

Session 9

4.3. Marketing Ethics

Marketing ethics is the area of applied ethics which deals with the moral principles behind the operation and regulation of marketing. Some areas of marketing ethics (ethics of advertising and promotion) overlap with media ethics.

Fundamental issues in the ethics of marketing

Value-oriented framework, analyzing ethical problems on the basis of the values which they infringe (e.g. honesty, autonomy, privacy, transparency). An example of such an approach is the AMA Statement of Ethics.

Stakeholder-oriented framework, analyzing ethical problems on the basis of which they affect (e.g. consumers, competitors, society as a whole).

Process-oriented framework, analyzing ethical problems in terms of the categories used by marketing specialists (e.g. research, price, promotion, placement).

None of these frameworks allows, by itself, a convenient and complete categorization of the great variety of issues in marketing ethics.

Power-based analysis

Contrary to popular impressions, not all marketing is adversarial, and not all marketing is stacked in favor of the marketer. In marketing, the relationship between producer/consumer and buyer/seller can be adversarial or cooperative. For an example of cooperative marketing, see relationship marketing. If the marketing situation is adversarial, another dimension of difference emerges, describing the power balance between producer/consumer and buyer/seller. Power may be concentrated with the producer (caveat emptor), but factors such as over-supply or legislation can shift

the power towards the consumer (caveat vendor). Identifying where the power in the relationship lies and whether the power balance is relevant at all are important to understanding the background to an ethical dilemma in marketing ethics.

Is marketing inherently evil?

A popularity anti-marketing stance commonly discussed on the blogosphere and popular literature is that any kind of marketing is inherently evil. The position is based on the argument that marketing necessarily commits at least one of three wrongs:

Damaging personal autonomy. The victim of marketing in this case is the intended buyer whose right to self-determination is infringed.

Causing harm to competitors. Excessively fierce competition and unethical marketing tactics are especially associated with saturated markets.

Manipulating social values. The victim in this case is society as a whole, or the environment as well. The argument is that marketing promotes consumerism and waste.

Market research

Market research is the collection and analysis of information about consumers, competitors and the effectiveness of marketing programs. With market research, businesses can make decisions based on how the responses of the market, leading to a better understanding of how the business has to adapt to the changing market. It is used to establish which portion of the population will or does purchase a product, based on age, gender, location, income level, and many other variables. This research allows companies to learn more about past, current, and potential customers, including their specific likes and dislikes.

Researcher

Approaches to privacy can, broadly, be divided into two categories: free market, and consumer protection. In a free market approach, commercial entities are largely allowed to do what they wish, with the expectation that consumers will choose to do business with corporations that respect their privacy to a desired degree. If some companies are not sufficiently respectful of privacy, they will lose market share. In a consumer protection approach, in contrast, it is claimed that individuals may not have the time or knowledge to make informed choices, or may not have reasonable alternatives available. Stereotyping occurs because any analysis of real populations needs to make approximations and place individuals into groups. However if conducted irresponsibly, stereotyping can lead to a variety of ethically undesirable results. In the American Marketing Association Statement of Ethics, stereotyping is countered by the obligation to show respect ("acknowledge the basic human dignity of all stakeholders").

Market audience

Excluding potential customers from the market: selective marketing is used to discourage demand from undesirable market sectors or disenfranchise them altogether.

Targeting the vulnerable (e.g. children, the elderly).

Examples of unethical market exclusion or selective marketing are past industry attitudes to the gay, ethnic minority and obese ("plus-size") markets. Contrary to the popular myth that ethics and profits do not mix, the tapping of these markets has proved highly profitable. For example, 20% of US clothing sales are now plus-size. Another example is the selective marketing of health care, so that unprofitable sectors (i.e. the elderly) will not attempt to take benefits to which they are entitled. A further example of market exclusion is the pharmaceutical industry's exclusion of developing countries from AIDS drugs.

4.3.1. Ethics in the global world

Definition

Morality: A set of principles or ideals that help an individual to distinguish right from wrong, to act on this distinction, and to experience pride in virtuous conduct and guilt/shame over conduct that violates one's standards. The three main components of morality are: reasoning, behavior, and affect. Morality consists of concern for and the active promotion of the interests of others (altruism).

Moral designators

Right: Any action which is justified by and consistent with a moral or ethical framework; implies an obligation on anyone who accepts the system.

Wrong: Any action which fails to be justified or is inconsistent with a moral or ethical framework; an action forbidden to a anyone who accepts the system.

Permissible: Any action which is justified by and consistent with a moral or ethical framework but which does not imply an obligation.

Ethics: The systematic philosophical investigation of moral systems. The system of moral principles and rules that becomes standards for a group or for professional conduct.

Normative ethics: The systematic attempt to justify moral codes.

Consequentialism: The rightness (or 'goodness') of an action is in some way determined by the consequences which follow from the act. If an action produces good consequences, it is the 'right' action.

Non-normative ethics: The systematic investigation of the logic and language of moral systems, and the objectivity of moral systems.

Descriptivism: The investigation of the objectivity or relativity of the moral systems. The fundamental question of a descriptivist is, "Are moral principles objective features of the world, or are they relative to some particular individual, culture, or species?"

Law: Rules established by a governing authority to institute and maintain orderly coexistence.

International business ethics: Business ethics is a branch of applied ethics that deals with the relationship of what is good and right in business. This definition can be extended to cover global business ethics. It requires that business decisions should not be made exclusively from the narrow, economical perspective, but also the global social and ecological concerns should be taken into account. This means that people who work in the business life should consider how their economic decisions affect other people, environment or the society on the whole, not only in the home country but also the host country. In other words, it means that the interests of all the relevant parties, or "stakeholders" should be acknowledged and weighed. Having defined the term theoretically, it should be made clear that a uniform set of standards of business ethics, applicable to the global community as a whole, is yet to be defined.

Connotations of Business Ethics

Global business is a complex fabric of intercultural human and economic relationships created by the exchange of goods and services. It also encompasses moral relationships.

Questions concerning profit, growth, and technological advances in business have ethical dimensions. Some of these include the effects of pollution and depletion of natural resources on society at large, the quality and character of the environment, safety of customers, and overall well-being of the global community.

Ethics, Relativism and other issues

Relativism with respect to ethics is the position which maintains that moral codes are the relative standards of a particular culture or society. But there are some normative issues concerning human rights, fairness, and justice that are applicable throughout the world.

Normative issues cannot possibly be reduced to questions of statistically interpretable facts or to the determination of maximally efficient strategies for reaching ethical goals. They concern questions of human rights, fairness, and justice. Donaldson (1989) has identified ten universal human rights (more or less in line with the charter of human right promulgated by the United Nations) that both the multinational and domestic corporations should respect:

- The right of freedom and physical movement.
- The right of property ownership.
- The right of freedom from torture.
- The right to a fair trial.
- The right to nondiscriminatory treatment (e.g. freedom from discrimination on the basis of race or sex).
- The right to physical security.
- The right of freedom of speech and association.
- The right to minimal education.
- The right to subsistence.

Assume that a large tract of land in a developing country is used for growing rice. The bulk of the land is owned by wealthy landowners. Poorer members of the community work the land and receive a share of the crop, barely sufficient to meet their nutritional needs. The owners intend to sell the property, in exchange of a handsome amount of money, to a construction company who wants to build a cement manufacturing plant in order to meet the cement requirement for a project they been commissioned to do in the country. If the company knows that a significant number of people in the

community will suffer from malnutrition as a result of this event, then the company may be said to have failed in its correlative duty to protect the 'right to subsistence' of those people.

The issue of questionable payments (QP) is very relevant in case of global business.

Some researchers use the theory of ethical relativism to explain the issue. It is often said that QPs in some cases are socially useful by helping to remove obstacles that themselves distort equity or inefficiency in a society. It is difficult to substantiate this position.

In general, QPs induce public officials to ignore established social priorities, or distort these priorities by allocating resources to purchases that are not the best, appropriate, or least expensive. The payments thus result in higher prices, lower level of responsiveness to consumers, and lower quality of goods and services (I have got scores of anecdotes to illustrate this point). It may finally result in deterioration of balance of payments and increased foreign borrowing (by developing countries).

Higher levels of corruption foster broader levels of lawlessness.

QPs pave the way for authoritarian regimes, military takeover, and finally, totalitarianism.

Use of QP in a competitive setting may indicate that the company is too lazy or too inefficient to compete on the basis of price, quality, and service.

It definitely undermines the foreign policy of a country.

Are ethical standards dictated by economic development?

Assume that a certain country permits higher levels of thermal pollution from electric power generating plants (and consequently allows the construction of power plants that do not meet the standards). The argument in favor of the action given by the country is that its level of economic development requires an ordering of priorities (and the action taken is not because higher standards

are undesirable per se). In future, when it succeeds in elevating its economic standards, it may implement the specified standards for thermal pollution. Is it ethical?

In some countries, it is impossible to move materials and equipment through customs without paying the officials some money. Salaries of such officials are sufficiently low that one suspects that they are set with the prevalence of the practice in mind. The payments are relatively small, uniformly assessed, and accepted as standard practice. Are the payments ethically justifiable?

Ethical standards and gift giving

Gift giving is an integral part of both international and domestic business. It is a means of promoting one's products and services by strengthening the relationships with clients. Executives dealing with international clients generally face an increasingly complex situation related to the issue of business gift giving. It may lead to problems ranging from minor embarrassment to failure in securing business if the concept is not properly understood.

Ethical relativism may be used to understand the issue of gift giving (and receiving) in different cultures. In some cultures, business gifts are expected and highly appreciated; in some others, it may not be the case. High context cultures reportedly tend to view gift giving as an important social obligation and a meaningful activity. In most low context cultures, it is an optional activity. In fact, in some countries people do not feel comfortable accepting gifts because they do not like being obligated.

Literature indicates (Wibbon et al., 1994) that legal restrictions related to gift giving are more stringent and numerous in low context cultures than those in high context cultures.

Expensive business gifts of high value are discouraged in low context cultures and are usually not accepted by business executives.

Gifts of high value are perceived by the receiver as a form of hard sell or even as a bribe.

Foreign corrupt practice act (FCPA)

The Foreign Corrupt Practices Act (FCPA) promulgated by the US government covers corrupt practices involving foreign officials. It is applicable to all U.S. citizens and all U.S. corporations and their employees. While the Act does not apply to foreign corporations, U.S. corporations and their employees may be held accountable under the Act for the actions of their non-U.S. affiliates. In addition, U.S. corporations and their employees may be accountable where the illegal payment is made by a third party, such as a sales representative or distributor.

The act is a by-product of the Watergate investigations into illegal political contributions and money-laundering. The revelation of questionable payments by U.S. corporations to foreign officials to gain business advantages was the driving force behind passage of the FCPA in 1977.

The Foreign Corrupt Practices Act prohibits payment if the purpose of the payment is to obtain or retain business.

There are some exceptions. "Facilitating" or "expediting" payments to a government official or other prohibited payee are specifically permitted if the purpose of the payment is "to expedite or to secure the performance of a routine government action." Routine government action includes obtaining permits, licenses or the like to qualify to do business, processing visas and work orders, obtaining services such as police protection, mail pick-up and delivery, phone service, power and water, loading and unloading of cargo, protection of perishable products or the like.

The Foreign Corrupt Practices Act also makes an exception for expenditures incurred by or on behalf of a foreign official that are related to the promotion, demonstration or explanation of products or services, or that are related to the execution or performance of a contract with a foreign government. Thus, it is permissible to pay the expenses of bringing officials to the United States for plant tours, production demonstrations, and business meetings. Reimbursed expenses may include the reasonable cost of an official's meals and lodging and a reasonable amount for entertainment.

Violation of the Foreign Corrupt Practices Act can result in severe criminal and civil sanctions:

- For corporations, the maximum criminal penalty is a \$2,000,000 fine.
- For individuals, the maximum criminal penalty is \$100,000 fine and five years' imprisonment.
- For corporations and individuals, civil fines of up to \$10,000 may be imposed.

One doesn't have to actually make the bribe to be in violation of the Foreign Corrupt Practices Act - offering, promising or authorizing a bribe is sufficient. The illegal bribe can be money or anything of value. Bribes can take many forms, such as purchase of a foreign official's property or services at inflated prices, extravagant entertainment, or payment to a designated person or entity if the ultimate beneficiary of the payment will be a foreign official.

The Foreign Corrupt Practices Act defines "foreign official" as "any officer or employee of a foreign government or any department agency or instrumentality thereof, or any person acting in an official capacity for or on behalf of any such government or department, agency or instrumentality." The definition of "foreign official" includes persons who are not employed by a government but are merely acting "for or on behalf of" a government. Such persons could include private architects, engineers or consultants retained by a government to assist with specific projects.

Individuals or corporations will be held liable for payments, or promises of payments, made to third parties if the payments or promises are made "while knowing that all or a portion" of the payment will be given or promised to a foreign official, to a foreign political party or an official thereof, or to a candidate for foreign political office.

4.3.2. Ethics and equity

Reflecting on ethics and fairness is a way to remember the importance of the power of ideas, because without believing in it makes no sense to reflect on those. This is particularly relevant when we are dominated by the "failure syndrome". This syndrome, which have converged structuralism, macro-

and laziness, produces a very simple message for society: the fate is inevitable. Therefore there is no individual responsibility for improving the conditions of the population. And only care about the short term to survive.

The reflection on ethics and fairness is important especially when the context in which men interact changes. The possibilities of equity depend primarily on the construction of rules, which is a collective process. The idea of markets without rules that lead to efficiency or equity is naive. In our history can differentiate two important moments.

The context for ethical reflection towards equity, then, has changed. Paradoxically, a contingent and globalized era as we begin to move would allow much more interesting spaces in search of a more equitable society. But although the context has changed, has not changed the responsibility, especially intellectuals.

Today we see a demand for justice. All citizens speak to the attack on the right of privacy, Article 17 of the Constitution set out etc., but when we live a particular crisis situation is when we have to ask for equity.

Equity is not just legal, as Aristotle said, but gives a blissful rectification of justice, in certain cases it is bad to follow the established law, more is good, leaving aside the words of the law, and I follow what you ask why of justice and the common unit. And this is a computer. Equity is actually the application of justice in a particular case often requires us to set aside certain rights or certain mandates imposed by law in your text, analyzing how you can protect property rights of all and not some and freedom of contract must yield to the common good times because the north when a crisis is the common good.

4.3.3. Ethics and culture

In the journey to business success, the temptation to engage in unethical practices can become very strong. Too often, companies place profit ahead of all other considerations, engaging in dubious practices and creating a culture devoid of business ethics. The results can devastate entire economies, as well as causing irreparable harm to both the business itself and its customers. An ethical business culture can be defined by several key components, which places reliable companies above those that will do anything for a buck.

Adhering to Commitments

The most important aspect of an ethical business culture is the same as it is for individuals: Keep your promises and honor your commitments. As stated by Charles D. Kerns in the "Graziadio Business Review," a business culture that means what it says will refrain from lying or deceiving others. Products will not be marketed in a duplicitous way, partners will not be misled or deceived about the deals they are making, and employees will not be induced to work for bonuses that never materialize. In cases where a commitment cannot be met, the wronged party needs to be told exactly why and receive assurances of reparation in some manner in the future.

Code of Conduct

An ethical business structure will create a viable code of conduct: stating how employees will behave at work, the standards the product will adhere to, and the overall ethical underpinnings of the company as a whole. According to Kerns, it should include enforceable punishments for those who break the code of conduct. It should also be adopted proactively -- anticipating ethical dilemmas rather than reacting after an ethical lapse has been revealed. The code of conduct needs to apply to everyone associated with the company. Leaders and senior officers need to lead by example and adhere to the code of conduct in every way; that makes it easier to expect all employees to engage in the same behavior.

Transparency and Communication

Ethical businesses have nothing to hide, and while it may be prudent to keep marketing strategies or similar plans hidden, a culture of secrecy often leads to abuse. Good businesses communicate important information to their employees, maintain an open-door policy towards questions about the company's direction, and permit reports of abuses and complaints in a manner which does not punish those who speak out. An ethical business knows the difference between "playing its cards close to its vest" and distorting or disguising information in an effort to divert suspicion.

Every business is essentially a collection of people: employees, customers and partners who exist as more than simply assets to be exploited. An ethical business structure understands these facts and strives to provide a positive experience to people in its organization. That means rewarding loyalty with improved wages or other benefits; demonstrating flexibility when customers require a little give; understanding how business strategies affect those in the company; and generally understanding how the company's conduct affects the lives of those around it.