

CODES OF ETHICS FOR PERSONS IN MARKETING AND SELLING: WHAT TO DO, WHAT NOT TO DO

by

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Both Edward O'Boyle and Lyndon Dawson have more than 30 years of professional experience, principally on the business-school faculty at Louisiana Tech University. O'Boyle's specialization is economics; Dawson's is marketing. They have collaborated on four published articles relating to ethics in marketing. Each, however, has his own distinct hand-on experience regarding marketing and selling (Dawson) and the ethical dimensions of quality and productivity-improvement (O'Boyle). Both are senior research associates at Mayo Research Institute.

CODES OF ETHICS FOR PERSONS IN MARKETING AND SELLING: WHAT TO DO, WHAT NOT TO DO

Advertising, selling, promoting, and other forms of marketing come under vigorous attack from time to time by public officials, consumers, public interest groups, consumer advocates, religious leaders, and others for an assortment of practices which are thought to be unethical.¹ Truth be known, at least some of the criticism is properly directed. Flim-flam men, con artists, tin men, and hucksters are not figments of a hyper-active imagination. Further, manipulation, broken promises, misrepresentation, and high-pressure selling tactics are condemned not just by those with an unbending Victorian conscience.

Over the years, marketers have attempted to deal with these attacks in part through the development and administration of industry-specific codes of ethical conduct. To illustrate, the Direct Selling Association and the Outdoor Advertising Association, not to mention the American Marketing Association, have their own codes of ethics. Even so, codes such as these are not without their critics who assail them at both the development stage and the implementation stage. At the development level, for example, the argument is that the codes are insubstantial and arbitrary. At the implementation level, the contention is that the codes are unenforceable or simply are not enforced.

The research reported herein focuses on the argument that the codes are insubstantial and arbitrary and therefore may be disregarded. The validity of such charges has clear and powerful implications for the way in which the subject of unethical professional conduct is handled in the classroom and for the expectations that students of marketing have of other persons employed in advertising, selling, promoting, and other forms of marketing.

¹ See for example Levy [pp. 122-126], O.C. Ferrell et al. [pp. 54-70], Belch and Belch [pp. 765-794], Drumwright [p. 607, pp. 621-623], and Smith 1992 [p. 4; see as well entire preface].

Specifically, this research examines the codes of ethics of the following professional associations: American Marketing Association, American Association of Advertising Agencies, Direct Selling Association, Outdoor Advertising Association of America, and National Automobile Dealers Association. Clearly, the members of these associations constitute a large portion of the selling and marketing professions.² We also include the National Association of Broadcasters' statement of principles, and the code of ethics of the American Pharmaceutical Association for reasons which are provided later. The seven codes included herein are the latest versions at the time this article was being prepared (end of year 2002).

To determine the validity of the charge that the codes are insubstantial and arbitrary, the specific items in each of the codes enumerated above will be scrutinized in terms of certain principles of ethics such as the principle of equivalence and the principle of contributive justice. Thus, to the extent that the various items are grounded in some specific principle(s) of ethics, the charge of arbitrariness and insubstantiality is unfounded.

Smith, as do many others, argues that there are no moral absolutes (principles of right conduct) by which human behavior can be judged as ethical or unethical [Smith 1990, pp. 175-178]. We disagree. To illustrate, if shoplifting were legal, only a fool would be a merchant or a paying customer. The chaos in retailing which attends unrestrained shoplifting and other practices such as embezzling and pilfering persuades us *by reason alone* as expressed in the principle of equivalence that the moral absolute "thou shalt not steal" must be enforced. More about the principle of equivalence in the next section.

² The American Academy of Advertisers does not have its own code of ethics.

The authors examine these codes one by one to determine if the specific items included in them are classifiable as either a limiting ethical principle or an actuating ethical principle.³ In the context of a professional code of ethics, a limiting principle constrains the professional from certain types of conduct whereas an actuating principle demands certain kinds of behavior in professional affairs.⁴ Kass [p. 36] asserts that setting limits on the use of power is the beginning of ethics. Thus, to the extent that the specific items of a code are in fact actuating principles, the charge of arbitrariness and insubstantiality is not substantiated. The authors have copy-edited and combined individual items in the codes to improve their readability. In so doing, care has been taken not to re-write any specific item in a way which changes it from an actuating principle to a limiting principle or vice versa. In this regard we have kept in mind Kass' admonition that putting specific limits in human behavior is where ethics begins.

Finally, the authors include the code of ethics for pharmacists because for ten consecutive years ending in 1998 pharmacists were ranked by American consumers first among 28 professions in terms of honesty and ethics [Pharmacists, p. 1]. In the 1999 poll, pharmacists were ranked second to nurses in an expanded listing of 45 professions and occupations. Insurance salesmen, advertising practitioners, and telemarketers were ranked 41st, 43rd, and 44th respectively. Car salesmen were ranked dead last [Gallup Poll, pp. 1-6]. The code of ethics for pharmacists, we suggest, serves as a

³ A code of ethics is classifiable as "being" in the terminology of metaphysics because it has its own existential reality reflecting the truth of right conduct which is knowable to humans. A code of ethics is *contingent* being because it was brought into existence by an efficient cause or agent, in this case by human specialists in ethics and marketing. All contingent being, in turn, are constituted by two principles: an actuating principle and a limiting principle. See Renard [pp. 7-15] and Becker 1961 [p. 11].

⁴ Note the use of the actuating and limiting principles in the Ten Commandments such as "honor thy father and thy mother" and "thou shalt not kill." Further, notice how the two principles are intertwined in the Golden Rule's instruction to "do unto others as you would have them do unto you."

model for other professionals who feel the need to improve their own codes of ethics, or those whom public opinion ranks lowest in terms of ethics and honesty.

PRINCIPLES OF ECONOMIC JUSTICE

As explained elsewhere [O'Boyle and Dawson 1992, pp. 921-932], economic justice encompasses three major principles: equivalence, distributive justice, and contributive justice. Each bears on one of the three elemental human relationships. The principle of equivalence deals with the relationship between one individual and another, such as a buyer and a seller. The principle of distributive justice relates to the relationship between a person with greater responsibilities and his/her subordinates, such as a district manager and a sales force. The principle of contributive justice has to do with the relationship between the individual and the group, such as a telemarketer and others in that line of work, especially employed by the same company.

The principle of equivalence establishes a mutual and two-part obligation between the two individuals involved in the typical economic exchange or transaction. Briefly, both parties are to exchange things of equal value and to impose equal burdens on one another. To illustrate, for the exchange between a homeowner and a roofing contractor to be judged ethically acceptable, both parties have to agree on the details of price, labor, and materials and both have to agree as to when payment is due and when the work will be completed. If the price is mutually acceptable, and the contractor completes the job according to the agreement but the homeowner defaults on the final payment, the homeowner has violated the principle of equivalence and has committed a serious injustice.

The principle of distributive justice applies exclusively to the person with greater responsibilities and requires that he/she divide or distribute any burdens or benefits accruing to the

group among its individual members in some equal or nonarbitrary fashion. For instance, the district sales manager (a male) who, even where there are no individual differences in sales performance, pays his female subordinates the same as his male subordinates only when the females acquiesce to his demand for sexual favors violates the principle of distributive justice and is guilty of discrimination in the form of sexual harassment. The senior managers and directors of a public corporation⁵ who deliberately mislead stockholders and others engaged in trading shares – “cook the books” -- fail to meet their obligations under the principle of distributive justice.

The principle of contributive justice asserts that any person who receives benefits from belonging to a group has an obligation to maintain and support that group. For example, the person who files a(n undetected) fraudulent insurance claim violates this principle because that person steals not from the insurance company but from the other policy holders whose rates are adjusted upward to cover the cost of undetected fraud. The same principle applies as well in the case of product tampering. See Figure 1 for other examples of violations of these three principles in the marketplace and the workplace.

For marketing and selling professionals, the principle of equivalence is most important because equivalence addresses a transaction which is absolutely fundamental to marketing. For that reason, any code entirely devoid of items which originate in the principle of equivalence should be judged insubstantial. Armed with these three principles of economic justice, a scrutiny of the seven codes of ethics begins.

⁵ The persons who by virtue of their positions in the corporation have greater responsibilities in its management and oversight.

CODE OF THE AMERICAN ASSOCIATION OF ADVERTISING AGENCIES⁶

The code of ethics of the American Association of Advertising Agencies relates not so much to persons in the advertising field as it does to advertising agencies themselves. The code is reducible to the following nine items:

We hold that ...

1. an advertising agency has a duty to be a constructive force in business and accordingly has an obligation to its clients, the public, the media it employs, and to other agencies.

< justice broadly construed - implicitly actuating

2. as a business, an agency must operate within the framework of keen and vigorous competition, honestly conducted, which is necessary to the growth and health of American business.

< justice broadly construed - actuating

3. unethical competitive practices lead to financial waste, dilution of service, diversion of manpower, loss of prestige, and tend to weaken public confidence in what we do and who we are.

< justice broadly construed - limiting

4. an agency should compete on merit and not by discrediting or disparaging a competitor agency, or its work, directly or by inference, or by circulating harmful rumors, or by making unwarranted claims of a particular skill in judging or prejudging advertising copy.

< equivalence and contributive justice - actuating but mainly limiting

⁶ Called “standards of practice” by the American Association of Advertising Agencies.

5. We the member of the American Association of Advertising Agencies, In addition to supporting and obeying the laws and legal regulations pertaining to advertising, undertake to extend and broaden the application of high ethical standards.

< *justice broadly construed - actuating*

Specifically, we will not knowingly create advertising that contains ...

6. false or misleading statements or exaggerations, visual or verbal testimonials that do not reflect the real opinion of the individual(s) involve, price claims that are misleading, claims insufficiently supported or that distort the true meaning or practicable application of statements made by professional or scientific authority, statements, suggestions, or pictures offensive to public decency or minority segments of the population.

< *equivalence and contributive justice - limiting*

7. We agree not to recommend to an advertiser and to discourage the use of advertising that is in poor or questionable taste or that is deliberately irritating through aural or visual content or presentation.

< *equivalence and contributive justice - limiting*

8. Comparative advertising shall be governed by the same standards of truthfulness, claim substantiation, tastefulness, etc., as apply to other types of advertising.

< *equivalence and contributive justice - actuating*

9. Clear and willful violations of these Standards of Practice may be referred to the Board of Directors of the American Association of Advertising Agencies, including possible annulment of membership.

< *contributive justice - limiting*

With the exception of item 4, the first five standards give general expression to the principle of justice which commands a rendering to others of that which is owed. Items 1, 2, and 5 operate as actuating principles. Item 3 is formulated as a limiting principle. Item 4 combines elements from the principle of equivalence and from contributive justice. Further, it is expressed in the actuating and the limiting mode, with the main emphasis on the latter.

Item 6 operates in the limiting mode and derives in the main from the principle of equivalence. The last standard in item 6 on offending the public decency is rooted in the principle of contributive justice.

The last three items all originate in the principle of contributive justice. Additionally, items 7 and 8 contain elements from the principle of equivalence. Items 7 and 9 are limiting principles; item 8 is a actuating principle.

CODE OF THE OUTDOOR ADVERTISING ASSOCIATION OF AMERICA

The code of ethics of the Outdoor Advertising Association of America (OAAA) consists of five central principles concerning the environment, local communities, product, worthy causes, and free speech. Each of the five central principles is underlined below, is addressed separately, and is stated in actuating form. However, the specific details which flesh out the meaning of these central principles sometimes are stated in the limiting form. In this regard, it might be helpful to think of an actuating principle as a “do” and a limiting principle as a “don’t.” The last central principle relating to the observance of free speech standards contains specific items intended to protect children.

1. Respect the environment.

a. Erect billboards for business use only in areas which are zoned for commercial and industrial enterprises, and in unzoned commercial and industrial areas only where there is business activity.

< *contributive justice - mainly limiting, but actuating as well*

b. Control growth of grass, weeds, and the like next to billboards. Utilize recyclable and recycled materials whenever possible.

< *contributive justice - actuating*

2. Maintain Good Working Relationships with Local Communities.

Support the right to maintain lawfully erected billboards and laws which assure just compensation for removal of legal billboards. Notify responsible authorities regarding illegally erected billboards and support the expeditious removal of illegal billboards without compensation. Erect billboards in accordance with changing community standards and business needs.

< *contributive justice - actuating*

3. Provide an Effective, Attractive Product.

Provide value and service to advertisers, maintain and improve the quality and appearance of billboard structures and locations, encourage the use of new technologies to improve the service provided to advertisers and the information conveyed to the public, and commit ourselves to excellence in advertising displays.

< *contributive justice and equivalence - actuating*

4. Support Worthy Causes.

Provide public service messages which promote worthy community causes, and advocate greater use of billboards for political, editorial, public service and other noncommercial objectives.

< *contributive justice - actuating*

5. Observe Highest Free Speech Standards.

a. Support the First Amendment right of advertisers to promote legal products and services.

< *contributive justice - actuating*

b. Establish exclusionary zones⁷ for advertising products which are illegal for sale to minors and identify all outdoor advertising displays within those zones by attaching the international symbol for children in a clearly visible location.

< *contributive justice - actuating and limiting*

c. Prohibit all advertising within 500 feet of an elementary or secondary school, public playground, or place of worship, and support limits on the number of outdoor displays in a market which may carry messages about products which are illegal for sale to minors.

< *contributive justice - limiting*

d. Seek to maintain a broad range of customers who advertise in the outdoor medium.

< *distributive justice - actuating*

e. Support the right of OAAA member companies to reject advertising which is misleading, offensive, or incompatible with community standards.

⁷ An “exclusionary zone” refers to billboard locations where outdoor advertisements are intended for reading by minors.

< *contributive justice - actuating*

Contributive justice is the dominant principle of justice in the OAAA code of ethics. Indeed, contributive justice is found in all five central principles: specifically in 1a, 1b, 2, 3, 4, 5a, 5b, 5c, and 5e above. Since contributive justice underscores what a company is expected to do as a member of the community in which it operates, nearly the entire code in effect urges OAAA company members to be good citizens by taking specific steps to actuate a desirable outcome such as using recycled materials and to limit an undesirable outcome such as erecting billboards along scenic highways. Thus, by using the principle of contributive justice the code itself attempts to forestall government intervention with self-regulation, thereby reaffirming the principle of subsidiarity.⁸

Only items 3 and 5d contain elements from one of the other two principles of economic justice. The principle of equivalence comes into play in item 3 because that item amplifies on what OAAA members are expected to do for advertising clients quite apart from what those members owe in contributive justice to the community. Item 5d encourages OAAA members to be sensitive to the needs of prospective clients who might otherwise be excluded by prejudice.

Since much of the OAAA code of ethics is stated in the actuating mode, we regard the code as being well along in the development process in that, as Kass has asserted, limiting principles are the hallmark of a code still in its infancy.

⁸ In Abraham Lincoln's formulation, "the government should do for the people only what the people cannot do or cannot do so well for themselves" [quoted in Becker 1965, p.80].

CODE OF THE AMERICAN MARKETING ASSOCIATION⁹

The code of ethics of the American Marketing Association is longer and more specific than either of the two preceding codes. It is convenient and instructive to re-formulate the code in the form of questions and to combine and re-arrange them as follows:

Do you ...

1. accept responsibility for the consequences of your actions?

< *justice broadly construed - actuating*

2. make every effort to know and understand the person(s) you serve?

< *justice broadly construed - actuating*

3. refrain from knowingly bringing harm to others?

< *justice broadly construed - limiting*

4. obey all applicable laws and regulations?

< *justice broadly construed - actuating*

5. intend to and do you actually discharge your obligations, financial and otherwise, in good faith and in a timely manner?

< *justice broadly construed - actuating*

6. protect the confidentiality and anonymity of the source of any information obtained through a professional relationship?

< *justice broadly construed - actuating*

7. support, practice, and promote the AMA code of ethics?

⁹ The authors addressed the predecessor code of ethics of the American Marketing Association extensively in 1992 [see O'Boyle and Dawson 1992]. Since 2000, the Association had added a code of ethics for marketing on the internet.

< *justice broadly construed - actuating*

Are you truthful ...

8. in serving consumers, clients, employees, suppliers, distributors, and the public?

< *justice broadly construed - actuating*

9. about your own education, training, experience, and work, never representing the work of others as your own?

< *equivalence - actuating and limiting*

10. about any known, personal conflict of interest?

< *justice broadly construed - actuating*

Are you truthful about ...

11. the safety and fitness of products and services for their intended uses?

communications about offered products and services?

all substantial risks associated with product or service usage?

product component substitution?

the full purchase price including extra cost-added features?

reporting pertinent research data?

< *equivalence - actuating*

Are you manipulative, coercive, exploitative, deceptive...

12. in sales promotions or by means of high-pressure sales tactics?

by means of the availability of a product?

in the marketing channel?

by exerting undue influence over the reseller's choice to handle a product?

by engaging in price fixing?

by practicing predatory pricing?

by selling or fundraising under the guise of conducting research?

by taking advantage of situations to maximize personal welfare in a way that unfairly deprives or damages the organization of others?

< *equivalence - limiting*

Are you ...

13. fair in establishing fee schedules including the payment or receipt of usual, customary, and/or legal compensation for marketing exchanges?

fair in treating outside clients and suppliers?

< *equivalence and distributive justice - actuating*

14. attentive to internal methods for equitable (equivalent value) adjustment and/or redress of grievances concerning purchases?

< *equivalence - actuating*

15. aware that a violation of any provision of the AMA code of ethics may lead to suspension or revocation of Association membership?

< *contributive justice - actuating*

Nine of the 15 items, as combined and re-arranged herein, are grounded in justice broadly construed, that is these nine items reinforce in various ways and in various applications the general obligation in justice to render to another that which is owed. All nine of these items properly could be applied to any one of the three elemental human relationships: individual to individual, superior to subordinate, and individual to group. Additionally, with the exception of the duty to refrain from

knowingly bringing harm to others (item 3), these nine items operate in the actuating rather than limiting mode.

Items 11, 12, and 14 set forth in considerable detail the demands of the principle of equivalence, items 11 and 14 in the actuating operational mode and item 12 in the limiting operation mode. Item 9 adds another dimension to the principle of equivalence and is stated as both an actuating and a limiting ethical principle.

Item 13 draws upon both equivalence and the distributive justice, employing an actuating formulation for the specific obligations. Only item 15 reflects the principle of contributive justice; its formulation is actuating.

In sum, the code of ethics of the American Marketing Association is very specific and detailed as to what it expects of its members. The code is grounded mainly in the principle of equivalence and in justice broadly construed. It operates almost entirely in the actuating mode.

CODE OF THE DIRECT SELLING ASSOCIATION¹⁰

The code of the Direct Selling Association consists of a preamble and eight sections of which the first is the code of conduct. In what follows only the code of conduct is addressed.

1. No member company of the Association shall engage in any deceptive or unlawful consumer practice.

< equivalence - limiting

¹⁰ The authors addressed an earlier version of this code of ethics at considerable length in 1990 [see O'Boyle and Dawson 1990].

2. The offer of products or services for sale by member companies shall be accurate and truthful as to price, grade, quality, make, value, performance, quantity, currency of model, and availability.

< *equivalence - actuating*

3. A written order or receipt shall be delivered to the customer at the time of sale, which sets forth in language that is clear and free of ambiguity: (a) all the terms and conditions of sale, with specification of the total amount the customer will be required to pay, including all interest, service charges and fees, and other costs and expenses as required by federal and state law; and (b) the name and address of the salesperson or the member firm represented.

< *equivalence - actuating*

4. The terms of any warranty or guarantee offered by the seller in connection with the sale shall be furnished to the buyer in a manner that fully conforms to federal and state warranty and guarantee laws and regulations. The manufacturer, distributor and/or seller shall fully and promptly perform in accordance with the terms of all warranties and guarantees to consumers.

< *equivalence - actuating*

5. Sellers shall identify themselves, their company, their products and the purposes of their solicitation to the customer. Contact with the consumer shall be made in a reasonable manner, and shall discontinue upon the consumer's request.

< *equivalence - actuating and limiting*

6. Pyramid or endless chain schemes shall be considered transactions actionable under this code. The code administrator shall determine whether such pyramid or endless chain

schemes constitute a violation of this code in accordance with applicable federal, state and/or local law or regulation.

< *equivalence - limiting*

7. Any member company with a marketing plan that involves selling to an independent salesperson shall state in its recruiting literature, sales manual, or contract with that person that it will repurchase on reasonable commercial terms currently marketable inventory that was purchased for resale prior to the date of termination of that person's relationship with the company or its independent salespersons. A member company shall not require or encourage an independent salesperson to purchase inventory which unreasonably exceeds that which can be resold and/or consumed within a reasonable period of time.¹¹

< *equivalence - actuating and limiting*

8. No member company shall misrepresent the actual or potential sales or earnings of its independent salespersons. Any earnings or sales representations shall be based on documented facts..

< *equivalence - limiting and actuating*

9. Neither member companies nor their representatives shall ask individuals to assume unreasonably high entrance, training, or franchise fees, or fees for promotional materials or related to the right to participate in direct selling.

< *equivalence - limiting*

The code is reducible to nine items, all of which derive from the principle of equivalence.

Three operate as actuating ethical principles and two as limiting principles. Three others as operate in

¹¹ Two items relating to inventory purchases have been combined into one.

both the actuating and limiting modes. The Direct Selling Association is unique among the seven associations covered herein in that it alone has a code administrator appointed by the Board of Directors to personally enforce the provisions of the code.

NATIONAL AUTOMOBILE DEALERS CODE OF ETHICS

The code of ethics of the National Automobile Dealers Association (NADA), revised in fall 2002, consists of the following eight principles:

1. Operate this business in accord with the highest standards for ethical conduct.

< *justice broadly construed - actuating*

2. Treat each customer in a fair, open, and honest manner, and fully comply with all laws that prohibit discrimination.

< *equivalence and distributive justice - actuating*

3. Meet the transportation needs of our customers in a knowledgeable and professional manner.

< *equivalence - actuating*

4. Represent our products clearly and factually, standing fully behind our warranties, direct and implied, and in all other ways justifying the customer's respect and confidence.

< *equivalence - actuating*

5. Advertise our products in a positive, factual and informative manner.

< *equivalence and distributive justice - actuating*

6. Detail repair charges to assist our customers in understanding repair work performed and provide written estimates of any service work to be performed, upon request, or as required by law.

< *equivalence - actuating*

7. Resolve customer concerns promptly and courteously.

< *equivalence - actuating*

8. Put our promises in writing and stand behind them.

< *equivalence - actuating*

The NADA code of ethics is brief and simple. All eight items are actuating and all but one (Item 1) explicitly reference the principle of equivalence. Item 1 is so broadly construed to be of little practical guidance in addressing specific ethical issues such as the dealer's duty when an owner/driver demands service under a warranty agreement or extended service contract but actually was directly and entirely responsible for the damage or failure.

Item 2 also draws upon the principle of distributive justice in the sense that it implicitly urges dealers to advertise their products and services in ways which promise the same benefits and burdens, such as discount off the manufacturer's suggested retail price, and same rate of interest, to all customers unless there is some real, nonarbitrary difference among them, such as a disabled customer's need for specialized equipment to operate the vehicle properly and safely. This item is the only one which was added in the fall 2002 revision of the code. One item was removed in revision: "Provide knowledgeable, trained personnel in all departments of the dealership to ensure efficient, quality service." We speculate that this item was dropped for two reasons: (1) it is implied in the eight items of the revised code; and (2) the longstanding shortage of competent technicians makes it difficult for dealers to meet the requirement directly.

The code also requires NADA members to "comply fully with all federal, state, and local laws governing their businesses." This requirement draws not only on the principle of equivalence

and the dealer's duty as to the financial details of the sales agreement with his/her customer, but also on the principle of contributive justice in that it informs the dealer of his obligation to all other taxpayers. Simply put that obligation is to pay all applicable taxes and fees as they become due.

The Association also puts out an ethics guide that covers four dealership concerns: advertising, financial services, sales, and service. In all four sections, dealers are urged to comply with all applicable federal, state, and local laws. With the single exception of the section on advertising, dealers are expected to underscore with their employees the importance of behaving professionally. Throughout the ethics guide, the emphasis is on the *principle of equivalence operating in the actuating mode*.

The section on advertising recommends that dealers advertise their product in a clear and accurate manner. The section on financial services recommends that dealers fully disclose the financial obligations undertaken by their customers, offer optional insurance and other products in a way that supports voluntary customer choice, and advertise their financial services products in a "clear and non-deceptive manner." The third section urges salespersons to be well-informed regarding the products offered for sale, to relate to their customers honestly and truthfully and with a concern for their transportation needs at the point of sale and afterwards, and to explain clearly the steps involved in buying or leasing a vehicle. There are 14 parts to the section on service. They call attention to the importance of: providing quality repair service; employing competent technicians; notifying the customer when appointments cannot be kept or work is not completed on time; furnishing itemized invoices for parts and labor; recommending maintenance services; supplying estimates and obtaining customer authorization prior to undertaking service work; making available

parts and service warranties; exercising care for the customer's property; maintaining customer service records and a system for prompt response to customer complaints.

STATEMENT OF PRINCIPLES OF RADIO AND TELEVISION BROADCASTERS

Strictly speaking the statement of principles of the National Association of Broadcasters is not constructed around the three principles of economic justice and does not belong here. The authors have decided to include a general rather than specific review of this statement because broadcasting is so intertwined with selling and marketing and because our observations may be of some assistance to sales persons and marketers.

The statement of principles of the National Association of Broadcasters begins with a preface which: (1) reaffirms the long-standing commitment of broadcasters to present programs of the highest quality; (2) acknowledges that such a statement is useful due to the public's concern regarding violence and drug abuse; and (3) urges broadcasters to continue to follow these principles because they have served broadcasters well in the past.

There are two main sections to the statement of principles of radio and television broadcasts. The first relates to general programming and is presented without specific itemization. The second is itemized and focuses specifically on children's programs. These two main sections are followed by an endnote.

In the first main section, broadcasters are expected to provide the widest possible access to material on sensitive and controversial subjects (actuating) at the same time respecting the preferences of their audiences (limiting). This imposes an ethical burden to decide where the line should be drawn between what is acceptable programming and what is not. Both the actuating principle and the limiting principle are grounded in the First Amendment right to freedom of speech.

That is, the individual has a right to freely express his/her views but that right is not absolute. Limits may be imposed for example to assure the public safety, or to protect the rights of others. Many years ago, Orson Welles' broadcast of *War of the Worlds* proved that broadcasting involves the risk of causing a panic when the public mistakes a dramatization of a fictional story for a "live" news alert regarding real events. Notice as well the long-standing and widespread practice in radio and television broadcasting of "bleeping" certain offensive words and electronically blurring certain male and female body parts on telecasts.

In the second main section, the special needs and interests of children are taken into account in three specific areas: violence, drugs and substance abuse, and sexually oriented material. In all three areas, broadcasters are urged to avoid certain types of programming. With one exception, these admonitions amount to limiting principles. As to violence, broadcasters are warned not to present programs which include violent behavior which is exploitative, excessive or gratuitous, explicit, or involves children as victims. Programs which encourage illegal drug or substance abuse or which glamorize this type of abuse use are to be regarded as unsuitable for children. On the other hand, programs which present drug and substance abuse in terms of their adverse consequences are to be supported (actuating principle). As to sexually oriented material, broadcasters are cautioned about presenting programs which pander to prurient or morbid interests or include obscene or indecent behavior.

The endnote section of the statement of principles states that the principles themselves are intended to provide only general and advisory guidelines which reflect generally accepted practices in broadcasting, rather than specific and restrictive ones which articulate new standards of practice. Further, the NAB does not interpret the guidelines nor enforce them, and insists that they are not to

be taken as a reason for inhibiting creativity or barring programs on controversial, diverse, or sensitive topics.

CODE OF ETHICS FOR PHARMACISTS

The code of ethics for pharmacists consists of eight items. Seven of the eight items in the code are expressed as actuating principles. Item 4 includes a provision which is classifiable as a limiting principle. Our presentation below departs from the foregoing in that we do not apply the three codes of economic justice because caring rather than justice is the dominant principle running through this code. This code, in other words, is more akin to the Hippocratic Oath than the codes which are typical for persons in sales or marketing. From time to time special problems arise which call for clarification. For example, the Association in August 2001 released a statement condemning the pharmacist who diluted cancer drugs for personal gain because he violated “the Code of Ethics for Pharmacists ... (and) state pharmacy laws, and the profession’s fundamental responsibility” to its patients [statement].

The preamble states explicitly that the code was prepared and supported by pharmacists, and that the principles embodied in the code are “based on moral obligations and virtues.” We quote directly from the rest of the pharmacists’ code.

1. A pharmacist respects the covenantal relationship between the patient and pharmacist. Considering the patient-pharmacist relationship as a covenant means that a pharmacist has moral obligations in response to the gift of trust received from society. In return for this gift, a pharmacist promises to help individuals achieve optimum benefits from their medications, to be committed to their welfare, and to maintain their trust.

2. A pharmacist promotes the good of every patient in a caring, compassionate, and confidential manner. A pharmacist places concern for the well-being of the patient at the center of professional practice. In doing so, a pharmacist considers needs stated by the patient as well as those defined by health science. A pharmacist is dedicated to protecting the dignity of the patient. With a caring attitude and a compassionate spirit, a pharmacist focuses on serving the patient in a private and confidential manner.

3. A pharmacist respects the autonomy and dignity of each patient. A pharmacist promotes the right of self-determination and recognizes individual self-worth by encouraging patients to participate in decisions about their health. A pharmacist communicates with patients in terms that are understandable. In all cases, a pharmacist respects personal and cultural differences among patients.

4. A pharmacist acts with honesty and integrity in professional relationships. A pharmacist has a duty to tell the truth and to act with conviction of conscience. A pharmacist avoids discriminatory practices, behavior or work conditions that impair professional judgment, and actions [which] compromise dedication to the best interests of patients.

5. A pharmacist maintains professional competence. A pharmacist has a duty to maintain knowledge and abilities as new medications, devices, and technologies become available and as health information advances.

6. A pharmacist respects the values and abilities of colleagues and other health professionals. When appropriate, a pharmacist asks for the consultation of colleagues

or other health professionals or refers the patient. A pharmacist acknowledges that colleagues and other health professionals may differ in the beliefs and values they apply to the care of the patient.

7. A pharmacist serves individual, community, and societal needs. The primary obligation of a pharmacist is to individual patients. However, the obligations of a pharmacist may at times extend beyond the individual to the community and society. In these situations, the pharmacist recognizes the responsibilities that accompany these obligations and acts accordingly.

8. A pharmacist seeks justice in the distribution of health resources. When health resources are allocated, a pharmacist is fair and equitable, balancing the needs of patients and society.

The code makes no *clear* reference to the three principles of economic justice which we have used in classifying the other codes covered in the foregoing. By asserting that the pharmacist has a covenantal relationship with the patient, Item 1 emphasizes the importance of the virtue of trust in the pharmacist's relationship to the patient. The virtue of trust, that is confidence in the pharmacist's integrity, resides in the patient and requires a commitment on the part of the pharmacist to maintain that confidence. Similarly, the virtue of caring is affirmed in Item 2. The virtue of caring, that is acceptance of the inherent dignity and equality of each patient, resides in the pharmacist and requires constant and consistent reinforcement by the pharmacist in every patient relationship.

The pharmacist builds and reinforces his/her trustworthiness and caring nature by the admonition in Item 3 to respect the autonomy and dignity of the patient, by the instruction in Item 4

to act with honesty and integrity, and by the obligation underscored in Item 5 to continue to learn as new medications, devices, and technologies are introduced and health information advances.

With Item 6, the focus of the code changes from the patient to others involved in health care and the general public. In that item, the pharmacist is admonished to ask for assistance from other health-care professionals whenever appropriate. To illustrate, the pharmacist should call the prescribing physician whenever the instructions on the prescription are not clear or possibly inconsistent with the concurrent use of other medications. Item 7 advises the pharmacist that at times it may be necessary to consider the needs of the community and society alongside the needs of the patient. For example, the pharmacist may decide it is best to not provide certain medications on demand because the prescription is a forgery or because the patient is an addict. When the addict is a physician writing his/her own prescription for controlled drugs, the pharmacist may be obliged to report that physician to his/her licensing board or to law enforcement.

Two items in the pharmacists' code of ethics mention or reference the virtue of justice. In item 8, it is the principle of distributive justice which instructs the pharmacist to participate in the process of allocating health care resources in a way that distributes the benefits and burdens of using those resources in nondiscriminatory fashion and in accord with the health-care needs of those who depend on those resources. One issue that comes to mind at the present time is the unmet needs of seniors to acquire the medications which are necessary for their well-being but unaffordable. Item 3 also relates to distributive justice in that it calls on the pharmacist to respect "personal and cultural differences among patients." Implicit in this item is the recognition that differentiation is not discrimination when it derives from substantial rather than superficial human differences.

GENERAL COMMENTS ON THE SEVEN CODES

Setting aside for the moment the codes of ethics for broadcasters and pharmacists, the principle of equivalence plays a dominant role in the codes of ethics of four of the five membership associations in selling and marketing. The one exception is the code of the Outdoor Advertising Association where the principle of contributive justice is dominant. This finding is to be expected because, of the three principles of justice used in these codes, equivalence is centrally important to buyer/seller transactions which in turn are pivotal to selling and marketing professionals in general. In the case of the Outdoor Advertising Association, community environmental concerns are uppermost and for that reason the code relies heavily on the principle of contributive justice which spells out the duty of the individual to the group or community.

Least regarded and utilized in these five codes is the principle of distributive justice. This finding, too, comes as no surprise. Distributive justice spells out the relationship between superior and subordinate which has much wider application in the workplace than the marketplace which is the central domain of marketers and salespersons (see Figure 1).

The codes of the American Marketing Association and the American Association of Advertising Agencies more often give expression to justice in general terms than in specific terms which are grounded in one of the three principles of justice. The standards of the other three codes include little if any reference to justice in general. This difference, however, may have no significance beyond the purely stylistic. Plainly, as with the NADA code, the persons charged with the responsibility for writing or amending a code of ethics may prefer simple, direct language. Other codes, such as the AMA code, may have been prepared by persons who favor or sense the need for language which is more specific and complex.

More often than not, the standards set forth in the codes are expressed as an actuating ethical principle. Four of the five codes examined also contained standards expressed in the limiting mode. The NADA code is the one exception. Based on Kass' assertion that setting ethical boundaries or limits is the beginning of ethics, it appears that all five membership associations have moved well beyond a beginning. On the other hand, the very low consumer rankings of insurance salesmen, advertising practitioners, telemarketers, and car salesmen in terms of their honesty and ethics which were reported in a 1999 Gallup poll suggest that the codes of ethics which are applicable to marketers and salespersons are not faithfully practiced. The same seems to apply as well to the code of ethics for broadcasters because TV reporters and commentators, along with entertainment industry executives, also were low ranked in the same poll: 25th and 34th, respectively.

There is a clear connection between virtually every standard in all five codes and one or more of the three principles of economic justice. We conclude, therefore, that none of the five codes of ethics *per se* are overtly arbitrary or insubstantial. However, as a practical matter for anyone writing, amending, teaching, or learning a code of ethics to be used in the marketing or selling professions, it would be prudent first to become more familiar especially with the principles of equivalence and contributive justice, their common expressions and the main types of unjust practices in the workplace and the marketplace. Chances are the codes would be more readable and perhaps better understood by those association members with little time for or interest in a close examination of the codes.

The code of ethics for radio and television broadcasters is different than the five codes applicable to marketing and selling and the code for pharmacists in the sense the broadcasters' code is grounded not in the three principles of economic justice but in the First Amendment right to

freedom of speech. It is like the other codes because all of them are constituted of actuating and limiting principles. Speaking one's mind is activating, protecting the public safety and the rights of others is limiting. Where to draw the line between what can be said or shown and what cannot be said or shown is the daily burden of persons working in radio and television.

Finally, there is one important finding from our examining the code of ethics for pharmacists alongside the five codes relating to salespersons and marketers and in the context of their ranking by consumers in terms of honesty and ethics. "The consumer comes first" is a sound business practice because it requires the merchant to go beyond faithful adherence to the principles of equivalence, distributive justice, and contributive justice. Putting the needs and concerns of the customer before all else, especially where the merchant depends heavily on repeat business, requires deliberate and repeated efforts on the part of that merchant to build and develop with his/her customers an authentic sense that he/she is truly caring and trustworthy. In other words, "the invisible hand" and even more so "caveat emptor" are bad for business because they prod the merchant into thinking that justice, caring, and trust are simply misbegotten ideals which count for nothing in the rough and tumble world of business. It follows that replacing these two commonplace but worn out expressions with caring and trust, and uniting these two virtues with justice, gives birth to a new paradigm for addressing ethical issues in marketing and selling which considering the high consumer regard for pharmacists in terms of honesty and ethics is at once idealistic and practical.

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FIGURE 1. PRINCIPLES OF ECONOMIC JUSTICE: MARKETPLACE AND WORKPLACE APPLICATIONS

Principle	Obligated Person	Definition	Common Expression in		Unjust Practices in	
			Marketplace	Workplace	Marketplace	Workplace
Equivalence =====>	buyer & seller mutually obligated producer & consumer mutually obligated worker & employer mutually obligated	both persons obliged to exchange things of equal value & impose equal burdens on one another	money-back guarantee got my money's worth no third party checks accepted	full day's work for full day's pay full day's pay for full day's work	shoplifting bad check bait & switch loan sharking price gouging counterfeiting inflated credit sale	expense padding sweatshop embezzling pilfering feather- bedding
Distributive Justice =====>	superior obligated to subordinate	superior obliged to distribute benefits & burdens of belonging to a group among its members in some equal or proportional fashion	rain check available limit: 3 per customer everyday low prices sale price effective as long as supplies last	equal pay for equal work equal opportunity affirmative action comparable pay for comparable work	discrimination: gender/race/age family/friend religion national origin ethnicity kickback cooking the books	harassment
Contributive Justice =====>	member obligated to group	to the extent that a member benefits from belonging to a group that person has an obligation to contribute to the support of that group, including the industry in which a producer competes	you were here before me where does the line begin?	doing my fair share pulling my load paying my dues	insider trading insurance fraud dumping product tampering	industrial spying & sabotage computer fraud provoking trouble back stabbing

