# *Legal and Regulatory Environment of Business 18th edition Pagnattar Solutions Manual*

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# Chapter 2
# The Role of Ethics in Decision Making

## Learning Objectives

The primary objective of this chapter is to emphasize the growing importance of ethics to business conduct. The second objective is to provide a historical and philosophical framework for the study of ethics. The third objective is to furnish business students with an individual framework for ethical decision making.

To achieve its objectives the chapter discusses the relationship between morals and ethics and then of ethics and law. Formalism and consequentialism, the two principal schools of ethical thought, are developed. Sources of ethical values are explored. The difficulties of ethical decision making within large business organizations are examined. The chapter concludes with a discussion of the morality of property.

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## Teaching Outline



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# I. Contemporary Business Ethics

## A. Ethics and Society

Emphasize:

- That as society changes, shared values emerge that strengthen ethical foundations.

Additional Matters for Discussion:

- That the 2011 Occupy Wall Street and other "Occupy" movements are largely concerned with the state of ethics in banking and governmental spending.
- The 2013 National Business Ethics Survey, conducted by the Ethics Resource Center, found the lowest number of people observing misconduct in their workplaces than at any time in the survey's history. Are reforms working?
- Point out that over 20% of today's large companies have ethics officers whose job is to develop ethics policies, listen to complaints of ethics violations, and investigate ethics abuses. Why is this good business?
- Statement of Stephen Fink, president of Lexicon Communications Corp. of Los Angeles: "The number one cause of business decline in this nation is unethical behavior of executives—and of younger managers pushing to move up the ranks."
- From the Christian Science Monitor: "A study by the Josephson Institute for the Advancement of Ethics... talks about an unwillingness or inability of parents, schools, and political leaders to establish firm ethical standards of conduct and hold youth accountable to them. It speaks of a progressive emphasis on self-aggrandizement, personal gratification, and, ultimately, acquisitiveness."

### Changing Normative Values

Emphasize:

- That diversity fosters concern over values, and as America becomes increasingly pluralistic, changes in traditional norms create challenges in establishing shared values.

### Economic Interdependence

Emphasize:

- That a serious ethical problem arises from economic interdependence and the modern corporation, which is the structure of most large businesses in this country.

### News Media and the Internet



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Emphasize:

- That news media and the Internet make it increasingly difficult to hide the questionable behavior of large organizations.
- Sidebar 2.1 titled 'Wells Fargo Sham Accounts'

### B. Ethics and Government

Emphasize:

- That government often steps in when businesses act unethically.
- That business leaders have incentive to promote corporate integrity, and thereby to limit further governmental regulation.

Additional Matter for Discussion:

- The Ethics Resource Center reports a survey that found that 85 percent of the nation's largest 2000 companies now have ethical codes or guidelines. Increasingly, corporations also have ethics officers and board of director's ethics committees.

## II. The Nature of Ethics

### A. Ethics and Morality

Emphasize:

- That morality is the collection of values that guides human behavior.
- Why it is important for businesses to inculcate shared moral values.
- How businesses in the international arena often face different moral values.
- That ethics is a system for identifying and applying moral values.
- That the end result of ethical examination is the good.
- That there is an important distinction between having a good time and leading a good life.

Additional Matter for Discussion:

- Ask the students if Gil Meche's decision to forego his $12 million salary for retirement was appropriate. What would the students have done?

### B. Ethics and Law (LO 2-1)

Emphasize:

- That both ethics and law deal with right and wrong and foster social cooperation.
- That the state enforces law but that personal ethics are voluntarily observed.



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- That ethical values are ultimately superior to law in ensuring responsible business behavior.
- The ethics surrounding price gouging (see Sidebar 2.2.)

Additional Matters for Discussion:

- Point out that one can be ethical yet still break the law while one may also be unethical while remaining legal.
- When Mary Kay Corp. discovered that its rival Avon Products was going through Mary Kay's trash dumpster, it sued Avon. Avon settled the case by agreeing to stop the practice. Was what Avon did legal? Was what Avon did ethical?

## III. Two Systems of Ethics

### A. Formalism

Emphasize:

- That formalism is an approach to ethics that affirms an absolute morality.
- That it deals with absolute values without reference to their situational context.
- That the Bill of Rights contains examples of formalism.

Additional Matters for Discussion:

- Note that in formalism the intent with which one acts determines the moral quality of the action, i.e., it is what one has in his/her heart that counts. Observe that intent is also required for most criminal liability.
- Discuss how the Golden Rule affects individual's actions.
- Example of formalism by management scholar Peter Drucker: "There is only one ethics, one set of rules of morality, one code: that of individual behavior in which the same rules apply to everyone alike."
- For class discussion: A male bank president receives an invitation to join a male-only social club that will be a very important source of business contacts. Is it right for the president to join the club? If the students deem it deontologically proper for the president to join, change the facts to make the club a white-only club.
- For class discussion: Everyone should agree that robbing a bank is illegal and unethical. Would the students feel differently if a man robbed a bank because he was truly without money and needed the money to buy medicine necessary to live? Would they feel differently if the money was to buy medicine for his wife or his infant daughter?

#### Kant and Formalism

Emphasize:



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- Kant and his categorical imperative.
- Examples of how formalism raises ethical questions for businesses.

**The Social Contract**

Emphasize:

- The social contract theory of John Rawls.
- That although formalism generally takes its rise from concepts of duty, social contract comes from ideas about "agreement."
- That the social contract theory concerns itself with how to construct a just society taking into consideration the many inequalities of wealth, knowledge, and social status.
- That in deciding on the values of the social contract one places oneself behind a "veil of ignorance." Explain.
- That entitlement to certain basic rights and equal opportunity are basic values of the social contract.

**B. Consequentialism (LO 2-2)**

Emphasize:

- That consequentialism deals with the moral consequences of actions rather than with their absolute morality.
- That consequentialism focuses on the common good.
- That the dominant form of consequentialism is utilitarianism.
- Whether ends justify the means. Always? Sometimes?
- That consequentialism provides the framework for much business ethics.
- Facebook's response to fake news discussed in Sidebar 2.3. Is this an example of a proper business response to concerns that it profited from misinformation while undermining a common good?

Additional Matters for Discussion:

- An example of business consequentialism comes from Megan Barry, Senior Manager, Business Ethics at Nortel, and appears in a DePaul University virtual journal The Online Journal of Business Ethics, Vol. 2, No. 1 (2001). Barry says that Nortel's ethics "Adviceline," which produces 2000 telephone calls annually from Nortel employees saves the company money by identifying issues early, minimizing the loss of work time, and avoiding potential legal issues.
- Stanley Kiaer, director of the London-based Institute of Business Ethics, stated that various pressures from the public, from shareholders, from employee recruits, and from competitors (peer pressure) are leading to greater corporate emphasis on ethics. Said



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Kiaer, "If it results in a more ethical stance the motive [for change] doesn't matter." Emphasize that Kiaer's statement shows consequentialism.

- Consequentialist statement by Keith T. Darcy, president of the Foundation for Leadership Quality and Ethics Practice: "Ethical business means better business. That's because straight-arrow firms will be perceived more favorably in the marketplace."
- Consequentialist statement by Robert Denham, chairman of Salomon, Inc.: "In the final analysis, most of the major institutions in our industry provide the same or very similar services. I believe that one important way that a firm can distinguish itself in the marketplace is to establish a solid reputation for integrity and adherence to high ethical standards. Salomon believes that in the long run, this is the best way to win customer loyalty."
- One major study found that after 30 years an investment in 30 companies with a strong ethical orientation netted 4.7 times greater dividends than a similar portfolio of stocks chosen for their Dow Jones ratings.
- For class discussion: Dow Corning Wright, the leading manufacturer of silicone gel breast implants, announced that it had known for 20 years that some gel would seep out of the implants. Dow maintained that it did not believe that the leakage would cause health problems. Discuss with students whether or not it was ethical for Dow to wait 20 years before making this announcement. In consequentialist fashion, weigh out the various factors from Dow's perspective.
- For class discussion: In the 1970's, Ford Motor Company designed and built the Ford Pinto. It was created as a direct result of gasoline shortages and resultant higher gas prices. The Pinto was sold to meet the competition such as the VW Beetle. Unfortunately, when struck from the rear, the Pinto was prone to explosions. It was shown that Ford knew of the danger, could have made a low-cost repair and could have prevented the explosions and resultant deaths. Rather than decreasing their profit margin, they sold the cars in the dangerous condition. Can the students find any justification for Ford's actions?

**The Protestant Ethic**

Emphasize:

- That the ascendancy of consequentialism in business ethics is attributable to the decline of the Protestant ethic.
- That the Protestant ethic was a business-related ethic that viewed hard work, achievement, self-denial, truthfulness, promise keeping, and loyalty as absolute moral values. The ethic is based on religious belief.
- How rising wealth and the encouragement of mass consumption eroded the Protestant ethic.



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- How vestiges of the ethic remain in business belief in hard work, rational planning, and bureaucratic hierarchies.

### C. Comparing the Two Ethical Systems

Emphasize:

- That although formalists and consequentialists can arrive at the same conclusion regarding a problem, they use a different evaluation process.
- The "Tobacco Facts" in Sidebar 2.4.

Additional Matters for Discussion:

- Discuss the ethics of the tobacco industry in tolerating confectioners' use of tobacco brand trademarks in producing and selling candy cigarettes. A University of Rochester School of Medicine study released in 2000 reported that sixth graders who had used candy cigarettes were twice as likely to smoke as those who had not, regardless of parental tobacco use.
- Some four million adolescents aged twelve to seventeen were smokers as the century turned. During the 1990s, smoking by eighth and tenth graders increased by a third.
- The U.S. Center for Disease Control and Prevention reported: "More than five million children under the age of 18 today eventually will die from smoking-related causes."
- A Brown & Williamson Tobacco Co. senior official publicly called cigarette smoking "a habit of addiction" and R.J. Reynolds internal documents refer to it as "habit forming."

## IV. Sources of Values for Business Ethics

### A. Legal Regulation

Emphasize:

- That ethical values frequently become law and that legal regulation can reflect society's ethical values.
- That as a result, that legal regulation is a significant source of values for business ethics.
- At least five major ethical rules can be drawn from the law, which are as follows:
    - Respect for the liberty and rights of others.
    - The importance of acting in good faith.
    - The importance of exercising due care.
    - The importance of honoring confidentiality.
    - Avoidance of conflicts of interest.

Additional Matters for Discussion:



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- Ask the students to examine their major courses of study and to look at how the five major ethical values above will come in to play when they graduate and begin work in their chosen career.
- Observe that the Federal Sentencing Guidelines, promulgated in the early 1990s, reward business organizations that have made comprehensive efforts to institute ethics codes and programs. In sentencing for the criminal misconduct of its agents, corporations with comprehensive ethics programs receive significantly reduced punishment. Note that merely posting an ethics statement on the wall is not considered sufficiently comprehensive.

**Liberty and Rights**

Emphasize:

- That respect for the liberty and rights of others suggests formalist values. Consider due process guarantees, freedom of expression, and privacy legislation.

**Good Faith**

Emphasize:

- That good faith requirements can be found in the Uniform Commercial Code.
- That bad faith leads to a cause of action for tort in certain circumstances.
- That bad faith suggests formalism.

**Due Care**

Emphasize:

- That due care, such as required in negligence law, derives from society's expectations about the reasonableness of actions. This suggests consequentialism (promoting the common good).

**Confidentiality**

Emphasize:

- That confidentiality often arises when the law creates or requires fiduciary obligations. Various agency relationships demonstrate this. This suggests consequentialism by its purpose of enhancing the willingness to enter relationships through the expectation of confidentiality.

**Conflicts of Interest**



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Emphasize:

- That conflicts of interest can arise in the law because of "serving two masters," and no agent or employee of one principal can secretly work for another whose interest competes with that of the first principal.

**B. Professional Codes of Ethics**

Emphasize:

- That recent years have revealed extensive development of group standards for ethical conduct.
- That the American Marketing Association's Ethical Norms and Values for Marketers. Observe how the excerpted material in Sidebar 2.5 provides a general framework for a great many specific rules.
- The American Institute of Certified Public Accountants Code of Professional Conduct. Again, point out that the excerpted material in Sidebar 2.6 provides a general introduction to many specific ethical requirements.
- How unethical conduct can lead to additional regulation such as Sarbanes-Oxley and can completely destroy a huge thriving company.
- That the professional organizations that have adopted these codes employ specific sanctions to back them up. Because the state will likely regulate these professions if they do not do so themselves, it is appropriate to term their ethical codes self-regulation.

Additional Matter for Discussion:

- Ask the students to identify other formal and informal codes or standards of conduct that apply to their majors and to business in general. Students should be able to name GAAP, GAAS, the ABA Code of Conduct, the AMA Statement of Ethics, the ABA Code of Professional Conduct, and others.

**C. Organizational Codes of Ethics**

Emphasize:

- That most large business organizations now have codes of ethics (often called codes of conduct) that provide values to be observed by all employees and management personnel.
- The Business Roundtable's list of topics that organizational codes of business ethics should cover.

Additional Matters for Discussion:

- Students must appreciate that when a company implements an ethics program that it does more than issue a written ethical code. A comprehensive program has:



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  - Ethics policies and procedures
  - Measures of ethical effectiveness
  - Rewards for ethical behavior
  - Guidelines for ethical decision making
  - Assessment of the ethical climate
  - Cultivation of ethical practices
  - Focus on ethical leadership
  - Ethics education and training
- Consider the statement of Robert Denham, chairman of Salomon, Inc., about that firm's steps to achieve an ethical organization: "Salomon has addressed the need for individuals to take ethical questions seriously by a series of measures. First, we have issued unambiguous policy statements declaring that Salomon will adhere strictly to the highest moral and ethical business standards. Second, we have established a board-level compliance committee and directed our compliance department professionals worldwide to report directly to the committee any issues that they feel are not adequately being addressed. Third, to emphasize the seriousness that I attach to the issue, I have given my personal home phone number to the senior managers—including the compliance professional—of each of our operating subsidiaries together with instructions to call me in the event that they uncover a material violation of this policy. Fourth, we have issued written manuals setting out policies for each of our trading desks and we have required our 200 senior employees to certify their compliance with those policies. Fifth, in our training efforts for new recruits and for long-term employees, we have increased the emphasis on the need for ethical business conduct."
- Ask students to consider why companies that have codes of conduct have a higher percentage of reported misconduct than do companies without a code of conduct.
- Several corporations have an ethics ombudsman who plays a vital role in defining what is right and wrong, acceptable and unacceptable for their companies. Having an ombudsman has been identified by the Federal Sentencing Guidelines as part of a comprehensive ethics management program.
- One thing several large companies have done is give their employees a toll-free number to call to help resolve ethical and related dilemmas. William Griffin, VP for Ethics and Business Policy at Sears reported that "Assist Line" received 15,000 calls yearly from Sears' 300,000 employees.
- An Industry Week survey reports that three of four surveyed claim that their company's code of ethics—or ethics generally—means something to them in their daily work. But 63.9% of those surveyed reported having witnessed unethical behavior.

**Different Approaches to Ethical Codes**

Emphasize:



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- Boeing's Code of Conduct in Sidebar 2.7.
- Discuss whether it is more appropriate to have a short or a long business code of conduct.
- That because codes of business ethics are often backed up by sanctions, it is appropriate to term them "self-regulation."

### D. Individual Values (LO 2-3)

Emphasize:

- That ethics ultimately boils down to the individual values one applies in decision making.
- That individual values can be explored by asking five important questions in situations of decision making:
  - Has one thought about whether the action one may take is right or wrong?
  - Will one be proud to talk about one's actions to his or her family, to his or her employer, or to the news media?
  - Will one be willing to act as one is thinking of acting?
  - Will one's decision cause harm to others or to the environment?
  - Will one's actions violate the law?

Additional Matters for Discussion:

- Discuss John Smale's statement that "there is an ethical dimension to most complex business problems."
- Examine Hannah Arendt's statement that evil often comes from a kind of thoughtlessness.
- Consider Plato's statement that immoral behavior often flows from ignorance.
- Discuss why Mortimer Adler observed that Americans lack "much that is needed for the good life."
- The Dow Corning code of ethics says, "We will act with the idea that everything will see the light of day." This is a variation of the 11:00 o'clock news concept which asks how you would act if what you did was to be broadcast on the 11:00 o'clock news. (Perhaps today's students might relate better if we substitute the Internet for the 11:00 o'clock news.)

## V. Achieving an Ethical Business Corporation

### A. The Obstacles (LO 2-4)

Emphasize:

- That there are obstacles to ethical corporate behavior that deserve serious consideration.



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Additional Matters for Discussion:

- Discuss the impact of executive stock options and stock price related bonuses on the problem of overstating earnings to raise stock prices. Bring up the issue that part of the 2008 stock market collapse and credit failure, which may have been caused initially by financial executives taking risks with their corporations' assets that they would not have taken with their own, principally in the creation, sale, and purchase of incredibly risky and complex mortgage-backed securities.
- Ask the students to consider Sweden's concept of "lagom." Would it affect research and development by corporations? Would it hinder other forms of innovation? Could it work in the United States? Refer to sidebar 2.8.
- Max Clarkson of Toronto University's Institute of Business Ethics stated: "One of the fundamentals of business is that you are invariably in a conflict of interest between your personal interest and the fiduciary duties you bear."
- Illustrating how an overemphasis on profit can cause unethical behavior in lower echelon employees' one corporate executive says, "That's when the boss tells a subordinate to 'move it'—just get it done, meet the deadline, don't ask for more money, time or people, just do it—and so it goes on down the line." That "is the heart of unethical practice in business."
- Consider the statement of Robert Denham, chairman of Salomon, Inc.: The single greatest ethical concern facing any large financial institution is to instill in each employee a sense of personal responsibility to actively seek out ethical questions and to confront them candidly. Too often individuals try to shirk their obligations by claiming that they were following the orders of supervisors, or otherwise claim that ethical concerns were someone else's business.
- Gift giving in business presents ethical obstacles. Many corporations limit or entirely prohibit employees from accepting gifts from suppliers or customers. For instance, Microsoft routinely mails a notice to its suppliers that Microsoft employees are forbidden to accept gifts. Compare the practice of some Internet and other firms in giving the employees of their customers shares or options of stock in their initial public offerings.
- Note that U.S. companies lose over a billion dollars annually because employees use company assets—such as long-distance phone calls and supplies—for personal purposes.

**The Emphasis on Profit**

Emphasize:

- That the focus on profit, "the bottom line," can promote unethical behavior within a large business organization, especially when senior executives order line managers to ensure profit.



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### The Effect of the Group

Emphasize:

- That another obstacle is the willingness of individuals to act unethically in a large group when they would never do so alone. Illustrate with the familiar statements "I did it because everyone else did it" and "Just following orders."

### The Control of Resources by Nonowners

Emphasize:

- How ethical business practice as well as corporate governance is made more difficult by the very nature of modern business corporations that gives managers access and control over resources owned ultimately by the shareholders.
- Sidebar 2.9 titled 'Failure and Collapse.'

## B. The Steps

Emphasize:

- That despite the obstacles that sometimes stand in the way of ethical corporate behavior, certain steps can be taken to promote business ethics in corporate life.

Additional Matters for Discussion:

- Provide some examples of decisions that local, national and international companies have made (or might make) and have the students identify the stakeholders affected.
- Consider the statement of Ward Classen, general counsel of CSC Intelicom, Inc.: "Leadership begins at the top. The company's chief executive officer must make it clear that he or she regards the adherence to ethical standards a top priority and that the failure to adhere to such standards will be considered a serious offense."
- In 1995 Lockheed pleaded guilty to conspiring to violate the Foreign Corrupt Practices Act and it paid a $24.8 million fine. Subsequently, the company instituted a sophisticated online training program on ethical and legal compliance. Between 1995 and 2000 it discharged more than 200 employees for ethical violations.
- Have the students consider the effects of statements contained in a company's mission statement and/or vision statement and the tone they can provide. Are the students aware of their school's vision and mission statements?

### Involvement of Top Management

Emphasize:



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- That the single most important step toward achieving an ethical corporation is for top management to act as a role model for values it wishes corporate employees to share.
- That employees tend to adopt top management's real values, as set by example and implicit statement.
- That even with a current microscope on corporate ethics, 59% of the largest British companies and a similar amount in the U.S. offer no training to lower management with regard to the meaning and use of their corporate code of ethics.
- Sidebar 2.10 "Removing Conflict Minerals from the Supply Chain."

**Openness in Communication**

Emphasize:

- That to accomplish an ethical corporation there must be an open and continuing dialogue on ethics.
- The strategies for promoting the ethical corporation as suggested by the Business Roundtable.

**Consideration of All Stakeholders**

Emphasize:

- The ethical importance of business management considering the many different parties affected by business actions, known as "stakeholder theory." Suggest that stakeholder theory is a reflection of the increasing recognition of social interdependence.

## C. The Rewards

Emphasize:

- The enormous size of the world's largest companies.
- That profits and business ethics are not contradictory.
- That unethical behavior is a business liability.
- That businesses must always be ethically sensitive changes in society.
- That business ethics reflect business leadership.
- That in reading subsequent chapters on business regulation, students should consider the ethical lapses that contributed to imposition of regulation. If ethical self-regulation does not guide business behavior sufficiently, legal regulation often follows quickly.

Additional Matters for Discussion:

- An editorial in Industry Week, concludes: "Industrial management is neither a science nor an art. It's more of a process. An ongoing concern for ethics throughout an



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organization will improve that process. Even when times are tough."

- For an international perspective on ethics, see T. Donaldson, "Values in Tension: Ethics Away From Home," Harvard Business Review, Sept.-Oct. 1996.

**D. Can a Business Have a Conscience?**

Emphasize:

- The "personhood" rights of a corporation have long been recognized in the law.
- The Affordable Care Act includes a provision that businesses' health care insurance plans offered to employees must include coverage for a wide range of contraceptives.

Additional Matters for Discussion:

- Sidebar 2.11, "Same-Sex Marriage Debate and 'Kiss-Ins,'" for an example of a business representing its business owners' religious beliefs.
- Discuss the legal issues in *Citizens United and the Hobby Lobby* case.

## Answers to Review Questions and Problems

**Contemporary Business Ethics**

1. *Ethics and Society*

   The answer should mention the increasingly complex, diverse society. The problems in the American economy have become a concern for all Americans and many of these problems are highlighted by corporate collapses and governmental bailouts. Most people see a direct connection between a lack of ethical conduct in business and these current troubles.

2. *Ethics and Government*

   Certainly, criminal penalties brought against unethical executives and their incarceration has increased ethical scrutiny on business. Laws such as the Federal Sentencing Guidelines and Sarbanes-Oxley have created specific legal guidelines and defined penalties.

**The Nature of Ethics**

3. *Ethics and Morality*

   Morality consists of the values that guide one's behavior, while ethics is the systematic statement of right and wrong together with a philosophical system that both justifies and necessitates rules of conduct. The end of ethical examination is "the good."



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4. *Ethics and Law*

   Law is a floor for ethical behavior. It is hardly a ceiling. As a process, the law does not serve well to provide the necessary sensitivity to achieve an ethical business life. What the marketing consultant is arguably saying is that ethics are irrelevant to business life. A business can act legally yet still be acting unethically. Eventually, the unethical behavior can come back to harm the company.

**Two Systems of Ethics**

5. *Formalism*

   The language of "inherent wrong" shows absolute moral values, which is formalism. In consequentialist analysis, overseas bribery may be morally wrong because it could lead to bribery attempts in this country, either by foreign or domestic companies. It could also have adverse repercussions on U.S. business or policy in foreign countries.

6. *Consequentialism*

   In most business contexts, this issue will be treated strictly through consequentialist analysis. A formalist approach to this issue should question whether a policy of document shredding leads to unacceptable deceit, akin to lying. Also, does shredding make it easier for executives later to lie about company actions? Remember that lying is deontologically unacceptable.

**Sources of Values for Business Ethics**

7. *Comparing the Two Ethical Systems*

   a. Either in terms of promoting the common good or of limiting harm to others, it would seem that these advertising appeals are unethical. Leading to this conclusion is the medically arguable addictive nature of tobacco consumption and its known harm.
   b. While tobacco advertisers argue that advertising does not catalyze consumption; it merely initiates brand switching. The use of cartoon characters enhances recognition in young children and can mask the dangers inherent in smoking. As the children grow, the ingrained appeal of the product can lead to initial use.

8. *Legal Regulation*



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Law is frequently reactive rather than proactive. As the society changes, societal views regarding acceptable behavior changes. When regulation is deemed necessary, laws are enacted to either define or limit acceptable conduct. Ethical values reflected in the law include, respect for the liberty and rights of others, acting in good faith, exercising due care, honoring confidentiality, and avoiding conflicts of interests.

9. *Professional Codes of Ethics*

This is an open-ended question designed to get students views on lawyers out in the open. Share with the students that lawyers are criticized both in the Bible and in Shakespeare. Since lawyers are tasked with acting zealously on behalf of their clients, someone who has broken the law or acted unethically must be provided legal assistance. Many people don't understand this. The lawyer's job is often to make sure that the system does its job. Hence the cases like the O.J. Simpson case and the Casey Anthony case give defense lawyers a bad name.

10. *Organizational Codes of Ethics*

a. This cynicism almost certainly arises because of the contradiction that lower level employees feel between the ethical values expressed by company codes and the value of "profit first" that these employees perceive is the true value of top management.
b. Top management must lead through example and be clear and consistent in the communication of ethical values.

11. *Individual Values*

Students' answers will vary.

**Achieving an Ethical Business Corporation**

12. *The Obstacles*

a. The answer should address how an overemphasis on profit and the effects of group pressure make it hard to do what is morally correct in corporate decision making.
b. The need to retain proven successful leaders has largely led to this increased discrepancy. Emphasis on profits has made it imperative for businesses to increase pay to those who create those profits. The negative effects of a CEO leaving a company for another, taking not only his or her management skills, but also their intimate knowledge of the company often compels overpayment. To a large extent, if one company is willing to overpay, other companies must do so to remain competitive.



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One might liken this to free agency in sports which exponentially raised salaries to implausible levels.

13. *The Steps*

Corporate culture is based on loyalty and teamwork. “Telling on” one’s superiors or co-workers is perceived as being disloyal and acting at odds against the team. Jackall says that in a corporate top-down hierarchy, strict loyalty is required of subordinates in exchange for mentoring and advancement. Whistle blowing violates the expectations of this system. To make whistle blowing acceptable, or at least more acceptable, will require clear approval and modeling from corporate top ranks. To this end whistle blowing is an appropriate subject for corporate ethics codes.

14. *The Rewards*

Legal regulation lacks flexibility and is inadequately informed to be the only social guide for business decision making.

## Business Discussion #1

1. *Is it ethical for you to hire away from your competitor a secretary who may have overheard something that will be useful to you? Is it ethical for you to send an attractive employee to a bar where your competitor’s programmers hang out in the hope of getting the information you want?*

Discuss the section on individual values. In these first two instances, one should think how one would feel if the rival company did what one was contemplating. Certainly, one would feel that unethical behavior was being used. One should think whether one would be happy to see one’s contemplated actions publicized? Certainly not. Note that the stealing or misappropriation of trade secrets is illegal so both ethical and legal concerns are being violated.

2. *Is it ethical for you to have someone hunt up and read everything published by your competitor’s programmers in case they may have let slip something that will help you?*

This third instance presents no problems from a legal or ethical perspective. Information readily available in public sources is “fair game” and simply doing honest research is a good business practice.

## Business Discussion #2



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1. *If follow-up animal studies of the new drug do not show significant side effects, would it be ethical for the company to tell the two researchers to keep quiet about their concerns?*

   Discuss the moral difference between telling a lie and merely not speaking. As long as the FDA is properly informed of all concerns and the public appropriately warned according to FDA standards, it may be ethical for the company to ask the researchers not to broadcast their concerns and possibly threaten the marketing of the product. However, this conclusion is certainly debatable.

2. *Is it ethical to put animals at risk in order to test the drug's safety?*

   Use this discussion to illustrate the difference between formalist approaches, such as "harming living creatures is always wrong" or "God gave humans dominion over the animals," and consequentialist approaches such as "the benefit to humans outweighs the injury to a few animals" or "insensitivity to animal welfare leads to insensitivity to human welfare."

3. *Is it morally right for PharmCo to maximize its profit even if it means many men will have to remain bald? Does your answer change if the drug cures rheumatoid arthritis? AIDS?*

   The latter questions address very real issues. From a personal perspective, is comparing a drug that helps users cosmetically to a drug that potentially saves lives a truly valid comparison? From a business perspective, ask students if it is moral to require pharmaceutical companies to surrender resources when others in the property system are not surrendering theirs? The point is that the moral imperative of helping those in need when society can easily do so leads as much to government taxation of all to purchase the drugs for distribution to the poor as it does to making the companies that made the drug bear the burden. And, of course, there is the loss of incentive to produce new drugs for other diseases. If it is moral to help those in need, is it moral to require people to help those in need?



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