

Marketing Ethics

HND Business

Marketing

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Marketing ethics

It is moral principles that define right and wrong behaviour with respect to marketing policies, practices, and systems in all areas of marketing. Marketing ethics comprises principles and standards that guide appropriate conduct in organisations. In business, ethics have two distinct aspects. First, ethics involve the situation in which controversy arises. Second, they concern the principles of behaviour or norms by which organisations are expected to accept.

Advertising has always been practiced because it is so visible most people have a view on the value of advertising. Ethical issues in advertising include misleading advertising, advertising's influence on society's values and advertising to children.

Here is a recent example from ASA. An advertisement, 'Tango Pipes', features a young man wrapped inside an orange-filled carpet and laid on top of several large concrete pipes. The ad shows the man rolling down a hill, crashing into a tree and then being hit by the concrete pipes resulting in the oranges exploding over him. The Advertising Standards Authority (ASA) has asked broadcasters to remove an advertisement for the soft drink 'Tango' from the TV schedules following complaints from members of the public. The ASA is investigating concerns that the advertisement may lead to emulation, by children, resulting in harm.

(<http://www.asa.org.uk/asa/news/news/2004/Tango+advertisement+taken+off+air.htm>)



Globalization is a controversial issue for businesses and governments throughout the world. It refers to the trend for markets to become worldwide in scope. As a result of globalization many businesses trade throughout the world, whereas in the past they may have focused on one country, or possibly a single continent such as Europe. Globalization is so controversial because different groups interpret it in different ways. For its opponents, globalization is a uniquely threatening world. It prompts visions of large multinationals dominating the world in pursuit of ever higher profits. Many pressure groups fear that globalization threatens the environment as well as national cultures.

Nestlé is the world's largest and most diversified food company, marketing its products in nearly every country around the world. In 1985, Nestlé acquired Carnation in an attempt to win a lucrative share of the market in the USA. More recently, Nestlé bought the Wyeth division of breastmilk substitutes in Canada.

In its consumer and shareholder publications and in reports to WHO, Nestlé claims that it complies with the International Code "ethically and responsibly".

After a two-year investigation, the UK Advertising Standards Authority ruled in 1999 against Nestlé's claim of Code compliance made in 1996 in the Oxford Independent newspaper. In November 2000, the European Parliament began a series of public hearings to judge the activities of European businesses against international standards. Nestlé, one of two companies in the dock during the first hearing, was asked to present information on how it ensures its activities were in line with the Code and Resolutions. Nestlé refused to attend. Between August 1997 and January 2001, the hearing was adjourned 18 times. Meanwhile other legal cases against Nestlé for Code violations are stalled, the company continues to reap profits using offending marketing techniques.

In 1999, Nestlé was one of seven companies found liable for anti-competitive behaviour in Italy. Its formula market share in Italy is approximately US \$22 million. Legal action was taken against Nestlé in Costa Rica in 1999 for the company's failure to note the local authorities' warnings to change its infant formula labels. Nestlé was fined and required to bring its labels in line with local laws implementing the International Code. In July 2000, the Brazilian Ministry of Health reported on its own monitoring of compliance with the Brazilian law (which implements the International Code). Nestlé was one of three companies cited for violating Brazil's regulations.

There is an ongoing and active consumer boycott against Nestlé in 20 countries as it is responsible for more violations than any other company and takes the lead in attempting to undermine implementation of the Code and Resolutions by governments and other bodies.

(<http://www.ibfan.org/english/codewatch/btr01/NESTLE-en.HTM>, visited 30 Dec 2004)



One of the violations by Nestlé for example was their labelling. Many labelling complaints were about complementary foods such as cereal products and formula thickeners. These products become breastmilk substitutes when they are labelled and promoted for use under six months. Exclusive breastfeeding is recommended as the optimal way to nourish infants. The World Health Assembly in 1994 stressed there should be "...appropriate complementary feeding practices from the age of about 6 months". The Assembly also states that "any food or drink given before complementary feeding is nutritionally

required... should not be promoted" (WHA 1986). They may be sold but should not be advertised, given as samples or promoted in any other way. Nestlé's Code interpretation allowed the company to promote many other products far too early for use. Alete infant teas, for example, was advertised for use from as young as one week of age. This undermines exclusive breastfeeding and increases the risk of infection. It considered cereals like Cerelac and Nestlé Infant Cereal, to fall outside the scope of the Code, even though it promoted three varieties of Cerelac for use as of four months of age, some two months before the time complementary foods become necessary. Nestlé also refused to accept that the International Code is universal, i.e. that it applies in ALL countries.



In October members of the International Baby Food Action Network (IBFAN) from around the world monitor baby food companies against the Code and Resolutions. Monitoring results from recent research is gathered together in the report *Breaking the Rules, Stretching the Rules 2004*. The document makes allegations about 16 infant food manufacturers' compliance with the WHO "International Code of Marketing of Breast-milk Substitutes" and subsequent World Health Assembly resolutions, which profiles the 16 biggest baby food companies. Nestlé is once again found to be responsible for more violations than any of its competitors.

(<http://www.ethicalconsumer.org/magazine/news/news90.htm#Story6>, updated October 2004)

In response of this report, Nestlé has made an initial examination. It states that as always, Nestlé will carefully study the claims relating to the company and if there are substantiated violations they will correct them. However, it appears that a great number of the accusations made in the report have nothing to do with the marketing of breast milk substitutes.

For example:



- The picture of a mother and a baby on the front-page of the edition of the scientific journal "Annales Nestlé" focused on Obesity in Childhood, is cited as a violation. They are saying that "Annales Nestlé" is a well-respected pediatric journal, published since 1942, written by internationally known scientists. Each publication focuses on a specific topic such as diabetes or trace elements requirements for infants and children. Showing a picture of a mother and baby in this context is totally in compliance with any resolution adopted by the World Health Assembly. (Dominican Republic)
- Distributing the "Nestlé WHO Code Action Report" to medical professionals. In this publication they inform their contacts about new recommendations by the WHO, and how Nestlé applies those recommendations. For example Nestlé supporting exclusive breastfeeding for 6 months, and having accordingly changed labels of its complementary foods in all developing countries.
- Distributing to health professionals and other interested parties "The Nestlé People Development Review" a supplement to the Nestlé Management Report 2002, outlining Nestlé's efforts in literacy training, technical training, and personnel development. (Argentina)
- The one from Botswana relates to a Nestlé initiative to raise awareness of the WHO Code among distributors and their sales people. Here, educational material on the WHO Code is viewed as a violation. The leaflet criticized by IBFAN is part of this material: The pictures, which are easy to understand for sales people, are superimposed with a cross-out X on particular infant formula marketing practices, which are banned. The aim is to prevent wrongdoings by trade partners and accusing Nestlé of violating the WHO Code with that initiative defies common sense.

They also state that the vast majority of the accusations cited by IBFAN are entirely in keeping with the WHO Code and other relevant WHA resolutions, as originally passed by the World Health Assembly. A substantial number of the allegations are about infant cereals, which they do not market as a breast milk substitute. They explain that in fact Nestlé is the only company that does not market infant cereals for consumption below 6 months in the developing world. Moreover, a number of allegations do not lend themselves to an appropriate analysis due to their vagueness or lack of any detail indicating where or when the alleged violation occurred.



British American Tobacco is the world's second largest quoted tobacco group. With more than 300 brands in our portfolio, they make the cigarette chosen by one in seven of the world's one billion adult smokers. We hold robust market positions in each of our regions and have leadership in more than 50 of the 180 markets where we do business. The Group has 87 factories in 66 countries, processing some 660 million kilos of leaf and producing some 792 billion cigarettes in 2003. Our companies, including associated companies, employ more than 85,000 people worldwide. (<http://www.bat.com/OneWeb>, visited 30 Dec 2004)

Tobacco companies have faced increasing criticisms for years for their stance on smoking and health and their marketing tactics. Each of the major international tobacco companies is now engaged to reinvent itself as responsible and reformed.

The issue is not as straightforward as it appears at first sight. Critics may blame smoking, but tobacco is a legal product and millions of people choose to smoke, despite knowing the health risks. Even in the United States, where among some sections of society, smoking is seen as something like a social crime, millions of people smoke and would probably do so even if their government banned tobacco. So tobacco is here and will be here to stay for the foreseeable future. If British American Tobacco did not manufacture cigarettes, someone else would.

This makes it particularly important that a tobacco company should manufacture, distribute and promote its products in a way that takes account of the impact on society. British American Tobacco has developed a wide-ranging CSR programme, the first tobacco company to do so. The programme sets out how the company intends to demonstrate social responsibility and outlines the systems it is putting in place to achieve this end. Critics such as Bates argue that this is a public relations exercise. The company says the programme is a genuine attempt to demonstrate that it is capable of responsible management of a risky product. British American Tobacco has made a long-term commitment to report on its social impacts and to adhere to corporate social responsibility principles.

It is worth asking what the company stands to gain. If British American Tobacco can demonstrate that it has sound policies against smuggling and marketing to the under age, for example, its stock value may be re-rated and it will be able to attract capital that might otherwise go elsewhere.

Looked at from a risk management perspective, British American Tobacco's declared commitment to social responsibility could attract investors who at present boycott the company, and make it a more attractive candidate than other firms in the sector. There are signs that this is already happening. In September, the group was included in the Dow Jones Sustainability World Index – the only tobacco company to be selected.

Demonstrating responsible product management could help to improve the company's relationship with governments, for instance by distancing it from smuggling. The UK Department of Trade and Industry is investigating allegations of the group's involvement in cigarette smuggling.

A tobacco company with a record of social responsibility in various areas would be better placed to engage in the wider argument about the potential consequences of using its products. It is in the interests both of the company and of society to ensure best practice in all aspects of its business conduct and, in particular, that it works to reduce the health impact of tobacco products.

Ethics and responsibility have a direct relation on the company's commercial success. As a commercial organisation, British American Tobacco needs to make a profit, but it is the way that profit is made which is under fire. The challenge the company faces is to continue making money while aligning its values more closely with those of the societies where it operates.

(http://www.ethicalperformance.com/best_practice/companyfocus/pages/introduction.html, visited 30 Dec 2004)

Products

There are three major issues regarding ethical issues with products. They are product safety, planned obsolescence and deceptive packaging. The major concern about product safety has been the issue of the safety of genetically modified products. It is the reality of modern day business that new products such as cars, pharmaceuticals and foods undergo extensive safety testing before launch. Anything less would violate the consumer's right to safety. Many products are not designed to last a long time, but the issue is that what is an acceptable length of time before replacement is necessary. One driving force is competition. Deceptive packaging can occur when a product appears in an oversized package to create the impression that the consumer is buying more than is the case. A second area where packaging may be deceptive is through misleading labeling. This may take the form of the sin of omission. (Chapter 8, Principles & Practice of Marketing, 3rd Edition)

The EU Directive on the Manufacture, Presentation and Sale of Tobacco Products (the Labelling Directive) was published in July 2001. The UK transposed the Directive into domestic law in December 2002, in The Tobacco

Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002. The key measures of the new legislation are:

- Larger and starker health warnings on tobacco products
- New maximum yields of tar, nicotine and carbon monoxide in cigarettes
- End to 'misleading descriptors': From 30 September 2003, it is prohibited to use terms such as "low-tar" and "light" which have the effect of conveying the impression that a particular tobacco product is less harmful than others
- Further product information: The regulations require tobacco manufacturers and importers to inform the Secretary of State for Health of all the non-tobacco ingredients by brand, together with relevant toxicological information on an annual basis

(<http://www.dh.gov.uk/PolicyAndGuidance/HealthAndSocialCareTopics/Tobacco/TobaccoGeneralInformation>, visited 30 Dec 2004)

Sales Promotion

Ethical concerns regarding sales promotion include the use of trade inducements, malredemption of coupons and the use of third-party endorsements.

Trade inducements are there is an incentive for salespeople to pay special attention to those product lines which are linked to such bonuses when talking to customers. The ethical issue of malredemption of coupons concerns the behaviour of customers in supermarkets who attempt to redeem reduced price coupons without buying the associated product. The key to stopping this is through training of supermarket employees so that they always check coupons against goods purchased. A third party endorsement is another ethical question. The person gives a written, verbal and visual recommendation for the product. (Chapter 15, Principles & Practice of Marketing, 3rd Edition)

This year government is even more tightening regulations to discourage people from smoking. New rules which come into force on December 21 mean that shopkeepers will have to take down their tobacco advertising, including window stickers or business signs which make reference to tobacco products. The new rules will restrict the amount of advertising materials that can be displayed in shops where tobacco products are sold.

Usually there are a variety of advertising devices present at the point of sale where cigarettes and other tobacco products are sold, including branded display units, gantries, awnings and sandwich boards. From December 21st the total size of point of sale advertising materials cannot exceed more than an A5 sheet of paper, about the size of a paperback book. In addition where there is an advertisement for tobacco it must be accompanied by the health warning "Smoking harms you and others around you" and "NHS Smoking Helpline 0800 169 0 169".

Other tobacco advertising, including window stickers or business signs, which make reference to tobacco products, will have to be removed. Posters in shop windows, sandwich boards outside premises, awnings that carry tobacco brand or logo that advertise tobacco products will all be prohibited. (<http://www.dh.gov.uk/PolicyAndGuidance/HealthAndSocialCareTopics/Tobacco/TobaccoGeneralInformation>, visited 30 Dec 2004)

Distribution

There are five key ethical issues in distribution: slotting allowances, grey markets, exclusive dealing, restrictions on supply and fair dealing.

A slotting allowance is a fee paid to a retailer in exchange for agreement to place a product on the retailer's shelves. Critics argue that they represent an abuse of power and work against small manufacturers who cannot afford to pay the fee. Grey markets occur when a product is sold through an unauthorized distribution channel. Exclusive dealing is a restrictive arrangement whereby a manufacturer prohibits distributors that market its products from selling the products of competing suppliers. Restrictions in supply concern small suppliers would be squeezed out of the supply chain by large manufacturers and retailers. Finally the problem of free market forces is that when small commodity producers are faced with large powerful buyers the result can be very low prices. This can bring severe economic hardship to the producers who may be situated in third world countries. There are now more than 50 fair trade products on sale in the UK and sales are still rising. (Chapter 16, Principles & Practice of Marketing, 3rd Edition)

There is an international tobacco products marketing standard which states the distribution standard:

- Cigarettes shall not be sold or distributed to consumers in packages containing fewer than ten sticks.
- Fine cut tobacco shall not be sold or distributed to consumers in pouches smaller than 10 grams.
- No incentive or materials shall be provided to support the sale of cigarettes in single sticks.
- All cigarette packs and all primary packaging for other tobacco products shall carry a clearly visible health warning.
- All cartons and bundles offered for sale duty-free shall carry a clearly visible health warning.
- Reasonable measures shall be taken to prevent youth having access to cigarettes in vending machines.

([http://www.bat.com/oneweb/sites/UK__3MNFEN.nsf/vwPagesWebLive/DO52ADRK/\\$FILE/medMD539DKY.pdf?openelement](http://www.bat.com/oneweb/sites/UK__3MNFEN.nsf/vwPagesWebLive/DO52ADRK/$FILE/medMD539DKY.pdf?openelement), visited 30 Dec 2004)

Pricing

Key issues regarding ethical issues in pricing are price fixing, predatory pricing, deceptive pricing, price discrimination and product dumping. One of the driving forces towards lower prices is competition. Producers would agree not to compete on price. This is the act of collusion and is banned in many countries and regions including the EU. Opponents claim that it is unethical because it restrains the consumer's freedom of choice and interferes with each firm's interest in offering high quality products at the best price.

Predatory pricing refers to the situation where a firm cuts its prices with the aim of driving out the competition. Deceptive pricing occurs when consumers are misled by price deals offered by companies. Misleading price comparisons and bait and switch are two examples of deceptive pricing. Price discrimination occurs when a supplier offers a better price for the same product to a buyer resulting in an unfair competitive advantage. This can be justified when the costs of supplying different customers vary, where the price differences reflect differences in the level of competition and where different volumes are purchased. Finally product dumping involves the export of products at much lower prices than charged in the domestic market, sometimes below the cost of production. (Chapter 10, Principles & Practice of Marketing, 3rd Edition)

Tobacco prices should be kept at a high level to create an incentive to stop smoking or never start. This will only be effective if prices are kept at least in line with the rise in incomes. Any price raising strategy must be accompanied by measures to enable the poor to respond to the price signals - this includes free nicotine replacement therapy on the NHS, targeted advice and information, funding for community initiatives and an active role for GPs and other primary health providers.

(<http://www.ash.org.uk/html/factsheets/html/basic05.html>, updated Jun 2004)

Reference List

David Jobber, Principles & Practice of Marketing, 3rd Edition, McGraw Hill Publishing

Class handouts

Nestlé Baby Milk, www.babymilk.nestle.com

The British American Tobacco, www.bat.com

The Advertising Standard Authority website, www.asa.org.uk

The International Baby Food Action Network, www.ibfan.org/english

Action on Smoking and Health, www.ash.org.uk

The Ethical Consumer Magazine, www.ethicalconsumer.org

www.ethicalperformance.com

Department of Health, www.dh.gov.uk