

Chapter 7 – An Ethical Dilemma*

Great State Wheat Flakes Can't be Beat

Betty, who has been employed for three years as a copywriter for HK&M, a mid-size advertising agency specializing in consumer packaged goods, has been feverishly working for the past week on a new ad campaign for Great State's wheat flakes, a regional breakfast cereal. The account has been with the agency for several years. Although Charlie, the brand manager on this cereal, has been pleased with the agency's work over the years, the old positioning, which stressed taste attributes and fun-filled family breakfasts, has become tired and dated. Marketing research shows a high degree of consumer wearout—people are tired of the campaign, even annoyed with it, and are ready for something fresh. Betty's task was to rejuvenate the brand via repositioning it to take advantage of and tie into the health and well being trends, specifically the interest in eating "good-for-you" food as well as in physical fitness. The brand was to be pitched as an important part of an active, healthy lifestyle.

Betty thought she had come up with the perfect theme line: "Great State's wheat flakes will give a great start to your active day," and she had developed what she believed were some clever scenarios for TV and print ads featuring the product being consumed after workouts in health clubs, following a morning jog, after a snowboarding expedition, to power up before rollerblading, and even while zipping along on a scooter ("Look Ma, no hands!"). However, upon reviewing her proposals, Charlie said that while the vignettes were on target because health-conscious customers would relate well to them, the slogan was off base. He wanted something more specific and hard hitting, and so Charlie developed the theme line, "Great State Wheat flakes can't be beat. No other wheat flake offers you more vitamins and minerals and fewer calories."

Betty tried to kindly tell Charlie that this was misleading because it implies that Great State's brand is healthier than most, if not all, of the others, whereas actually all wheat flake cereals are parity products-- they are virtual photocopies of each other in terms of taste, texture, and, most important here, composition and therefore nutritional value. In fact, blind taste tests have shown that between 70 and 80 per cent of consumers cannot identify their favorite brand of wheat flakes and that loyalty levels are low -- with price incentives consumers will readily switch brands. Charlie, obviously irritated, explained that his tag line

was an honest exaggeration, what the advertising trade termed "puffing," and that consumers are expected to see through it. He felt that it offered the point of difference needed to increase brand loyalty.

Betty, feeling uneasy, later that day approached her boss Steve, the copy chief at HK&M, asking his counsel. Steve explained that Charlie's suggested slogan is what is called an "implied superiority" claim. Steve explained that such claims are commonly made for commodity brands. They stake out a parity position, which does not claim to be superior to, but only as good as, other brands, while using copy that suggests or implies superiority for the named brand. He cited several current and classical examples, such as "Nothing else cleans better," "The maximum fluoride protection in any toothpaste," "You can't beat the savings," "You can't buy a more effective pain reliever," and "Nothing is proven to work better or last longer." In effect, these brands are claiming that they are unsurpassed. However, none claims to be truly better than their competitors. Betty, recalling several other such implied superiority claims she had recently seen, realized that it was, indeed, a popular technique.

Steve reminded Betty that there is a distinction between deceptive advertising, which creates false impressions and misleads a consumer acting reasonably, and "trade puffing," which is exaggerated praise of the product (e.g., Almost Home cookies are the "moistest, chewiest, most perfectly baked cookies" ever; "Nestle makes the very best chocolate"). Puffery is viewed as acceptable in a society of the superlative. Consumers are assumed to see through the exaggeration or at least engage in a "willing suspension of disbelief." He explained to her that whereas deceptive advertising is illegal, the Federal Trade Commission (FTC), which monitors national advertising for accuracy and fairness in claims, views puffery as legitimate.

"What's more," Steve concluded somewhat sarcastically, "using your line of reasoning, Betty, we shouldn't at all advertise any parity products, since all brand advertising is designed to create a brand distinction in the buyer's mind. Advertising is necessary to differentiate yourself from the pack of imitators. And, it helps a small, underdog brand like Great State get a leg up on the big, deep-pocketed companies like our rivals. "

Betty thought that, in fact, Steve's taunting comment might, indeed, have some merit. In fact, she feared that it might force Great State's competitors to improve and differentiate their cereals, thereby benefiting consumers (but harming Great State). Nonetheless, she still felt uneasy. It seemed to her that the "implied superiority" claim crossed the boundary from puffery over to deception.

QUESTIONS/EXERCISES

1. Identify the ethical issues facing Betty regarding the nature of the proposed “Implied superiority advertising claim.
2. What are the ethical issues Betty encounters with respect to organizational relationships and conflicts?
3. What are the possible decision alternatives Betty could devise, and what are the ethics of each alternative?
4. Which alternative would you recommend to Betty and why?

**This case is strictly hypothetical; any resemblance to real persons, companies, or situations is coincidental.*

Teaching Note: Great Wheat Can't Be Beat

Review of the Relevant Facts

- Charlie, Betty the copywriter's breakfast cereal client, proposes changing her straightforward and honest advertising copy to an "implied superiority claim," "Great State Wheat flakes can't be beat. No other wheat flake offers you more vitamins and minerals and fewer calories." This gives the impression, but doesn't actually state, that the brand is healthier than most or all brands, when in fact it is only at parity with them on health and other wheat flake characteristics. In fact, blind taste tests have shown that between 70 and 80 per cent of consumers cannot identify their favorite brand.
- Betty feels that the implied superiority claim proposed by Charlie is misleading (i.e., deceptive), not just puffery (i.e., harmless exaggeration) since it creates the false impression that Great State's product is healthier than competitive products when it is not. Charlie believes that the claim is simply honest exaggeration which consumers will discount.
- Betty's boss, Steve, copy chief, makes Betty realize that an implied superiority claim is a commonly used advertising technique.
- Steve reminds Betty that there is a distinction between deceptive advertising, which is illegal and which misleads the "reasonable" consumer, and "trade puffing," which is legal and is considered to be a normal part of advertising.
- Betty thinks that maybe there is some truth to Steve's sarcastic suggestion that a parity product should not advertise at all, since all advertising is designed to create a brand distinction in the buyer's mind.

Clearly, Betty faces an ethical dilemma regarding whether or not it is morally responsible for her to go ahead and run the potentially misleading comparison advertising suggested by the client, Charlie, and supported by Steve, the agency copy chief. Ethical issues (situations where there is possible violation of ethical standards which could lead to potential harms to others) to be raised include those involving the advertising claim as well as organizational issues.

1. Ethical Issues Facing Betty Regarding the Nature of the Proposed Advertising Claims

Here are some issues and suggested "talking points" raised or suggested by the characters in the case to discuss the morality of the proposed "implied superiority" advertising claim. Many of these point out common ethical fallacies that businesspeople subscribe to.

- Are implied superiority claims such as those examples in the case, even though literally true, misleading/deceptive, as Betty believes, or are they merely honest exaggeration ("puffery"/"puffing") which consumers will see through, as Charlie suggests? This raises another question: where does one draw the line between puffing and deception? This question remains debated. Regulatory agencies have historically recognized the legitimacy of a certain amount of puffery while ruling against deception. Puffery has been legally defined as "advertising or other sales presentations which praise the item to be sold with subjective opinions, superlatives, or exaggerations, vaguely and generally, stating no specific facts."¹ Deception, on the other hand, according to a 1983 FTC ruling, occurs when "there is a misrepresentation, omission, or practice that is likely to mislead the consumer acting reasonably in the circumstances to the consumer's detriment."² Deception involves: (1) materially false advertising (materially false, i.e., there is a claim-fact discrepancy -- not the case here) or (2) misleading advertising, whereby false subjective consumer impressions or perceptions are created -- possibly the case here. Consumer research could be used to determine whether a significant number of buyers are fooled or whether they merely willingly suspend their disbelief. If consumers are fooled, the comparative claim is unethical since it misleads them; if people are willingly suspending their disbelief then no deception is involved and making a comparative claim doesn't violate any moral standard.
- Because implied superiority claims are commonly used by commodity brands, as Steve notes, (perhaps by Great State's competitors too) does that make them acceptable? A common fallacy is that because everyone (or at least many people) does something that makes it morally acceptable. Relativists (also known as situation ethicists) would say that morality can be determined by what the majority believes or by what many others are doing. This would typify the 40 percent in Table 7-1 who go along with the work group.

Absolutists (or moral idealists), who hold to fixed standards of right and wrong, would say that ethical standards are immutable regardless of what is currently popular. Absolutists believe in definitive, objective, universal, unchanging standards which hold true over circumstances, time, place, and person. They contend that there are certain behaviors that are inherently right or wrong regardless of the individual or culture. This would typify the 10 percent in Table 7-1 who follow their own values and beliefs.

For moral idealists the “everybody is doing it” argument is morally indefensible. It reminds one of mom asking the child who argues what he’s doing is okay because Billy is doing it, “If Billy jumped off the bridge, would you jump off the bridge?” Thus, absolutists would discard the notion that because other advertisers often use implied superiority claims this makes them morally justifiable.

- Because puffing and implied superiority claims are legal does that make them proper? The legality argument raised by Steve is another common fallacy in ethical reasoning. Legality is not synonymous with ethicality, for civil laws, which are established by fallible humans, simply reflect a general consensus of what society believes is morally right. Laws can be immoral (e.g., laws allowing capital punishment and abortion are currently controversial, and slavery as well as “separate but equal” facilities were once legal in the U.S.). Too, because they are limited to a particular time and place, laws can be inconsistent over time (e.g., legality of advertising various “sin products” on TV) and place (e.g., state laws often conflict, as do laws in the international arena). Generally, the law provides a moral minimum and is reactive, telling us what ought to not be done, rather than proactive, explaining what should be done in terms of virtuous behavior. Thus, although the FTC does allow puffery and implied superiority claims, this is not sufficient justification for their use by Great State.

- Does the fact that Great State is a small brand just starting out against a large, entrenched competitor justify making the suggested comparison, as Steve suggests? This too is a relativistic justification, in effect a rationalization. To make such ethical distinctions among players is discriminatory, and where do you draw the line on doling out ethical handicaps? Wrong behavior is wrong regardless of who or what you are.

- Does the possibility that competitors will respond to Great State’s comparison advertising by improving and differentiating their cereals, thereby benefiting consumers, justify making the suggested comparison, as Betty fears? This is the worst kind of utilitarian thinking (a moral act results in the greatest good for the greatest number of people), in effect asserting that the ends justify the means. If society (consumers in this case) ends up with a net gain in satisfaction, then supposedly the act is justifiable.

However, ends don’t necessarily justify means; in effect, this says, “Let us do evil, that good may come.”

Using this logic, it would be okay to have prostitutes work out of church basements if the money was to be

donated to the poor, or it would be acceptable for a student to cheat on an exam so as to get a good grade and hence land a decent job.

There are also several issues regarding the advertising claims which, while not raised by any of the characters in the case, might be raised by students or could be posed by the instructor.

- Does the advertising of commodities deceive consumers by creating distinctions where, in fact, no distinctions exist? Some people say that such "induced differences" are dishonest because there are no functional differences and the consumer's "right to know" is violated, whereas others would argue that they create "psychological value added," making buyers feel good about using the product and bolstering their self confidence. Are psychological differences beneficial or harmful to consumers? Most observers believe that, while such differences are intangible, they nonetheless add to the perceived utility of owning and using a product.
- Are implied inferiority claims unfair to the competition? If they create misperceptions, they could be considered unjust due to the harm they will do to the competitor's sales.

2. Ethical Issues Betty Encounters with Respect to Organizational Relationships and Conflicts

There are also several organizational issues which relate Chapter.7. The Chapter notes that personal-organizational ethical conflict occurs when the values and norms taught through the socialization process contradict an employee's personal values, and that situations in which going along with coworkers and managers might conflict with an individual's moral standards are not uncommon in business, creating a source of ethical dilemmas. Significant others are the most influential variable impacting ethical decisions in business.

Here, Betty is the conflicted employee who needs to decide whether her goals or values or those of the organization will prevail. She must decide if she will be among the approximately 40 percent of employees who go along with the work group on most matters (including ethical judgments) or whether she will be among the roughly ten percent of workers who stick to their own moral standards, even if they conflict with others in the organization, because they believe that their values are superior to others in the firm. Students should be reminded that if Betty goes along, she is still personally responsible for the consequences of her behavior.

- Does a client have the right to overrule the copywriter's ideas? Certainly -- the client can even dismiss

the ad agency if dissatisfied since the client hires the agency at will. But exercising this right might not be the morally right thing to do if the client fires the copywriter because she failed to implement what she saw as a morally flawed strategy.

- Is the copywriter obligated to accept the client's ideas, even when she disagrees or they are in conflict with her own values? While she might not have the organizational power to override the client's wishes, Betty has the moral obligation to speak out if she feels the client is wrong. Every honorable individual has the obligation to speak out against wrongdoing, to say that such and such is wrong and should not be done. However, in practice, when the rubber meets the road, this is not always easy. Yet, one of the cardinal virtues is fortitude, having the courage of one's convictions, even at personal cost. In fact, it has been said, "A principle isn't a principle until it costs you something." Although it is much easier to "go along to get along," having integrity, while entailing sacrifice and struggle, makes life ultimately more joyful and peaceful, and it can bolster self esteem.

- Is a copywriter obligated to abide by her superior's judgment? According to organizational policy, perhaps, but morally she is not obligated if she feels that the judgment is not morally correct. Blind loyalty and going along just because the boss says so is to succumb to the plea of the Nuremberg war crimes trials defendants that "we were just following orders." As we have learned from the rule of despotic leaders such as Hitler and Stalin, when the authorities are wrong we should not obey them. If this is true at the government level, how much more so at the organizational level.

3. Possible Decision Alternatives Betty Could Devise, and the Ethics of Each Alternative

People of character look for the creative way out when there is an ethical dilemma. They know that economic security is not worth the psychological torment that normally follows a wrong choice. Ask your students what they would do if they were Betty and genuinely felt that going along with the client's wishes would be wrong. Here are some of the major possibilities.

- At one extreme, when faced with an ethical dilemma one could always opt to quit their job. Although quitting might be ethical and it could lead to feelings of self-esteem from doing the right thing even at personal cost, it might not be feasible, especially if Betty were helping to support a family, the job market was tight, she had student loans to pay back, etc.
- At the other extreme, Betty could adopt Charlie's implied superiority claim ("Go along to get along").

While this allows her to keep her job and might be a demonstration of loyalty to her supervisor and the client, it compromises her moral beliefs. Furthermore, if using the suggested slogan is wrong, she is personally morally responsible for any adverse consequences, such as deceived consumers—claiming to merely be an agent of the business organization is unacceptable legally and morally. Doing what one believes is immoral is never recommended in business, for several reasons: ³

- Altruism—the love of one’s fellow humans that leads to deemphasis on one’s self interest and focuses instead on the interests of others. Altruistic acts lead to that “warm glow” and sense of moral satisfaction that comes from helping (or, at least, not harming) others. Altruists believe that happiness is a condition of the soul that comes from self-denial by giving oneself to others and by constantly doing what is right.
- Society’s sake—unethical business practices lead to societal costs which are born in part by everyone who wishes to survive and thrive in that society. A moral system is mandatory for an orderly society and earning the public’s trust. Deceptive marketing practices reduce consumer confidence in the marketing system.
- Avoid government regulation—excessive government regulations increase compliance costs (bureaucratic red tape, increased business taxes, etc).
- Conscience’s sake—that still, small voice inside our heads that creates a sense of sin leading to shame and following the commission of immoral acts. We should be able to pass the “sleep test”; we shouldn’t lose sleep at night over abandoning loyalty to our own principles. We should want to feel good about ourselves, as should our families and friends.
- Fear of God—although discussion of this point could be problematic in public institutions due to a misguided belief in “separation of church and state”, students need to be reminded of those long-forgotten Sunday school lessons that say we are ultimately personally responsible to a God who will on Judgment Day hold us accountable for how we morally lived our lives (“Payday someday”). A well-known Bible verse poses an important question: “What good is it for a man to gain the whole world (a top career and fat salary) and yet lose or forfeit his very soul?” (That is the real bottom line.)
- Enlightened self-interest—nice guys generally finish first in the business race; there is a “return on integrity.” Experience, anecdotal evidence, and empirical documentation reveal that “good ethics is good

business” and that ethical behavior tends to be profitable in the long run. Also, unethical actions can result in punishment, which can be monetarily costly in the form of fines and litigation; reputationally costly in the form of bad publicity for the organization; and personally costly in the form of imprisonment. And, self-interested business people should understand that their personal reputation is at stake. Students must be admonished to take their reputation seriously. It will follow them wherever they go, in both their business and personal lives, so they must nourish it as their most valuable asset.

- Betty could ask to be allowed to resign working on the account since to continue to do so would conflict with her personal values. While allowing her to do so might be fair of Steve, if this is a small ad agency (which is typically the type of agency that works for a small client), letting Betty resign might not be feasible since there might not be other copywriters waiting in the wings to take over for her.
- Betty could argue more persuasively against using an implied superiority claim. She could explain that it would be ineffective. One such pragmatic argument would be that the proposed slogan might force Great Wheat’s competitors to improve and differentiate their cereals. Another argument might be that this slogan isn’t really specific and hard hitting, which is what Charlie wanted. She could also argue that the proposed slogan is immoral. This could be a hard sell but does demonstrate integrity—perhaps she could suggest doing consumer research to discover whether a significant number of consumers are fooled by the claim.

Students can be told that in general, when reporting to a superior or dealing with a peer who is pressuring you to do something unethical, a wise alternative is to try to convince that person that the unethical course of action wouldn’t be prudent, i.e., pragmatically wise. That is, convince the person that in the long run they or the organization won’t be well served by that course of action. This can be effective because it appeals to self-interest. In effect, you tell them, “You’re asking me to hurt or destroy you.” You must convince them that the likelihood of getting caught and the negative ramifications if caught. Then, propose an ethical alternative that you see as better serving that person in the long run but yet is ethical.

- In a similar vein, Betty could suggest that Charlie improve the quality of his product and then advertise this, benefiting him in the long run.
- Betty could ignore Charlie and Steve and develop her own original copy which focuses solely on the

positive virtues of Great Wheat and hope this will please Charlie and Steve. If she comes up with something persuasive and creative enough, this might work. She will be most effective if she ties in with the active, healthy lifestyle positioning desired by the client. Another tack might be to focus on price incentives (assuming this is profitable) since these are important to consumers.

¹ I. Preston, *The Great American Blow-Up: Puffery in Advertising and Selling*, Madison: University of Wisconsin Press, 1975, p. 3.

² Federal Trade Commission, "Policy Statement on Deception," 45 ATRR 689, October 27, 1983, p. 690.

³ The following arguments for wanting to do the moral thing in business are presented more fully in Lantos, G., "Motivating Moral Corporate Behavior," *Journal of Consumer Marketing*, Vol. 16, No. 3 (1999), pp. 222-233.