

The American Marketing Association Code of Ethics: Instructions for Marketers

Edward J. O'Boyle
Lyndon E. Dawson, Jr.

ABSTRACT. This article addresses the two main obstacles — ignorance and conflict — that block the pathway to ethically proper conduct, both generally in business and specifically in marketing. It begins with a brief examination of theories of the moral good which emphasizes the Greco-Roman humanistic tradition and the Judeo-Christian religious tradition. A professional code of ethics, such as the code of the American Marketing Association, is meaningful only if human beings are regarded as making moral judgments that, objectively speaking, are morally wrong, that is only when the code is considered a set of moral absolutes.

Following that, the question of ignorance is dealt with utilizing the American Marketing Association code of ethics. The specific items in that code are related to the three central principles of economic justice: equivalence, contributive justice, and distributive justice. In the second section, the question of conflict is encountered in the context of four other ethical principles — double effect, culpability, good end and bad means, self-determination — that are likely to be helpful in dealing with two cases that are

especially instructive because they are limiting cases: the dilemma and the hard case. The role of the hero or champion in conflicts is underscored.

In marketing no less than in any other specialized area of business, two main obstacles block the pathway to ethically proper conduct: ignorance and conflict. Ignorance raises the question "What is the ethically proper path to follow?" Conflict asks "What price am I willing to pay to follow that path?" These two questions differentiate knowing the moral good from doing it and demonstrate that ethical decision-making resides both in the human intellect and in the human will.

This article addresses ignorance by means of the American Marketing Association (AMA) code of ethics which is linked in turn to three principles of economic justice. Conflict is examined in terms of four other ethical principles that are applied to two especially instructive (limiting) cases. Our purpose is to demonstrate that the AMA code of ethics is firmly anchored in certain moral absolutes that can be traced to fundamental ideas of justice in the economic order.

Moral agency and the historical roots of ethics

Concern about ignorance and conflict as obstacles to ethically proper conduct can be traced to the two central historical roots of ethics: the Greco-Roman humanistic tradition and the Judeo-Christian religious tradition. Based on reason and the natural law, the Greco-Roman tradition developed very specific

Edward J. O'Boyle is Research Associate and Associate Professor of Economics at Louisiana Tech University. His current research interests include quality-productivity-ethics, ethics in marketing, and improved pedagogies for teaching ethics. His articles have been published in Monthly Labor Review, Review of Social Economy, Linacre Quarterly, Louisiana Economy, International Journal of Social Economics, Marketing Education Review, and Business Insights.

Lyndon E. Dawson, Jr., is Professor of Marketing at Louisiana Tech University and Lecturer at the Poznan School of Management in Poland. He received his Ph.D. in 1967. His current research interests focus upon ethical issues in business and the application of current marketing theory and practice in Eastern Europe. His recent co-authored works in ethics appear in Journal of the Academy of Marketing Science, Business Insights, and Marketing Education Review.

ideas as to what a human being must do in order to lead a morally good life. This tradition, however, did not embrace the idea of freedom of self-determination. Based on faith and revealed truth, the Judeo-Christian tradition asserted that every human being is free to choose between good and evil and to thereby determine what his/her life will be and what it is worth. In Western culture, the history of ethics is a history of attempts by philosophers to harmonize these two traditions (Grisez and Shaw, 1974).

In matters of ethical concern, including ethical issues in marketing, only human beings are capable of making ethical judgments. Strictly speaking, the companies that employ them or buy from or sell to them along with the professional associations to which they belong, are not moral agents because they lack the existential qualities — free will and intellect — required. Even though they are regarded as persons in the eyes of the law, companies and organizations are not living, breathing, existential actualities. In this regard, they are more properly regarded as “a manner of speaking.”

Even though a legal fiction is not to be taken for a metaphysical fact, companies and associations, as it were, encounter ethical problems. Since human beings may act either individually, and therefore as the Many, or act collectively, and therefore as the One, a statement to the effect that ABC company or XYZ association acted unethically really means that the persons acting collectively as ABC company or as XYZ association conducted themselves unethically.

Literature on professional codes of ethics

Over the years, several articles have appeared in the pages of this journal that examine various professional codes of ethics including real-estate sales agents (Allmon and Grant, 1990), accounting (Claypool *et al.*, 1990; Finn *et al.*, 1988; Brooks, 1989; Cohen and Pant, 1991), legal/medical/accounting (Backof and Martin, 1991), and pharmacists (Vitell *et al.*, 1991). None of these articles explores the actual content of the code of ethics or attempts to trace the origins of that content. Frankel (1989) covers the subject generically but explicitly prescinds from the issue of content and origins.

In addressing the code of ethics for CPAs, Bollom (1988) asserts that group welfare, or the common

good, is the ultimate basis for a professional code of ethics.

All of the rules of professional conduct must flow from the principle of group cooperation because cooperation with the public, the client, and other CPAs will allow CPAs, as a group, to maximize the satisfaction of their needs . . . Ethical behavior for a group is simply that which promotes group self-interest.

In effect, Bollom turns the “invisible hand” argument¹ on its head.

The common good, for sure, is an important ethical principle particularly in a crisis such as a plant closing or a life-threatening shortage of some good or service. We object, however, to reducing ethical decision-making to a single over-arching principle because it means that, without exception, the individual is duty-bound to subordinate him/herself to the good of the group. Bollom's prescription always subordinates the social value of the freedom of the individual to the social value of the one-ness or unity of the group. When the group is defined to exclude certain individuals, the common-good argument has been used to justify great harm both here and elsewhere, as in the case of producer collusion to fix prices and special-interest lobbying to raise tariffs.

The common good, which in rough fashion defines the obligation of the individual member to his/her group, requires some limits to prevent such abuses. Those limits derive from the two types of human relationships excluded from consideration by Bollom: one individual to another (as in the relationship between professional and client) and the superior to his/her subordinates (as in the relationship between marketing manager and staff). The common good may be very helpful in deciding, for example, how to set up a work schedule for one's employees, but it does not protect (and may even threaten) a professional confidence.

Conway and Houlihan (1982) examined the content of the code of ethics of the National Association of Realtors. They conclude that there are three principles embodied in the code: service to the public, unselfishness, and justice. Their conceptualization of public service, which they regard as an overarching ethical principal, seems to parallel Bollom's “group welfare.” Unselfishness to Conway and

Houlihan means including in the net benefits that flow from a given action the effects on all affected parties and not just the consequences for the agent of that action. Conway and Houlihan define justice in a way similar to Aquinas' "rendering to another that which is owed" (Dempsey, 1958) which is the definition we employ herein. However, they do not give it the three-fold specificity that we do.

Ethical theories

Discerning whether a given action is morally right or morally wrong proceeds from certain theoretical considerations as to what constitutes the moral good. Many diverse theories as to What is the moral good? have emerged since the ancient Greeks first began to search for answers. For our purposes herein a brief review is sufficient for an understanding of the theoretical origins of codes of ethics and their ultimate meaning.

In constructing a framework for the development of a theory of ethics for use by marketing decision-makers, Ferrell and Gresham (1985) find the teleological/deontological dichotomy instructive. A teleological theory of ethical behavior subordinates the concept of duty, right conduct, or moral obligation to the concept of the good or the humanly desirable. Teleology — a branch of natural philosophy that centers on final causes — originated with the ancient Greeks (Fulton, 1967).

A deontological theory is one in which the concept of duty is logically independent of the concept of good and thereby denies the necessity of justifying duties by showing that they are productive of good. Immanuel Kant was the first to develop an unambiguous formulation of a deontological theory of ethics (Olson, 1967a, 1967b). He probably is best known for his categorical imperative.²

Robin *et al.* (1989) recommend examining the specifics of codes of ethics in terms of the deontological/utilitarian dichotomy. Utilitarianism is an ethical theory in which one's choice from among two or more alternative courses of action turns on an estimate of the net good or the net harm proceeding from each action. Utilitarianism recommends as morally good whatever action maximizes the net good or, if all alternatives have harmful consequences, minimizes the net harm (Grisez and Shaw,

1974). The origins of utilitarianism are found in the work of Jeremy Bentham (Smart, 1967).

Within utilitarianism there are several distinct types: act and rule, egoistic and universalistic, hedonistic and ideal, normative and descriptive. Rule utilitarianism considers the consequences not of a specific action but from adopting some general rule. In that regard, rule utilitarianism strongly resembles Kant's deontological theory (Smart, 1967).

For purposes of understanding the ultimate meaning of a code of ethics, we suggest that moral absolutism is simpler, more familiar, and much more instructive. A moral absolute is an ethical principle that should not be violated. "Thou shalt not steal" is a moral absolute. To the extent that circumstances or consequences are used to justify a departure from a moral absolute, ethical decision-making becomes utilitarian, that is it begins to follow the rule that the end justifies the means (Grisez and Shaw, 1974). Even so, violating a moral absolute may be justified when it conflicts with a higher-order ethical principle. Breaking the speed limit, which has been established to protect public safety, may be justified by emergency personnel responding to an accident, a fire, or an explosion. Stealing may be justified if it is the only way that a family provider can meet the family's subsistence needs. Such violations are not to be taken lightly or accepted routinely. The burden of justification rests with the person who subordinates one moral absolute to another in order to justify a violation.

Allowing departures from strict adherence to a specific moral absolute acknowledges that individual conscience is critical in *selecting* and *applying* a set of moral absolutes in circumstances where there is conflict. Demanding justification for such departures recognizes that individual conscience alone is unreliable in *defining* and *establishing* a set of ethical guidelines.

Hypocrisy is the affirmation of a moral absolute in principle and the routine violation of that absolute in practice so as to reap whatever net benefits may accrue without having to accept the responsibility for justifying the moral inconsistency. Flight, as in the classic example of the flim-flam man, is used by the person who is unable to publicly justify a departure from a given moral absolute and is unwilling to meet his/her obligation under that standard.

Although a specific moral absolute indeed may be

arbitrary, moral absolutes are not arbitrary by definition. Even in the absence of the ten commandments, an orderly, tranquil, and efficient society soon would condemn stealing for the social chaos that it brings.

Moral relativism rejects the idea that there are any moral absolutes. All values are relative to a particular situation and the worth of any value is determined not by anything inherent in that value but by the situation in which the individual finds him/herself (Grisez and Shaw, 1974). For that reason, moral relativism commonly is known as situation ethics. Strictly speaking, under moral relativism there is no hypocrisy because affirming a given value in principle and violating it in practice may be defended on grounds of some momentary special circumstances.

Grisez and Shaw (1974) differentiate cultural relativism – all ethical norms are determined by one’s own culture – and individualistic subjectivism – each person spins his/her own moral norms from his/her own interior and the only criterion for judging behavior is consistency. Grisez and Shaw combine the two and we follow that simplifying practice herein.

We suggest, therefore, that insofar as the AMA code of ethics is practiced without compromise, it

can be regarded as a set of moral absolutes. *Under moral absolutism, the code has real meaning* because in principle human beings are considered capable of making judgments that, objectively speaking, are morally wrong.

If in different situations, however, individual marketers are not morally obliged to conform to the dictates of the code, it can be considered a set of moral relatives. In that case, rational criticism ends with “It all depends.” Any effort to decide what actions are right and what actions are wrong, and why, is virtually impossible (Grisez and Shaw, 1974). *Under moral relativism, the code becomes meaningless.* See Table I for a summary of the historical roots and ultimate meaning of codes of ethical conduct.

What is the ethically proper path in marketing?

Ignorance as to the ethically proper path to follow can be reduced either by word or by deed, that is through the skill of the ethics instructor or the example of a role model. In that regard, a code of ethics for marketing can be characterized as words

TABLE I
Codes of ethical conduct: roots and meaning

Historical Roots:		Ultimate Meaning:	
<i>Both</i>	<i>and</i>	<i>Either</i>	<i>or</i>
<p>Greco-Roman Tradition: addresses the obstacle of ignorance by specifying the things human beings must do to live a morally good life . . . such as conducting their economic affairs in accordance with the principles of economic justice along with other principles (see Tables II and III)</p>	<p>Judeo-Christian Tradition: addresses the obstacle of conflict by asserting that human beings are free to choose between good and evil and they are responsible for the choices they make</p>	<p>Moral Absolutism: because human beings are capable of making judgements that objectively speaking are morally wrong, codes are:</p> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 10px auto;">meaningful</div>	<p>Moral Relativism: because all values are relative to a specific situation and the worth of any value depends on the situation at hand, it is impossible to determine objectively what is right and what is wrong and for that reason codes are:</p> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 10px auto;">meaningless</div>

whose meaning one learns in the classroom and whose significance one sees affirmed or rejected in the marketplace.

In matters of marketing, the code of ethics of the American Marketing Association is particularly instructive as to the question What is the ethically proper path to follow? The AMA code consists of six items. The first five relate to the duty of a member of the Association. The sixth affirms the right of the Association to withdraw a person's membership for violations of the code.

As a member of the American Marketing Association, I recognize the significance of my professional conduct and my responsibilities to society and to the other members of my profession:

1. By acknowledging my accountability to society as a whole as well as to the organization for which I work.
2. By pledging my efforts to assure that all presentations of goods, services, and concepts be made honestly and clearly.
3. By striving to improve marketing knowledge and practice in order to better serve society.
4. By supporting free consumer choice in circumstances that are legal and are consistent with generally accepted community standards.
5. By pledging to use the highest professional standards in my work and in competitive activity.
6. By acknowledging the right of the American Marketing Association, through established procedure, to withdraw my membership if I am found to be in violation of ethical standards of professional conduct (Cummings, 1987).

A code of ethics may be aspirational, educational, or regulatory. An aspirational code is a set of ideals to be achieved. An educational code is a tool to improve understanding and a means for addressing ethical problems. A regulatory code is a device for handling grievances (Frankel, 1989).

For the most part, the AMA code of ethics is aspirational, that is a set of ideals toward which professional marketers are encouraged to strive. When the second item is stated in negative form — dishonesty and ambiguity in presentations are not allowed — the code's regulatory or limiting character becomes more visible.

If, as Kass (1989) asserts, setting limits on the proper use of power is the beginning of ethics, marketers have moved well beyond a beginning with the AMA code of ethics. In contrast, in the special-

ized area of marketing known as direct selling, a code of ethics which was adopted in 1970 is largely regulatory. Indeed, it can be reduced to five limits (O'Boyle and Dawson, 1990).

Three general principles of economic justice — equivalence, distributive justice, and contributive justice — are embedded in the AMA code of ethics. These three principles define in general terms the obligations governing the three basic human relationships in economic affairs: one equal to another (equivalence), the manager to his/her subordinates (distributive justice), and the member to his/her group (contributive justice) (Dempsey, 1958). There is some disagreement or carelessness as to their proper names. There is none regarding their substance.

These three principles are crucial because they are foundational to ethical decision-making. They are foundational precisely because they are widely accepted. Without these principles, judging cases of specific wrongdoing has no ethical meaning. Without specific cases, however, these principles have no practical value (Purcell, 1978). In other words, the ethically proper path to follow has been laid out so as to meet the demands of justice. But the map is crude, and there is much uncharted ethical territory.

Distributive justice regulates the relationship between the person with greater responsibilities and his/her subordinates. This principle requires that person to distribute the benefits and burdens of group activities among the group's members in some equal fashion. Favoritism and arbitrariness are two main abuses that are condemned by the principle of distributive justice. Both are intolerable in a person in a manager's position because the manager's primary task is to shape and mold his/her subordinates into an effective team capable of undertaking (1) certain jobs through group action that simply are not possible through individual action alone and (2) other jobs that are accomplished more effectively and more efficiently through collective action than through individual action alone. Favoritism and arbitrariness diminish and, in the extreme, destroy the credibility and leadership of the manager and thereby undermine the group's ability to complete its common purposes and frustrate the individuals in the group from accomplishing their individual purposes.

A common expression for distributive justice is that the sales manager owes his/her salespersons

"equal pay for equal work." This principle specifies the scope of economic justice in the conduct of private organizations and public institutions toward their members or constituents. In considerable measure, distributive justice focuses on the workplace and the public domain, not on the marketplace. It instructs marketers mainly in their workplace roles.

Contributive justice³ regulates the relationship between the individual and the group to which he/she belongs. As with distributive justice, the obligation imposed is one-sided. Under distributive justice the supervisor has a duty to his/her subordinates to treat them in some equal fashion. Under contributive justice, the individual has a duty to support and maintain any group from which he/she receives benefits. Dues is a good example of what the individual owes any membership organization to which he/she belongs. So too, in general, are taxes. Failure in either instance is a failure in contributive justice. "Paying one's dues" or "contributing one's fair share" are simple ways of giving expression to contributive justice.

Tin men, flim-flam men, and con artists routinely fail in contributive justice because their devious conduct discredits everyone in direct selling, thereby making it more difficult for ethical salespersons to earn a living. The apparel manufacturer who "torches" a company building for the insurance proceeds which are desperately needed to save the business also fails in contributive justice because everyone insured by his/her insurer will have their premiums raised to cover the loss.⁴

It is the principle of equivalence,⁵ however, that instructs most persuasively in matters of ethical concern in marketing. This principle sets forth the mutual obligation of buyer and seller. Each party has a two-part obligation to the other. For an exchange to be fair or just, the buyer and seller are obliged to (1) exchange things of equal value and (2) impose equal burdens on one another. In the marketplace, a violation of the principle of equivalence on occasion is called "a ripoff."

Specific violations include counterfeiting of money or merchandise, price gouging, inflated credit sales, and selling below cost. Counterfeiting of goods or money violates the first condition of the principle because the things exchanged are not of equal value. Inflated credit sales violate the second condition.

Interest is justified generally as a way of equalizing the burden between the seller who must finance the item at the time of the sale and the buyer who does not have to pay the full purchase price until sometime later. The violator of truth in lending abuses the principle of equivalence by imposing a grossly unequal interest burden on the borrower. Such violations are illegal precisely because they are widely regarded as unjust.

Because the economy is a human system that depends critically on individuals entering into and fulfilling their obligations to one another as employer and employee, as buyer and seller, these three principles are indispensable tools for addressing ethical issues (see Table II for a summary). A marketplace where central obligations are ignored or dismissed breaks down and becomes disorderly, contentious, inefficient, and dangerous. Counterfeiters, embezzlers, inside traders, loan sharks, con men, and the like, find it to their personal advantage to shuck their obligations. In so doing they tear asunder the human relationships and associations that are necessary for the orderly, peaceful, efficient, and safe transformation of resources into goods and services and the distribution, exchange, and final consumption of those goods and services. Markets are reciprocal and repetitive. They cannot function unless the parties involved are trustworthy, unless they meet their obligations to each other.

Without lengthening the code of ethics *per se*, it is possible to make it more specific by linking it more explicitly to the principles of equivalence, distributive justice, and contributive justice as follows.

- I. *By acknowledging my accountability to society as a whole as well as to the organization for which I work*

Under contributive justice the individual is obliged to maintain and support the various groups to which he/she belongs and from which he/she as a member derives benefits. Ethical conflict may arise relating to the interests of one's employer or customer and the wider interest of other persons in society which is not satisfactorily resolved by "the invisible hand" of market forces. In those circumstances, the individual must judge whether his/her primary obligation is to his/her customer, employer, or others in society.

TABLE II
Three principles of economic justice

Principle of Equivalence.

For an exchange to be regarded as just, the parties involved are obliged to (1) exchange things of equal value and (2) impose equal burdens on one another.

This principle applies to consumers and producers, to employers and employees, and to resourceholders and purchasing agents.

Principle of Distributive Justice.

For the person with greater responsibilities in a group to act in a manner that is just, he or she is duty bound to distribute the benefits and the burdens of that group among its members in some equal fashion.

This principle applies only to the person with greater responsibilities.

Principle of Contributive Justice.

For a member of a group to meet the demands of justice, he or she must contribute to the support and maintenance of that group.

This principle applies to the individual member only insofar as he or she has received some benefits from membership in the group.

To illustrate, if the household use of a new product causes a significant solid-waste disposal problem, the marketer who is promoting that product has a responsibility to address that concern in the context of the costs and profits of his/her employer, of the customer, and the well-being of those persons who work for that employer or that customer and others in society insofar as they are implicated.

The marketer in such circumstances may need assistance from his/her own company in determining which obligation is paramount. Several years ago Purcell (1982) identified several company reforms that would be helpful in this regard: an ethics committee on the board of directors, courses in ethics for managers at various levels, company codes of ethics, an officer specially charged with overseeing the ethical concerns of the company, ombudsmen, and company-wide ethics committees.

Under equivalence marketers are accountable for a full day's work for a full day's pay and for refraining from any misappropriation of what rightfully belongs to their employers or their customers. Here the marketer's obligation is straightforward. Any problem with regard to this obligation likely resides in the human will and not in the human intellect.

II. *By pledging my efforts to assure that all presentations of goods, services, and concepts be made honestly and clearly*

This obligation derives from the principle of equivalence under which the marketer has an obligation to properly inform the buyer about the product or service to be exchanged so that the buyer's final decision to proceed is made knowledgeably and freely. An exchange in which one party is not truly free is ethically offensive because exchange requires that both parties be responsible and a buyer who is not free is not fully responsible. Moreover, such an exchange is destructive of the trust between buyer and seller that is necessary for repeat sales. As with the duty to render a full day's work for a full day's pay, any problem with regard to this obligation lodges more in the will than in the intellect.

Insofar as any ethical failure by one marketer in a given organization damages the reputation of others in that organization, marketers also have an obligation to their colleagues under contributive justice to preserve their good names and the good name of the organization for which they work. Stated in the affirmative, marketers meet their obligations to their colleagues and their employers under contributive

justice in part by fulfilling their obligations to their customers under the principle of equivalence.

III. *By striving to improve marketing knowledge and practice in order to better serve society*

This obligation logically precedes the obligations set forth in the first two statements. In order to meet his/her obligation under equivalence to properly inform the buyer, the marketer has a prior obligation to be fully informed about the product or service he/she represents. The obligation to be fully informed proceeds from the intellectual tradition that asserts that thought precedes action and powerfully conditions it.

To meet his/her obligation to others in society under contributive justice, the marketer has a prior obligation to be informed about the societal impacts associated with the production, distribution, exchange, and consumption of the item that he/she is selling. In other words, marketers cannot in good conscience argue that they were ignorant in such matters unless they had been deceived by others who failed to inform the marketers properly. Once any deception of this sort has been uncovered, however, there is no further justification for not being fully informed.

At times the full range of societal impacts is not well understood or specialists may disagree as to the nature and extent of such impacts. Under such circumstances, the marketer's obligation is to admit that there remain some unanswered questions rather than to dismiss them as inconsequential.

IV. *By supporting free consumer choice in circumstances that are legal and are consistent with generally accepted community standards*

This obligation is correlative to the obligation set forth in the second statement of the code. Some individuals are not fully responsible persons and therefore are not as free to choose as are other persons. For example, minor children are not free to purchase alcoholic beverages; the feeble-minded are not free to enter into a sales contract or purchase agreement. For that reason, marketers have an obligation under equivalence not to take advantage

of persons who are not fully capable of exercising free will. Disregarding this obligation not only injures those who are not entirely competent but also reduces the marketer to a predator.

Freedom of choice, however, is not an ultimate principle, especially as regards the *use* as compared to the *purchase* of a given product or service. Rather, freedom is subject to the limits imposed by the well-being of others. For example, marketers have an obligation under contributive justice to the community at large to warn buyers of vehicles such as dirt bikes and snowmobiles about operating them in ways that are environmentally destructive or that are irritating to other persons. Thus, marketers have an obligation to be fully informed as to the intent of the law in this regard and to the meaning of the well-being of everyone in the community where the product or service is used.

V. *By pledging to use the highest professional standards in my work and in competitive activity*

This statement calls for the marketer to meet his/her obligation with a maximum as opposed to a minimum effort so as to remove any doubt as to whether he/she has met that obligation properly. Here the issue is not ignorance. Indeed, the presumption is quite the opposite — that the intellect has been properly informed. What is needed, therefore, is to urge the will to follow that informed intellect.

VI. *By acknowledging the right of the American Marketing Association, through established procedure, to withdraw my membership if I am found to be in violation of ethical standards of professional conduct*

This statement informs the marketer that he/she has an obligation to his/her professional peers under contributive justice to remain faithful to the AMA code of ethics and that, whenever it is necessary to withdraw a person's membership, the Association according to distributive justice proceeds in a manner that is free of vindictiveness and arbitrariness. Expulsion is the traditional practice for dealing with any member who disregards the rules established by the group.

One of the central intended effects of the AMA

codes of ethics is to socialize marketers, that is to make them more aware of the fact that they are social beings no less than individual beings and that as social beings they have obligations to the persons whom they contact through their work and to the persons who are affected by the consumption of the goods and services produced by their employers.

What price must one pay to follow the ethically proper path in marketing?

It is unreasonable to expect faithfulness to any code of ethics including the AMA's own code without proper instruction as to its meaning. Even so, careful instruction is not sufficient because faithfulness also demands a willingness to act in accordance with the requirements of the code even at some personal expense, that is even when the demands of the code conflict with pure self-interest.

In that regard, examining two general types of cases is helpful because both turn critically on the exercise of free will. The two general types are the dilemma and the so-called "hard case."

There is a long-standing legal maxim to the effect that "hard cases make bad law," which means that in general the law is based primarily on routine action with certain exceptions allowed for the unusual. As we have indicated already, although stealing is universally regarded as wrong, it may be justified in the case of the person who otherwise is unable to provide the minimum needs of his/her dependents. The dilemma and the hard case are used here because they are very instructive regarding the *limits* or *boundaries* of faithfulness to a code of ethics and for that reason are referred to as limiting cases.

While conformance to a speed limit is not all that is required of the safe driver, knowing that limit is essential to safe driving. So too, while there is more to faithfulness to a code of ethics than complying at the limit, knowing that limit is essential to ethical conduct.

The hard case

The hard case is a situation where a certain moral ambiguity exists because there are two outcomes from one action: one that is morally ethical and one

that is morally unethical. To illustrate, in order to win a sales contest that is drawing to a close in hours, the seller remains silent regarding certain misinformation regarding price or deliverability, knowing that the misinformed buyer will suffer some negative consequences and that the buyer would not agree to the sale if he/she were properly informed. The seller, in other words, would profit handsomely if he/she is willing to disregard the second provision of the AMA code to the effect that all presentations are made honestly and clearly.

In such circumstances, the principle of the double effect applies. This principle states that any human action with two effects, one good and one bad, is unethical unless four conditions are met (see Grisez and Shaw, 1974). First, the morally good effect is greater than the morally bad effect. Second, the morally bad effect is not intended. Third, the action taken is morally good in itself or is no worse than morally neutral. Fourth, the good effect is not the result of the bad effect because both flow directly from the same action.

In this case, the last condition is satisfied. The seller's gains from the contest do not derive from the buyer's losses from the sale or from any losses that might befall the seller's company for treating its customers in that manner. However, even if the first two conditions are met — the good effect is far greater than the bad effect and the seller does not intend to harm the buyer — the third condition is not. It is ethically wrong to remain silent in these circumstances because "silence gives consent." The seller's silence, in other words, effectively affirms the misinformation as valid. It is the moral equivalent of a lie.

This case becomes even harder when the seller's gain is very large. The lure of a sizeable gain from a situation characterized by ethical ambiguity effectively raises the cost of faithfulness and underscores the fact that ethical conduct is a learned experience: a person is less likely to be faithful in circumstances where the ethical compromise and the gains are large if previously that person has been unfaithful in circumstances where the compromise and gains are small.

More and more private firms in the United States are acknowledging that there are no petty departures from faithfulness in quality and, in order to become more competitive and to improve their prospects for

survival, many have established an explicit goal of zero defects. The lesson for marketing is that, even though the law recognizes a difference between a petty crime and a serious one, there are no petty departures from faithfulness to the AMA code of ethics or from a company code. As item 5 of the code suggests, zero defects in ethical matters is an appropriate and attainable goal. Indeed, for the firm that depends on repeat sales, zero defects in ethical matters may be a necessary condition for long-term survival.

The dilemma

The second general case that is instructive as to limits or boundaries is the dilemma. The dilemma is a situation wherein all of the outcomes are morally unethical whether one acts or does not act. For example, the marketer who is required to deliberately misrepresent the company's product because the company otherwise will not survive and who thereby violates item 2 of the code is mired in a dilemma. If that person takes part in the misrepresentation, he/she becomes directly responsible for lying. Similarly, if he/she refuses to actively participate but remains silent about the misrepresentation, that person becomes indirectly implicated in the lying. If he/she speaks out, the company will fail and many innocent persons, including not only the employees and their dependents but also suppliers and their employees and dependents, will likely be significantly hardshipped.

Just as there is "no free lunch," there is no way out of this dilemma without some ethical or financial cost. It is essential, however, to inquire as to whether the marketer mired in this dilemma is free to act. If he/she has no real freedom to act because of, say, believable threats made against his/her own life or against the lives of loved ones, he/she cannot be held morally responsible for any involvement in the misrepresentation or silence. The applicable ethical principle may be stated as follows: there is no moral culpability where there is no authentic freedom to act.

If, on the other hand, the marketer is not coerced by threats directed against his/her person or against others, he/she is morally responsible for any choice made to participate in the misrepresentation or

silence. The applicable ethical principle, which also arises in the instance of the hard case, is that there is no moral acquittal for a person involved in a morally bad act simply because of the moral good that it may bring. The end does not justify the means.

Higher-order ethical responsibility: the senior manager as a role model

The case of the dilemma raises the issue of the moral responsibility of the person holding a higher position in an organization. Moral responsibility for such an individual means, wherever possible, never making demands on subordinates that amount to creating a dilemma for them or shifting a dilemma to them. Here, the ethical principle is that no one has the right to take away another person's freedom to act because loss of personal freedom is a form of slavery.

This principle applies even when the personal cost to the marketing or sales manager is considerable. As one moves up the hierarchy of any organization, responsibility in all organizational matters including ones that are ethical in nature increases precisely because empowerment and the rewards that attend that empowerment increase. Contrivances such as "plausible deniability" are morally repugnant because they argue that the person who heads an organization can escape moral responsibility in a cloud of ignorance. See Table III for a summary of the four principles articulated above.

It is widely agreed that, in questions of business ethics generally, the role of senior managers is crucial (see, for example, Business Roundtable, 1988; and *Across the Board*, 1988). Positive role models or champions in ethical affairs are necessary because only human beings have the existential qualities — intellect and free will — to be moral agents. Further, because humans are social beings, the behavior of one influences the values, attitudes, perceptions, principles, and conduct of others. Literature, especially biography, is one popular source of information about models of exemplary, even heroic, personal conduct (Danner, 1980).

In matters of ethical decision-making where the will plays a critical role, senior managers by their own conduct reinforce the willingness of others, particularly those to whom they are close because they belong to the same organization, to be steadfast

TABLE III
Four ethical principles for hard cases and dilemmas

Principle of the Double Effect.

A human action which has two effects, one that is morally good and another that is morally bad, is unethical unless four conditions are met (1) the good effect is greater than the bad effect; (2) the bad effect is not intended; (3) the action itself is morally good or morally neutral; and (4) the good effect is not the result of the bad effect because both flow directly from the same action.

Principle of Culpability.

There is no culpability where there is no authentic freedom to act.

Principle of the Good End and the Bad Means.

There is no moral acquittal for a person involved in a morally bad act simply because of the moral good that it may bring.

Principle of Self-Determination.

No one has the right to take away another person's self-determination because no one has the right to hold another person in bondage.

to a set of ethical standards, to be indifferent to those standards, or to dishonor them. Human beings will conform to the customs and practices of an organization because of their need as social beings to belong, that is because of their need for the company and support of other human beings. More so than others in the organization, senior officials by their own actions determine what it takes to conform and therefore what it takes to belong. Given their role in reducing ignorance by virtue of what they say and what they do, along with their complementary role in dealing with conflict, senior officials generally, and senior officers of the AMA specifically, are role models with great potential to lead professional marketers toward the moral good or in the other direction.

Concluding remarks

The code of ethics of the American Marketing Association is not a panacea. By itself, the code is too abstract to be definitive in most day-to-day marketing activities with ethical dimensions and too narrow to be instructive in ethical dilemmas. The marketer also needs an elementary set of ethical principles that can be applied directly to the conflicts at hand and, as previously suggested, may require assistance from

his/her company in the form of a company code of ethics, courses in ethics, a company-wide ethics committee, along with other institutional structures. Otherwise, he/she is at a great disadvantage in analyzing ethical problems and in determining the appropriate ethical pathway to follow. Because it is a set of moral absolutes, the AMA code itself teaches one extremely important lesson: for the marketer who is willing to learn and master them, moral absolutes or ethical principles are reliably instructive in ethical decision-making.

The Association's code of ethics alone will not put a halt to "knockoffs," product tampering, dumping, expense padding, and like practices. Champions are needed to strengthen the resolve of marketers to follow the ethically proper path. In Robert Bolt's play *A Man For All Seasons*, Thomas More underscores the nexus between conflict, heroes, and the human will.

If we lived in a State where virtue was profitable, common sense would make us good, and greed would make us saintly. And we'd live like animals in the happy land that *needs* no heroes. But since we see that avarice, anger, envy, pride, sloth, lust, and stupidity commonly profit far beyond humility, charity, fortitude, justice, and thought, and have to choose, to be human at all . . . why then perhaps we *must* stand fast a little — even at the risk of being heroes. (Bolt, 1962).

As long as human beings are frail and free, that is as long as humans may choose an action that is unethical, marketers as with all others will need standards such as the AMA code of ethics to enlighten their intellects and heroes to strengthen their wills.

Notes

¹ By routinely pursuing his/her own self-interest, a person also serves the common good through the "invisible hand of the market."

² "To do this I have only to ask myself the simple question whether I could will that the maxim (or subjective principle of my action) should become a universal law, governing not merely this particular action of mine, but the actions of all agents similarly circumstanced" (Walsh, 1967).

³ Also called "social justice" or "legal justice" by some.

⁴ Both failures are demonstrated in the feature-length films *Tin Men* and *Save the Tiger*.

⁵ Known as "commutative justice" or "exchange justice" in some quarters.

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Louisiana Tech University,
College of Administration and Business
P.O. Box 10318, Ruston, LA 71272-0046,
U.S.A.

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