

Legal and ethical considerations in marketingexample flashcard



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My research shall consist of three to five ethical issues relating to marketing and advertising, intellectual property, ND regulation of product safety. Argue against Direct-to-consumer (ETC) marketing by drug companies. Determine who regulates compounding pharmacies under the current regulatory scheme, what the Food and Drug Administration (FDA) could/ should have done in the Pharmacy scenario, and whether the FDA should be granted more power over compounding pharmacies.

Decide whether Pharmacies use of Collegian intellectual property would be ethical in accordance with: utilitarianism, Demonology, Virtue ethics, Ethics of care, and my own moral / ethical compass. Analyze the way Pharmacy uses U. S. Away to protect its own intellectual property while co-opting intellectual property in Colombia. Suggest at least three ways the company could compensate the people and nation of Colombia for the use of its Intellectual property and the damage to Its environment.

Compare Pharmacies actions with those of at least one real-world company whose creativity In skirting legal technicalities led to ethical lapses and financial loss. Determine the success Pharmacy and Well shareholders would have in suits against the companies. Determine whether or not Pharmacy lives up to its brand. Support the response. Recommend at least three changes Pharmacy can make to be more ethical going forward. Product safety and liability. Explore copyright laws and intellectual property rights and assess how well they balance competing interests.

My research shall consist of various ethical issues relating to marketing and advertising, intellectual property, and regulation of product safety. In

addition to arguing against Direct-to-consumer (ETC) marketing by drug companies, and comparing and contrasting regulations and suggestions for operation improvements relating to compounding pharmacies based on the Pharmacy/Compare scenario in Assignment 2. According to Boundless. Com, “ Ethical marketing decisions and efforts should meet and suit the needs of customers, suppliers, and business partners.

Unethical behavior such as price wars, selective advertising, and deceptive marketing can negatively impact a company’s relationships. ” Consumers today are fonder of ethical businesses who display attention and care by upholding standards of social responsibility to the environment. When an organization shows that sustainability is important to them, this builds trust within business to consumer relationships and furthermore lets the consumer know that the company operates with integrity on all evils. Possessing business ethics is a selling point on its own, beginning with the stages of product development and distribution.

As stated by Boundless. Com: Ethical Issues in Marketing Ethical problems in marketing stem from conflicts and disagreements. Each party in a marketing transaction brings a set of expectations regarding how the business relationship will exist and how transactions should be conducted. Each facet of marketing has ethical danger points as discussed below. Ethics in Advertising and Promotion In the sass and sass, tobacco used to be advertised as promoting health. Today an advertiser who fails to tell the truth offends against morality in addition to the law. However the law permits puffery (a legal term).

The difference between mere puffery and fraud is a slippery slope. Sexual innuendo is a mainstay of advertising content, and yet is also regarded as a form of sexual harassment. Violence is an issue especially for children's advertising and advertising likely to be seen by children. The advertising of certain products may strongly offend some people while being of interest to others. Examples include: feminine hygiene products as well as hemorrhoid and constipation medication. The advertising of condoms has become acceptable in the interests of AIDS-prevention, but are nevertheless seen by some as promoting promiscuity.

Through negative advertising techniques, the advertiser highlights the disadvantages of competitor products rather than the advantages of their own. These methods are especially used in politics. Issues as they relate to intellectual property rights are primarily based upon passing off someone else's idea or work as your own. The "fair use" policy of copyrighted materials in education has evoked debates on this topic for at least the rounding fair use will not be resolved by appealing to well-known principles of property rights.

One reason for this is that copying a book involves an act of labor which, one might allege, creates property in the copy. Unlike the act of labor involved in theft, copying does not, in any obvious way, involve the removal of someone else's property or the violation of their privacy. In the course of our discussion, I will show that there are strong counter arguments to this argument. But here, at the outset, a labor theory of property offers no decisive answer. Second, the electronic remission of data throws the whole

notion of what a "copy" is into confusion: Is text from a database on a terminal a copy?

Is an electronic copy of a data file analogous to a paper copy of a printed work? Third, the development of computer software threatens to blur the distinction between a copyright and a patent. Traditionally, patents protect processes or products of processes which show genuine technical innovation. In return for registering (and making public) the process, society grants a limited monopoly to the inventor. Copyrights involve similar protections (though of a longer duration) for the novel expression of ideas. Computer software is a hybrid, combining both novel expressions of old ideas (e. . Displaying a print spreadsheet on a video terminal) and new processes for doing things (e. G. The transformation of a calendar into an algorithm for displaying and printing calendars. There is no escaping the fact that computer software and hardware is transforming the distinction between processes of production (candidates for patents) and expressions of ideas (candidates for copyright). The most critical issues surrounding the regulation of product safety are environmental restrictions, product quality and fatty, and marketing to children.

The growth of imports to our Nation is extremely rapid which will continue to increase steadily over the next decade. Today's numbers for imports are expected to quadruple by this time. As stated by FDA (201 1): We live in a nation that increasingly relies on other countries to produce the food, drugs, cosmetics, and devices we use in our daily lives. Between 10% and 15% of all food consumed by United States (U. S.) households is imported from

abroad. Nearly two-thirds of the fruits and vegetables—and 80% of seafood—eaten domestically come from outside the U. S.

Half of all medical devices used in this country are imported, while 80 percent of the active pharmaceutical ingredients in medications sold here are manufactured elsewhere. At the center of this global bazaar is the FDA. Today, nearly 25 cents of every dollar spent by Americans are on products regulated by the agency. FDA-regulated products account for about 10% of all imports into the U. S. , arriving from more than 300, 000 facilities in 150 different countries. I agree that Direct-to-consumer marketing of prescription drugs by drug companies should be prohibited (Public Citizen’s Commercial Alert).

ETC advertising is defined as arresting promotions that target the end patient as opposed to healthcare professionals. These promotions are executed via print, social media, TV, radio, and other forms of media that inform patients, and the FDA controls the regulations (Investigated). Public Citizen’s Commercial Alert states: Pharmaceutical advertising does not promote public health. It increases the cost of drugs and the number of unnecessary prescriptions, which is expensive to taxpayers, and can be harmful or deadly to patients.

For more than half a century, certain drugs have been available to can also cause harm. Doctors, nurses and other health professionals have the accessory training and experience to help them decide whether drugs are indicated in particular cases. This is why they make the prescription decision, not patients. Prescription drug advertising pressures health professionals to

prescribe particular medications, and often the ones that may be less effective and more expensive and dangerous. This intrudes in the relationship between medical professionals and patients, and disrupts the therapeutic process.

It takes up valuable time to explain to patients why they may have been misled by the drug advertisements they have seen. Prescription drug advertising is not educational. It is inherently misleading because it features emotive imagery and omits crucial information about drugs and their proper use, as well as about side effects and contraindications that can be found on the full FDA-approved label. Drug companies have an inherent and irredeemable financial conflict-of-interest which drives them to exaggerate the positive and minimize the negative qualities of their own products.

At a minimum, direct-to-consumer prescription drug advertising should not exist unless accompanied by the full FDA- approved label. Nor should drug ads be allowed to display imagery that is primarily emotive and not educational. Drug ads on TV and radio should be prohibited because they cannot meet this standard for truthfulness. As Compare and its parent company enjoyed record profits and Pharmacies stock price approached \$300 per share, reports started filtering in that people who received DADA seemed to be suffering heart attacks at an alarming rate.

According to David & PL (2013): Under the current regulatory framework, all pharmacies, including compounding pharmacies, are regulated by state boards of pharmacies. Consequently, drugs produced by compounding pharmacies are not subject to remarked review by the FDA or any other

regulatory body, unless state laws so require. Therefore, although the FDA has explicit jurisdiction to regulate the manufacture of drugs under the FDA, the agency's current jurisdiction over compounding drugs and compounding pharmacies is much less clear. Senate Bill 959 aims to clarify the oversight responsibilities of state and federal authorities.

Pharmacy ignored the information shared regarding the rising counts of heart attacks and continued filling large orders of the drug and paid handsome bonuses to all of its executives and managers. There is certainly a need for a better regulatory yester to avoid scenarios such as this. Hospital pharmacies, physician office practices, and other purchasers of products from the " large-scale compounding- manufacturing industry' would be better off (Thompson, 2013). Unfortunately, based on the Food and Drug Administration's (FDA) current regulatory system there does not appear to be much they could have done in this instance.

However, there should be more power granted to the FDA over compounding pharmacies preventing these types of gaps in their oversight of compound drug manufacturing across the country. Pharmacies use of Collegian intellectual property was not in accordance with utilitarianism. It is believed by some that utilitarianism is one of the most widely understood and commonly applied ethical theories. On the word of BEEN (201 1): Probably the most widely understood and commonly applied ethical theory is decision concerning business conduct is proper if and only if that decision produces the greatest good for the greatest number of individuals. Good" is usually defined as the net benefits that accrue to those parties affected by the choice. Thus, most utilitarian's hold the position that moral choices must be <https://assignbuster.com/legal-and-ethical-considerations-in-marketingexample-flashcard/>

evaluated by calculating the net benefits of each available alternative action. BEEN (2011) also gives an example, " that a pharmaceutical company may operate by the principle that it will release any officially approved drug with some side effects as long as it helps more persons combat a particular disease than the number troubled by a minor side effect. As it relates to demonology, also known as a " duty-based ethic", which is an action based ethical theory and does not focus on its consequence. This approach simply means that a person generally follows an ethical paradigm believing that either you are to do what you are supposed to do legally or because you feel obligated to follow an employer's policy (Killing). In this case, Pharmacy would be ethically in line with this theory, whereas stakeholders were only doing what they felt they had to for success and profitability no matter the effects on the Collateral workers'.

The demonology practice is solely based on " doing your duty' no matter whether or not it leads to good consequences (Killing). Virtue ethics are human qualities that exhibit honesty and fairness when one is trying to obtain economic excellence, which also not in accordance with Pharmacies Collegian practices. According to Dobson 2007): Virtue ethics is concerned with pursuing a certain type of morally inclusive excellence. Aristotle called it demoniac, which can be roughly translated as ' happiness', or ' human flourishing'.

For present purposes, this approach to ethics can be thought of as exhibiting four basic attributes. Its primary attribute is a strong emphasis on the importance of certain generally accepted virtues of character; indeed it is through honing and perfecting these virtues that an individual becomes truly

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ethical. Secondly, a strong emphasis is placed on the existence of an active community that nurtures these virtues. Thirdly, virtue-ethics theory makes clear that in the moral life one cannot rely merely on rules or guidelines, in addition an ability to exercise sound moral judgment is requisite.

Finally, the successful identification and emulation of moral exemplars or role models is essential for the dissemination of morality within the aforementioned nurturing community. Ethics of care, a theory developed by feminist some time ago is derived on what makes actions right or wrong. This theory also does not coincide with Pharmacies use of Collegian intellectual property. In keeping with Ethic of Global Responsibility: Virginia Held is one of several feminist philosophers who have elaborated an "ethics of care" as a promising alternative to traditional ethical theories such as demonology, utilitarianism, and virtue ethics.

As she presents it, "the ethics of care stresses the moral force of the responsibility to respond to the needs of the dependent" (2006, 10). Care is understood as both a value and a practice. It values moral emotions such as "sympathy, empathy, sensitivity, and responsiveness," and even "anger may be a component of the moral indignation that should be felt when people are treated unjustly or inhumanely. My own moral and ethical views on this matter is that often when business leaders behave in inhumane ways it is due to their disbelief of people truly being hurt or simply their desire accrue large profits no matter the cost. Sakes it that much easier for Pharmacy to protect their intellectual property while also co-opting intellectual property in Colombia. Their product development operations were not fully aligned with the FDA and to avoid scrutiny they established a <https://assignbuster.com/legal-and-ethical-considerations-in-marketingexample-flashcard/>

wholly-owned subsidiary, Compare, to operate as a compounding pharmacy to sell the new formulation to individuals on a prescription basis. One way Pharmacy could compensate the people and nation of Colombia would be to provide incentives for the Collegian workers' and establish programs that are aligned with the interests of both the stakeholders and employees.

Secondly, there should be a sustainability program in place that helps to restore the resources being used and distributed. Lastly, the Collegians live so poorly that perhaps another form of compensation would be to provide a living headquarters with running water and electricity. As well as medical benefits to aid in the wear and tear of their health from walking five miles a time while carrying baskets that at times weigh up to 50 pounds. A company with a similar scenario to Pharmacies creativity in skirting legal technicalities is Glacis, a British Columbia company that has owned an Imperial Mine for 17 years.

As said by McKee (2004): Glacis alleges that California violated the North American Free Trade Agreement by shutting the mine, and demands damages of more than \$50 million. Using NONFAT to avoid litigation in U. S. Courts is a strategy that's catching on quickly. Companies in Canada, Mexico and the United States are filing complaints under the trade agreement's Chapter 11 provision, which lets them appear before three-member international arbitration panels - rather than the nations' individual courts - to attack state, provincial and federal laws they believe are illegal or discriminate against foreign businesses. The fact of the matter is that the protections provided under Chapter 11 are the same kinds of protections U.

S. Investors are seeking overseas," says Alan Journey, a partner in <https://assignbuster.com/legal-and-ethical-considerations-in-marketingexample-flashcard/>

Washington's Cromwell & Morning who represents Glacis in its fight with California. " And these protections are the minimum you would expect a nation to provide to ensure the free flow of capital into the country. " A pharmaceutical company in Richmond, VA where I'm located was involved in a recent scandal where a drug firm was being sued by a shareholder.

According to Roller (2013), " A lawsuit filed July 8 in Richmond City Circuit Court alleges that Star Scientific board of directors engaged in a " campaign of deception" eventually unraveled, tarnishing the company's reputation and pushing down the price of its stock. " The outcome of most shareholder lawsuits appears to be resolved in settlement. In the case of Compare, once it was publicly linked to over 200 cardiac deaths and sold to Well the stock plummeted. Based on those facts alone the shareholders would not find success in this type of suit.

As one of the most successful pharmaceutical companies in the world, Pharmacy had a reputation as being caring, ethical and well-run. To the public, Pharmacy saved and enhanced the lives of millions. In actuality the executives had no remorse for the indigenous Collegian's they overworked, nor the numerous consumers and employees who suffered harm and lost their lives. The most important thing for Pharmacy to take away from their unethical (2012), " It's still too easy for corporations to override business cases for behaving teeter, and if changing the rules would make business more ethical? " Ethics are what make a good company.

The first change Pharmacy could implement is honor, doing things right within their company and paying thanks to strong performers for doing the

same. Next, place a more significant focus on consumer safety, a business cannot exist without its customers. Decisions made by stakeholders affect more than just the company's employees and investors. Finally, Pharmacy needs to build a staff that is passionate about what they do and not only driven by monetary benefits, UT actually believe in their work and making a difference, especially in the world of pharmaceutical drugs where every decision counts.