Ethical dilemmas in marketing practices among small and medium sized enterprises

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ABSTRACT

The author describes a set of marketing practices in use among smaller organizations that pursue customers in regional markets. Each practice is evaluated against a range of popular theories of ethical behavior. Tentative conclusions regarding the appropriateness of each practice are presented, and serve as a guide to managerial action.

Keywords: ethical behavior, ethical theory, small business, marketing, entrepreneurship

INTRODUCTION

Many smaller organizations often function with small budgets and minimum attention to marketing (Pomerantiz, 2002; Carson, 1990). This is especially true among business-to-business marketers. When small organizations develop and implement marketing plans, those plans usually contain large doses of inexpensive creativity. But creativity may cross ethical lines. A significant issue facing marketing decision makers in smaller, budget-constrained organizations is whether creative and successful marketing activity contains elements that strain acceptable ethical behavior.

This paper seeks to shed light on the issue of marketing creativity and ethical behavior by evoking alternative ethical models that can be used to evaluate selected practices among small business-to-business marketers. Popular ethical theories are described in terminology relevant to marketing decision makers, and a set of marketing practices is presented. At attempt is then made to match each marketing practice with one or more ethical codes such that an ethics-based recommendation can be offered to the decision maker. Collectively, the set of recommendations can serve as managerial guides to future behavior.

The focus of this analysis is with regional based smaller organizations. Marketing practices described and evaluated in this investigation characterize small organizations that are past the start up stage in their life cycles. These are not the practices of home-based, Internet driven, one or two employee companies. Companies deploying the marketing practices defined in this paper are small, but established, principally manufacturing-oriented organizations. Their unifying attribute is their effort to expand within a relatively small, regional geographic area.

The reality for many small businesses is a customer base located within a small geographic area. Expansionary activities may include jumping from ‘pocket-to-pocket’ of customer clusters, perhaps cities separated by 50 to 100 miles, and/or expansion into immediately adjacent counties or within a single State of the United States.

This investigation follows a case-analysis approach. Marketing behaviors and their ethical implications are drawn from current and past practices of a small group of business organizations. No attempt is made to generalize or hypothesize beyond the study’s limited group of participants.

CODES OF ETHICAL BEHAVIOR

One of the most attractive presentations of ethical theories that might be brought to bear on business behavior is Feldman’s Introductory Ethics (1978). Although not utilizing business or marketing examples, the Feldman text contains a very useful overview of a wide, and still contemporary, range of ethical explanations for individual actions. All of the theories presented below are at least briefly described in the Feldman treatment.

First attributed to John Stewart Mill (1957), the utilitarian theory of ethical behavior might be renamed the ‘theory of the greater good.’ The business decision maker considers the pros and cons of the organization’s marketing practice, and if the pros outnumber the cons, the practice is judged ethically sound. Does the buyer/customer get a higher quality or less expensive product than possible without the marketing activity? Is overall employment or employment stability enhanced as a result of the practice? More esoterically, has the competitive environment been strengthened and the good of overall society has been improved by the firm’s marketing behavior? Positive answers to questions such as these serve as ethical defense of the practice (Feldman, 1978).

Refinements to the utilitarian theory include an ideal moral code that can be applied to all business decision making (Brandt, 1971), or a set of universal codes that define what is ethical across a range of alternative marketing practices (Rawls, 1971). These codes are similar to 'commandments' and offer a consistent pattern of correct ethical behaviors. Following a set of commandments removes the need to generate a set of pros and cons that may surround the practice of any marketing activity. The 'code-theories' clearly delineate the correctness or incorrectness of the practice.

Even without elaboration, difficulties in deployment of either utilitarianism or the code-theories are obvious. The subjectivity of utilitarianism and the rigidity of the code-theories would seem to make them less effective in many situations. These difficulties may have contributed to the creation of the ethical theory known as egoism (Feldman, 1978). Egoism allows behavior to be defined in terms of self-interest. Individual business organizations act in ways that are thought to serve their own selfish interests, and collectively, the economic world is better off for their behavior. More efficient, more commercially appealing businesses prosper; less efficient, less desirable ones don't.

If egoism sounds a bit incredulous as a definition for what is ethical and what is not, then the marketing manager might turn to the theories of Kant (1964). Sounding much like the familiar 'golden rule,' Kant's principles suggest that one judge behavior on the basis of what the business decision maker would not want from competitors. Simply stated: Do not engage in a marketing practice that you would consider unethical in a competitor. Don't do what you do not what others to do.

Eloquently explained by Ross (1930) and perhaps one of the more engaging theories surrounding ethics is the very individual and personal concept of 'promises or duties.' The individual, without relying on a universal code of ethics or a set of generic commandments about business behavior, makes his/her own personal commitments regarding marketing practice. "I will not hire a salesperson away from a competitor." I will not temporarily price below costs to harm a competitor." I will not attempt to void a competitor's patent by offering a slightly different version of the same product." Statements like these become the mantra of the company's marketing managers; promises are not broken, they become the ethical code of the business.

A final theory about ethical behavior that may be especially appropriate among smaller business organizations is the theory known as 'relativism' (Feldman, 1978). The key notion here is that the situation defines acceptable behavior. According to the theory, there may be circumstances where a marketing practice is justified for one business and not for another. Government set-asides for new and/or disadvantaged businesses may be an example of relativism. Another example may be pricing below costs to establish initial awareness in a new market, but not in an established market.

The list of ethical theories may never be all inclusive. The most recent thirty years of relevant research seem to guarantee that new theories and refinements of older theories will be forthcoming. What seems to be certain, however, is that business managers will continue to search for guidelines regarding appropriate behavior in evolving situations that surround the successful marketing of their organization's goods and services. And, since marketing is essentially a creative endeavor, newly evolving practices will often present in ethical challenge in their deployment.

SELECTED MARKETING PRACTICES – ARE THEY ETHICAL?

Scholars concur that there is no meta-theory for identifying moral or ethical dilemmas (Musselman, 2010). But true ethical dilemmas involve more than a singular viewpoint. A very useful theory, and the one utilized in this investigation, is the moral reasoning strategy proposed by Vincent Ryan Ruggiero (2007). Ruggiero's method suggests three common concerns as relevant to ethical dilemmas. According to this popular theory each circumstance or potential dilemma should be examined for its obligations, values, and effects.

Using the Ruggiero Theory, one must define what the obligations to the stakeholders in the dilemma or the decision are. Obligations can be discussed in terms of rights or expectations (legal or promised) of stakeholders. In the scenarios selected for the present analysis, and perhaps in all private sector business-related scenarios, stakeholders are owners/investors of the business organization. The decision maker, the one confronted by the ethical dilemma, is obligated to further the objectives of the organization and enhance monetary returns to owner/investors.

Secondly, the decision maker is confronted and directed by his/her own character values and, perhaps to an equal degree, by the values he/she perceives characterize the organization. Obligations to stakeholders and values held by the decision maker can be at odds, contributing to the dilemma. Values could include honesty, competitiveness, and fairness. The set of seven business practices described in this writing raised concern over values by the author who participated in each of the scenarios.

Finally, the effects or outcomes of the business activities describe in this study's seven scenarios help identify the presence of an ethical or moral dilemma. Business or marketing behavior outlined in each of the seven scenarios had the possibility of impacting the awarding of contracts or the attraction of addition revenues.

Thus the triumvirate variables of obligations, values, and effects, a la Ruggiero (2007) were the drivers behind the identification of ethical dilemmas chosen for review in this work. Following are brief descriptions of seven business behaviors or practices that produced ethical dilemmas.

Practice #1: Recommending Inferior Competitors. Buyers often prefer or are mandated to solicit at least three bids from prospective vendors. This can occur in private or public sector markets. Bidder number one offers the names of other potential bidders (sometimes at the request of the potential buyer) with the strong expectation that bidder number one can outbid the other suggested bidders. In this scenario the practice of recommending potential competitors is part of the selling organization's regular marketing behavior, part of its marketing strategy. The seller considers this practice as an aid to comparative shopping, albeit one in which the seller has a distinct advantage.

Recommending potential competitors may seem unwise to some sellers, but in many regional markets the number of players (buyers and sellers) may be few, and if the specifications of the project or product are unique, identifying an appropriate number of potential sellers (vendors) may be challenging. This situation may make recommending competitors a viable marketing practice, one that is appreciated, and even requested, by potential business buyers. Is this practice ethical?

Practice #2: Pre-Bid Specification Development. This occurs when a seller and prospective buyer jointly development specifications for a product or service. Buyer then solicits the requisite number of bids, describing the project in terms of the specifications jointly developed by one of the bidders.

This practice is common in technology-oriented industries or in situations where the product or service contains some unique complexity, i.e., aircraft components or marketing research projects. The seller in these examples attempts to create specifications that favor the selling organization and/or preclude the capabilities of potential competitors. This strategy can be especially effective in regional markets where the number of viable competitors is few. When this practice is part of a selling firm's planned marketing strategy, significant effort and importance characterizes the position of specification writer.

Practice #3: Ghost Locations. Selling organization establishes a temporary presence, usually an office, in a physical location thought to be appealing to a prospective customer. The seller believes that entering a bid from the temporary location will enhance the success of the bid. The seller may take a short term lease on an office space, create some stationery for that location, and install a telephone line; all designed to give the impression of a permanent location. When the bidding process is complete the bidding process is dissolved.

This practice may be used when it is believed that the buyer favors local vendors. (In certain public sector purchasing scenarios, selection of local vendors may be mandated.) The practice may also take the form of two offices, separated by 50 to 100 miles, each being opened less than five days a week. Organizations located near State lines or other significant political borders may utilize this practice. However executed, this marketing tactic is designed to give the impression of a conveniently located supplier, ready to respond to its nearby customer. Conventional marketing theory refers to this practice as part of a firm's 'channel strategy' (Boone & Kurtz, 2004; Kerin & Peterson, 2004). Is this practice ethical?

Practice #4: Unspoken Territory Limits. Perhaps also part of channel strategy, some businesses operate with seemingly unspoken territory limits. Strictly illegal if arrived at in a collusive manner, this practice means not seeking buyers in selected parts of a geographic market area, even when there is no overt reason not to.

When executed properly, this practice included not bidding in forbidden territories even when experience, costs, and potential profits would seem to say otherwise. Of course, would-be competitors in these areas do not bid outside of their territory either. Assuming no legal boundaries are crossed, is this practice ethical?

Practice #5: Loyal Networking. Managers (often owners) of smaller organizations use networking and community connections to identify potential customers and to stay current on competitive activities. Networking of this sort is inexpensive and frequently recommended as an attractive marketing tactic for small businesses.

Successful networking may produce information about customers and competitors at community events such as chamber of commerce get-togethers. Information may also result from solicited and/or unsolicited telephone conversations with networking contacts. For example, a chamber of commerce employee may call an executive (and chamber member) of a local company with information that a potential new competitor had approached the chamber about the local economic climate. Again, assuming no overt illegal collusion, is this practice ethical?

Practice #6: Aggressive Marketing Research. This activity involves the creative use of marketing research. Marketing research can take many forms, ranging from review of published, publically available information, to secretive collection of proprietary data.

One useful goal of marketing research for regional organizations is to determine the amount of capacity in use by competitors. This knowledge can be invaluable when preparing bids. The idea is to estimate how busy potential competitors already are, how eager they may be for additional work, and therefore how aggressively they may bid for additional projects.

The ethical dilemma derives from how aggressive the market research becomes. Searching for excuses for getting inside a competitor's plant, counting machines and employees, noting inventory levels, etc., is one tactic. This author has witnessed individuals trespassing through property adjacent to a competitor's plant, and using binoculars to view the plant from a distance, all so that estimates might be made about a competitor's capabilities and/or the portion of competitive capability that is presently in use. Can such a practice be ethical?

Practice #7: Creating Bid Histories. Another common marketing practice among small regional based organizations is to create a record of bidding histories pertaining to its few local competitors. Such a record could include the frequency of bid activity, the type and size of projects bid on, the timing or pattern of bid activity, and the success/failure rate of overall bidding. Obviously such a record could be extremely useful in the regional market where both the number of potential clients and competitors is small.

In the private sector bidding histories may be somewhat difficult to construct and subject to some speculation. In the public sector, however, a complete record may be available to anyone making a request. The challenge only requires knowing where to make the request and to whom. Is this practice ethical?

CONCLUSION

All seven marketing practices described above are in use. None are hypothetical. Their practitioners consider none inappropriate or unethical. The practices continue because they are successful. They are creative devices used by smaller, regional focused businesses to improve the sale of goods and services.

Recalling the principal ethical theories outlined earlier, it initially seems plausible that one or more of the ethical models can defend all seven marketing practices. Table 1 outlines the range of ethical theories that might justify each of the seven marketing behaviors.

Table 1: Marketing behaviors and their theoretical justification

Marketing Behaviors	Ethical Theory
1. Recommending inferior competitors	Egoism; relativism; golden rule; promises-duties
2. Pre-bid specification development	Utilitarianism; golden-rule; promises-duties
3. Ghost locations	Utilitarianism; golden-rule; promises-duties
4. Unspoken territory limits	Code-theory; relativism; golden-rule; promises-duties
5. Loyal networking	Egoism; code-theory; golden-rule; promises-duties
6. Aggressive marketing research	Utilitarianism; egoism; golden-rule; promises-duties
7. Creating bid histories	Egoism; golden-rule; promises-duties

As indicated in the Table, the golden-rule theory proposed by Kant (1964) and the promises-and-duties theory offered by Ross (1930) could apply to any of the seven behaviors. It is certainly conceivable that no small business would choose to endure any of the practices if applied to them (golden-rule). It is also very probable that any small business owner/manager could have in place clear rules prohibiting any or all of the practices (promises-and-duties).

Egoism might serve as rationale for engaging in loyal networking, aggressive marketing research, recommending inferior competitors, and constructing bidding histories of key competitors. These practices are fall nicely in line with egoism's dictate of survival of the fittest.

Relativism could easily be used to support the practices of recommending inferior competitors and unspoken territory limits. Smaller businesses may feel disadvantaged in a world of larger competitors and believe these activities give them a deserved break.

Pre-bid specification development could be perceived a producing better designed projects/products. Ghost locations might be seen as offering business buyers more choice. And, aggressive marketing research is always thought to produce better business decision making. These arguments are each utilitarian in nature and the resulting behaviors could each be defended using Mill's (1957) promise of the 'greater good.'

Finally, code-theory (Rawls) could explain the practices of unspoken territory limits and loyal networking. Such behaviors could simply be rules of the game that all players have to accept.

The seven business practices outlined in this writing and their ethical defense make a strong argument for clarifying the ethical philosophy sought by management in any organization. Ethical philosophies should translate into marketing practice and are usually contained in organizational mission statements.

Marketing practices should be regularly examined for their ethical context so that potential dilemmas may be anticipated and resolved. The special case of the small organization seeking regional expansion summarized in this paper demonstrates how easily ethical dilemmas can arise.

REFERENCES

Boone, L.E. and D.L. Kurtz: 2004, "Contemporary Marketing, 11e", (Thompson South Western), 434-449.

Brandt, R.: 1971, "Mill: Utilitarianism with Critical Essays", (Bobbs-Merrill), 324-344.

Carson, D.J.:1990, "The Evolution of Marketing in Small Firms", *European Journal of Marketing* 10(5), 7-19.

Feldman, F.: 1978, "Introductory Ethics", (Prentice Hall).

Kant, I.: 1964, "Groundwork of the Metaphysic of Morals", (Harper and Row).

Kerin, R.K. and R.A. Peterson: 2004, "Strategic Marketing Problems, 10e", (Prentice Hall.)

Mill, J.S.: 1957, "Utilitarianism", (Bobbs-Merrill).

Musselman, J.G: 2010. "Center for Ethics and Leadership", (St. Edward's University).

Pomerantz, D.: 2002, "Do You Tivo?" *Forbes* 170(11), 54-55.

Rawls, J.: 1971, "Mill: Utilitarianism with Critical Essays", (Bobbs-Merrill), 175-194.

Ross, W.D.: 1930, "The Right and the Good", (Oxford University Press).

Ruggiero, V.R: 2007, "Thinking Critically About Ethical Issues", (McGraw-Hill).