hospitality that should be provided by the selling organisation to the buying organisation. It is entirely natural for a company to seek to build up closer relationships with its major customers, and corporate hospitality would normally be seen as an entirely legitimate part of this process. Even here, however, sales staff may be conscious of 'grey areas', in which the lavishness of the hospitality or gift-giving may seem to be out of proportion to the purpose of building a business relationship. Many companies recognise this potential hazard by providing guidelines to staff on what is to be regarded as acceptable in taking and offering corporate hospitality. Those guidelines will naturally take account of normal practice within the industry and may well differ from one industry to another and – within any given industry – from one period to another.

Again, however, the appropriate judgement about corporate entertainment is likely to be the one that maximises the company's long-term interests, within the limits of common decency and distributive justice. Hospitality expenditure, like any other business expense, needs to be assessed in terms of its intended purpose and in the context of the long-term aims of the business. At one extreme, to ban all corporate entertainment would damage a firm's commercial relationships and hence its interests in most situations; at the other end of the scale, however, a different type of damage to the firm's long-term interests would be caused by practising over-lavish hospitality.



Exhibit 4.4

Decisions regarding the level of hospitality afforded to customers can be problematic if not clearly defined by the organisation

© Guy Christian/Hermis/Corbis

Ethical influence of supervisory and reward systems in sales management

The previous section mentioned the beneficial role that company codes can play in promoting and facilitating ethical decision-making on the part of sales and other staff. It is also worth highlighting that the management framework itself can also exert a powerful positive or negative influence on the ethical decision-making environment. Sales recruitment, training and briefing systems, for example, can be designed to encourage ethical behaviours on the part of sales staff, but equally may (e.g. through neglect) provide an uncertain context for individual employees, in which inexperienced or opportunistic staff may start to take decisions that are against the long-term interest of the company.

Fostering ethical behaviour by the sales force

Ethical companies design sales motivation and reward systems that encourage sales behaviour that maximises the long-term company interest.

The same is true of the approach taken to sales motivation and reward: a sales targeting and reward system that has been designed without due consideration of the long-term reputation of the company may have the effect of encouraging and rewarding some highly damaging behaviours on the part of staff, especially in the run-up to year-end with everyone under pressure to meet targets.

Ethical companies design sales motivation and reward systems that encourage sales behaviour that maximises the long-term company interest. In an empirical study in this area, Hunt and Vasquez-Parraga (1993) found that sales managers did consider both the behaviours of sales staff and the consequences of those behaviours: unethical behaviour was likely to be more severely disciplined, for example, if the consequences were negative for the organisation. The authors suggest that:

A culture emphasising ethical values may be best developed and maintained by having sales people and their supervisors internalising a set of [duty-based] norms proscribing a set of behaviours that are inappropriate, 'just not done', and prescribing a set of behaviours that are appropriate, 'this is the way we do things'. In both cases, sales people and their supervisors should know that when ethical issues are involved, rewards (or punishments) flow from following (or violating) the [duty-based] norms, not from organisationally desirable or undesirable outcomes.

(Hunt and Vasquez-Parraga, 1993: 87)

This suggestion, with its emphasis on duties for salespeople, rather than consequences, may at first sight seem to be at odds with Sternberg's (2000) general recommendation that a business should take that course of action which is consistent with maximising long-term owner value within the constraints of common decency and distributive justice. There is, however, no necessary contradiction: the recommended sales management framework may well be the best way for the firm to maximise long-term owner value, reflecting, for example, the difficulty that individual salespeople may have in reliably judging the long-term interests of the firm. It will also be very helpful to create a culture in which individual salespeople feel able to report unexpected difficulties that they encounter in applying the ethical code of practice as they understand it, either because the code seems inappropriate or because a new type of problem has arisen. In this way, a company can help to ensure that its good intentions concerning ethical behaviour are realised in practice. A recent review of the literature on sales ethics by Ferrell *et al.* (2007) discusses the interplay of factors such as organisational culture, the sales 'ethical climate' and individual factors (for example, age, gender, education) in identifying and dealing with ethical issues.

Ethical decision-making models in marketing

A number of contributions to the literature have proposed models to facilitate ethical decision-making in business in general and in marketing in particular. In looking at these models, we necessarily stray beyond the specific topic of this chapter: the models offer approaches to decision-making that are certainly applicable to marketing communications, but can also be applied more widely in business affairs.

Chonko (1995) characterises the ethical decision-making process in marketing as comprising:

- the ethical situation itself (e.g. the opportunity, or scope for action, the ethical decision history and the moral intensity of the situation);
- characteristics of the decision-maker (for example, knowledge, experience, achievement, motivation, need for affiliation);
- significant influences (e.g. the organisation, the law, economics, technology);
- the decision itself;
- the outcomes of the decision (e.g. in terms of performance, rewards, satisfaction, feedback).

From a different point of view, Smith (1995) suggests that marketing ethics can be seen as depending upon the prevailing outlook, ranging along a continuum from *caveat emptor* (let the buyer beware) at one end, moving through intermediate points of industry standards, ethics codes and consumer sovereignty to the position of *caveat venditor* (let the seller beware). In his view, ethics in marketing has for some time been moving away from the simple *caveat emptor* position towards the position of consumer sovereignty. He proposes a consumer sovereignty test for companies to apply:

- *Consumer capability*: is the target market vulnerable in ways that limit consumer decision-making?
- *Information*: are consumer expectations at purchase likely to be realised? Do consumers have sufficient information to judge?
- *Choice*: can consumers go elsewhere? Would they incur substantial costs or inconvenience in transferring their loyalty?

The answers to these test questions in any situation will help the firm to realise what actions it needs to take in order to behave ethically.

Laczniak and Murphy (2006) propose a set of seven 'basic propositions' that should govern ethical decision-making in marketing, as follows:

1. Ethical marketing puts people first.
2. Ethical marketers must achieve a behavioural standard in excess of the law.
3. Marketers are responsible for whatever they intend as a means or ends with a marketing action.
4. Marketing organisations should cultivate better (i.e. higher) moral imagination in their managers and employees.
5. Marketers should articulate and embrace a core set of ethical principles.
6. Adoption of a stakeholder principle is essential to ethical marketing decisions.
7. Marketing organisations ought to delineate an ethical decision-making protocol.

As discussed above, the 'stakeholder principle' in the sixth proposition is not one that is shared by all commentators in the field and the article provides an interesting discussion of these views.

In these decision models, the literature provides a checklist of questions or characteristics that aim to help a firm think its way through ethical issues. As should be clear, the answers to the questions are very much up to the judgement made by the managers involved in the process.

Regulating marketing communications

As discussed above, advertising and other forms of marketing communications have the potential to offend, mislead or cause distress. An important question in this area is what – if anything – should be done to lessen this potential harm. This question has a range of possible answers, ranging from minimal or non-existent controls to extensive and detailed statutory regulation. At one end of this scale, the libertarian view of the world places ethical priority on the freedom of individuals to choose how to behave (provided that they do not unacceptably compromise the liberty of others). A libertarian argument might assert that the ‘off’ switch provides all of the control of television advertising content that is needed. Individuals and groups with different views of what is acceptable or desirable must learn to tolerate each other. A libertarian would also view with caution any proposal to allow governmental control of advertising content. As has already been suggested, companies that create and publish offensive advertising are running some risk of material loss, since those who are offended may choose to buy from a less offensive competitor instead. However, a completely libertarian stance would be unsatisfactory for many: rightly or wrongly, governments are generally expected to have some sort of involvement in a wide range of choices in everyday life – what we eat and drink, what we view and so on. In the case of marketing communications, there are a number of reasons why the self-interest of advertisers and of consumers may not be a completely reliable guarantor of harm-free content:

- Not all advertisers have competitors.
- Marketing communications may offend or harm those who are not customers of the advertiser and who therefore cannot respond by buying elsewhere.
- Whether the effect is experienced by customers or third parties, the offence caused in a particular case may be so profound and lasting as to outweigh any conceivable benefit.
- Some businesses may have little interest in the longer-term effects of their marketing communications messages, if – for example – they only plan to take part in a market for a short time and then withdraw.
- Advertisers may fail to forecast the effects of their choices properly and so cause inadvertent harm or offence.

Concerns such as these underlie the case for some form of regulation – the idea that society will be better served by regulating marketing communications than by a free-for-all. This is essentially a utilitarian ethical perspective, arguing that the greatest good of the greatest number is achieved by a system of regulation, despite the cost to some forms of individual liberty. Regulation could be statutory (based upon laws) or voluntary, based upon codes and

The legal and voluntary approaches can complement each other very well: an effective combined approach seems more likely to result in acceptable advertising for the society concerned.

processes run by the marketing industry. Usually, a country’s regulation of marketing communications will involve elements of both types, with an emphasis on self-regulation for most day-to-day questions. As Harker (1998) suggests, following a review of approaches to regulation in five countries, the legal and voluntary approaches can complement each other very well: an effective combined approach seems more likely to result in acceptable advertising for the society concerned.

In the United Kingdom, a major change to the regulation of marketing communications was introduced from November 2004. The main thrust of the reform was to introduce a ‘one-stop shop’ for consumer complaints, with the Advertising Standards Authority taking responsibility for advertising content regulation in both broadcast and non-broadcast advertising (the former by delegation from Ofcom, the general regulator for the communications industry, and the latter by continuance of the ASA’s former role). For this purpose the ASA, which continues to be funded by levies from advertising, administers a set of codes of advertising practice

Self-regulation in practice

In the UK, a range of specialised codes have been developed to provide guidance on the production of acceptable marketing communications in particular circumstances. The web site of the Advertising Standards Authority (ASA) (<http://www.asa.org.uk>) provides access to full-text versions of these codes. The ASA's main code for non-broadcast advertising (the Code of Advertising, Sales Promotion and Direct Marketing, published by the Committee of Advertising Practice) begins with a set of general principles. The first two in particular set the tone for the whole code:

- All marketing communications should be legal, decent, honest and truthful.
- All marketing communications should be prepared with a sense of responsibility to consumers and to society.

(ASA Code of Advertising, Sales Promotion and Direct Marketing (2003: 6.)

Notably, political advertising is exempt from this Code (section 12.1), although government communications are bound by it. The general rules of the Code discuss the requirements of legality, decency, honesty and truthfulness in more detail and also provide guidance on, for example, the protection of privacy, the use of testimonials and endorsements, on competitor comparisons and product availability.

Later sections of the main Code focus on sales promotion (sections 27 to 40) and direct marketing (sections 41 to 45), with guidance on specific issues such as free offers and free trials (section 32) and the increasingly important area of database practice (section 43). The Code also offers detailed guidance on specific marketing communications contexts, such as:

- alcoholic drinks;
- children;
- motoring;
- health and beauty products and therapies;
- weight control;
- financial products;
- tobacco.

This 37-page document has been developed by representatives of the advertising world over many years. Besides the advice and guidance, it defines the processes through which advertisers should comply with the Code and the sanctions that can be applied. Although very detailed, its text is characterised by clarity and a strong practical emphasis: after all, a key aim of the Code is to help those in the industry to produce 'marketing communications that are welcomed and trusted' (p. 3).

Since the broadening of its responsibilities in 2004 (see below), the ASA also now maintains a range of Codes on broadcast advertising:

- The Radio Advertising Standards Code;
- The TV Advertising Standards Code;
- Advertising Guidance Notes (concerning, for example, the identification of programmes likely to appeal to children and young people);
- Rules on the Scheduling of television advertisements;
- Code for Text Services;
- Guidance on Interactive TV.

As can be seen from this list, the self-regulatory regime is having to encompass the technology-fuelled proliferation of broadcast entertainment and information services. Keeping up to date with this rapid development, as well as remaining sensitive to changes in public sensitivity or taste is a major challenge for any organisation and the ASA's library of advertising codes can be expected to continue to evolve in future.

for the various types of advertising (see www.asa.org.uk for further details). The system is aimed at providing clearer arrangements for consumers, as well as a better and more consistent structure for dealing with the much more diverse range of communications media that has developed in recent years. Although Ofcom retains backstop powers over the new arrangements for broadcast advertising, the system remains effectively self-regulatory⁷ in approach, building on the ASA's more than four decades of experience as the regulator of non-broadcast advertising content.

Ethics and marketers

In closing this chapter, it is perhaps worth highlighting some of the research that has been conducted into the ethical behaviour of real-life marketing people. As Goolsby and Hunt (1992) point out, marketing as a function is often linked in the public mind with ethical abuse, mainly because of the way marketing operates at the boundary between the firm and its customers. In their study, however, the authors found that marketing people (and especially marketing women) compared favourably with those from other functions in terms of cognitive moral development (broadly, an individual's capacity for independent moral reasoning).

Singhapakdi *et al.* (1995) concluded from a survey of US marketing professionals that marketers seem to believe that ethics and social responsibility are important components of organisational effectiveness. The survey also partly indicated that ethical corporate values seem to sensitise marketers to the need to include ethics and social responsibility in marketing decisions. This view is supported by Creyer and Ross (1997), who found that many consumers do take a company's ethics into account in making purchase decisions and that they may pay a higher price to a firm whose behaviour they approve of. Clear, readily accessible and credible information about corporate behaviour is an essential element in this relationship.

These findings would seem to indicate that there may be a positive reception within the marketing profession for Thompson's (1995) suggestion:

For marketers, adopting a more caring orientation offers an opportunity to become ethical innovators within their organisation. In most firms, those in marketing positions are closest to consumers, in terms of direct interaction and knowledge of their lifestyles. One role for marketers would be to regard themselves as more explicit advocates of consumer interests – both immediate and long-term.

(p. 188)

This general proposal about the role of marketing in general has special relevance for the activities of marketing communications.

Summary

In order to help consolidate your understanding of ethics in marketing communications, here are the key points summarised against each of the learning objectives:

1. Review briefly the main ideas in ethics and the way they are applied to business in general.

This chapter has provided a brief introduction to the main ideas in business ethics and looked at some of the implications of these ideas for the practice of marketing communications. Just as there are no special ethical rules for business in general, ethics in marketing communications is a matter of applying normal ethical principles to the practice of marketing

communications. Some of the difficulties in business of deciding between general ethical systems based upon duties and those based upon consequences may be avoided by taking a teleological or purpose-based approach, seeking to identify actions that will have the effect of maximising the long-term interest of the firm and its owners, remaining always within the important constraints of common decency and distributive justice. Done properly, this approach obliges managers to take an intelligent and enlightened view of the likely consequences of their actions on others.

2. Discuss the differing viewpoints of the ethics of marketing communications as a whole.

It is sometimes argued that practices such as advertising are inherently undesirable: powerful means of manipulation with destructive consequences. This chapter, however, has taken the view that ethics in marketing communications need to be considered in the context of a market economy, meaning that advertising, selling and so on are activities which are in themselves ethically neutral, but can be carried out in ethical or unethical ways.

3. Understand how ethical considerations, such as truth-telling, respect for personal privacy, the treatment of vulnerable groups and questions of taste and decency affect specific issues in marketing communications.

The chapter has looked at the way ethical analysis can help to understand and resolve many problems in marketing communications, including those to do with truth-telling, behaviour towards vulnerable groups, privacy and respect for persons, taste and decency, inducements and approaches to sales supervision and reward. Regulation of marketing communications content is also an important aspect of ethical decision-making: regulation may be statutory, imposed by a government, or voluntary, coordinated by the industry. Advertising regulation in most countries contains elements of both.

4. Introduce frameworks and models that can help managers to think through these issues in planning their marketing communications.

The chapter has reviewed a range of practical frameworks from the literature that can assist in ethical decision-making. Marketing communications managers, with their special responsibility for the dialogue between the firm and the outside world, have every reason to take business ethics seriously (and generally, in fact, seem to do so) and may well have the opportunity to play an influential role in this respect within the firm as a whole.

Review questions

1. What are the practical problems of adopting a simple duties-based or consequences-based approach to ethics in marketing communications?
2. Explain why a practical approach to ethical business has to be based upon a clear idea of the purpose of a business.
3. What are the limitations, if any, of the principle *caveat emptor* (let the buyer beware) as a guide to ethics in personal selling?
4. What guiding principles can help a company to decide about the proposed use of a shocking image in its advertising?
5. Why is it both difficult and important for a company to take account of individual privacy in designing and implementing its marketing communications?
6. What ethical lessons for marketing communications managers in financial services companies should be learned from the private pensions scandal in Britain in the 1980s?

7. What is the difference between lying, misrepresentation and puffery in advertising? What tests should an advertiser apply to avoid misrepresentation?
8. What evidence would help to differentiate between legitimate corporate hospitality and unethical inducements, such as bribery?
9. Describe, with examples, the way in which Smith's consumer sovereignty test can help a company to design ethical marketing communications.
10. Explain the benefits of the one-stop shop arrangements for advertising complaints handling in the United Kingdom.

Notes

1. <http://plana.marksandspencer.com/?action=PublicAboutDisplay>.
2. <http://news.bbc.co.uk/1/hi/health/7166510.stm>
3. See, for example, <http://www.independent.co.uk/news/uk/home-news/fashion-is-racist-insider-lifts-lid-on-ethnic-exclusion-782974.html>.
4. For example, the author of this chapter is not dismayed to see images of younger people in the advertising of the products and services he buys. Like most baby boomers, he currently prefers the mild, but harmless delusion that he still looks like someone in his thirties.
5. Source: BBC News web site (<http://news.bbc.co.uk>). Accessed 12 November 2004.
6. <http://www.transparency.org/>.
7. Strictly speaking, the new system is co-, rather than self-regulatory, in that Ofcom, with its statutory powers, has delegated the responsibility for maintaining and applying codes of practice approved by the regulator (see www.ofcom.org.uk).

MiniCase

Pure and Simple Fashions

Richard Christy

It was late in the evening and marketing director Jane Carson was reflecting on how quickly difficult situations seemed to develop in the business environment of the twenty-first century. It was only last month that she had organised a very successful launch of the new season's designs, coupled with the relaunch of her company's redesigned and upgraded web site, which would provide much greater ease of use. Recent events, however, had demonstrated that modern communications media could just as effectively carry bad news.

Pure and Simple Fashions (PSF) was a familiar retail brand on the high street, providing mid-priced fashions aimed at younger women. From its launch 10 years earlier, its competitive positioning had also been pure and simple, as reflected in its advertising line: 'Fashion that doesn't cost the earth'. Pure and Simple clothes were made from natural fibres, grown organically and processed in ways that supported the environmental notion of 'sustainability': working with natural resources without reducing the future availability of

those resources. This idea – coupled with some inspired and widely praised innovative designs – had connected very effectively with PSF's target segment and the organisation had built up a loyal following over the years. Indeed PSF's positioning seemed to appeal just as strongly to the new generation of young women customers as to the organisation's original clients, many of whom had stayed with PSF. The company had grown steadily, with retail outlets in most UK cities and large towns, and an enviable profit growth record, based upon its well-established positioning. This business development had been supported by extensive and very popular press and poster advertising, based upon appealing natural images from ecosystems around the world. Two years ago, PSF had initiated an expansion into continental Europe, based upon franchised outlets in a growing number of major cities. This had now been complemented by the introduction of an upgraded web site, whose design had been nominated for a national award for ease of access and use.

Customers could view the ranges in three dimensions, match colours and order clothes manufactured to exactly their own sizes. The new distribution channel was underpinned by extensive customer relationship management software, which PSF hoped would enable it to build a closer relationship with its individual customers, as well as providing the basis for increasing growth into international markets.

The current crisis for PSF had its roots in a television documentary programme broadcast two weeks earlier. The documentary had set out to investigate what some saw as the negative effects of increasing globalisation. The agenda was a familiar one, focusing on the enormous economic power wielded by very large multinational corporations in smaller developing countries. Part of the programme had focused on working conditions in factories in developing countries, showing the manufacture of branded clothing and other products for world markets. Pure and Simple was one of many well-known brands mentioned in this part of the programme, in a sequence that also contrasted bright and appealing advertising images from Europe with distressing views of unpleasant and oppressive working environments and interviews with employees about their experiences. No specific allegations about PSF or any other brand were made in the programme, although allusions were made to earlier, well-documented allegations about the use of child labour by some manufacturers. Street interviews with shoppers in London were used to suggest a disparity between the promoted image of branded goods and the reality of life for those who made them.

In the days following the broadcast of the programme, newspapers and magazines took up the themes of the programme, resulting in a flood of emails and letters from readers and heated discussions on the various news web sites and blogs. It was clear that the programme had – at least on an emotional level – been very effective. Soon, PSF branch managers began to report increasing numbers of hostile questions from customers about the company's sourcing policy; the levels of telephone and email enquiries into PSF's headquarters confirmed this development. The problem had escalated to a new level with the threat from a previously little-known anti-capitalist lobbying group to 'jam' the communications of a number of brand-owning organisations, including PSF, by flooding their web sites with vast amounts of communications traffic. The experiences of other organisations in the recent past had shown that threats of this nature needed to be taken seriously: the effect for PSF at the beginning of the present season could be disastrous, particularly

given the strength and clear focus of its present environmentalist positioning.

Although Pure and Simple had never made any public statement about its policy concerning the manufacture of its products, Jane Carson knew that PSF had always insisted that working conditions in its suppliers were in line with – and in many cases significantly better than – local 'best practice', although of course actual wage rates were low by European standards. Objectively, PSF could argue strongly that its suppliers maintained high standards and that its participation in developing countries was of clear benefit to those economies. However, the present public debate was not being conducted objectively and Jane wondered how to regain the initiative. What seemed to be happening was that those customers who had been attracted to Pure and Simple because of its environmental commitment were those who were now expressing the greatest concern about the issues raised by the television programme. For some time it had been possible to see the growing links between previously disparate specialist lobbying organisations, together with the increasing interest on the part of affluent and well-educated customers in the values embodied in the brands they chose. Had Pure and Simple sat on its environmental laurels in recent years and been caught napping by these new developments? Or was it PSF's very strong public image and accessibility that rendered it vulnerable to these protests, whatever the reality of its case? The textbook injunction to 'balance stakeholder interests' seemed to be particularly problematic this evening, as Jane worked on her company's response.

Note: this case is wholly imaginary; no reference is intended to actual organisations or people.

MiniCase questions

1. What ethical issues for Pure and Simple Fashions arise in this case?
2. How would an evaluation of these ethical issues based on broad stakeholder theory differ from one based on Sternberg's teleological perspective?
3. Outline a possible marketing communications strategy for PSF that will allow it to respond to its current difficulties and continue its successful and profitable growth as a fashion retailer.
4. What lessons might PSF learn concerning the management of its relationship with its various stakeholders?

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