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Ethics in Online Marketing

A case-based analysis of ethical issues in internet marketing

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Foreword

This thesis aims at shedding some light on ethical issues in online marketing. A case-based approach is used to highlight certain problems that might raise ethical concerns. Furthermore I wish to bring attention to some of the difficulties that exist in determining the ethicality of actions taken online due to the fact that the Internet is still a fairly new medium and the lack of precedence makes drawing conclusions more difficult.

I have also in this thesis focused on how a business can operate online in accordance with ethical guidelines by either introducing strict codes of ethical conduct or by instilling a more virtuous environment throughout the corporation.

I wish to thank everyone who has supported me throughout the process of writing my thesis. First and foremost I would like to thank my family who has given me much needed support and encouragement without which I would not have made it here.

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I hope you enjoy the read!

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1.0 Introduction

The Internet has in the last 10-15 years become one of the most important channels of communication for a large proportion of the people on earth. It has provided unprecedented reach and the amount of information found on the Internet surpasses that of any other medium we have seen to date. The Internet has two main features that separate it from other types of media; Interactivity and Individualization. This has made it immensely popular because there is the possibility of two way dialog in real time as well as the ability to individualize many features of the Internet. The 2 I's¹ of the Internet has especially been important in shaping the online commerce scene and something that has led to a skyrocketing in online purchases in the last ten years. It is safe to say that the Internet has become one of the most important venues for online commerce and is sure to increase in importance in the future.

This leads me to what this paper is trying to get a better understanding of namely the difficulties that come with the almost uncontrollable growth of this new medium. The focus of this paper is on ethical issues in online marketing. With the growth of online commerce comes a natural increase in outlets for marketing. This has resulted in an asymmetry between those who try to take advantage of the Internet at all cost and those who try to establish legislature to protect the receivers of information online. Ethical standards transcend legal ones and the creation of a new medium such as the Internet should not suddenly turn an ethical person un-ethical, but I believe there to be a lot more grey areas concerning the Internet than there are in more established media.

This grey-area implication also relates to online marketing because this is un-chartered territory in many cases. Many companies have tried to combat this with a set of code-of-conduct parameters, but these are also often interpreted on a case-by-case basis and one argument might outweigh another and still turn out to provide a negative result.

The purpose of this paper is two-fold; First it aims to give an understanding of some of the issues that causes debate when it comes to ethics in online marketing as well as give a description of some of the more technical aspects of online marketing that have been debated as being un-ethical. Second, I will try to answer the question of whether companies that use

¹ Mohammed et al. *Internet Marketing: Building advantage in a networked economy*

the Internet are better served following a code-of-conduct approach as far as ethical online behavior is concerned or if they should instill a less rigid virtue approach to online marketing.

Part I: Literature review

2.0 What is Internet marketing?

“Internet marketing is the process of building and maintaining customer relationships through online activities to facilitate the exchange of ideas, products, and services that satisfy the goals of both parties”².

Internet marketing has become a large industry over the last 10 years. It started in the early 90’s with simple product information posted on text-based websites. It has however evolved to include “pay per click advertising, banner ads, e-mail marketing, affiliate marketing, interactive advertising, search engine marketing/optimization, blog marketing, article marketing, and blogging”³. This is still a field in constant change and with the evolution of the internet and the skill level of both users and internet marketers ever improving there is a continuous addition of new tools available for the internet marketer.

Marketing online is a component of electronic commerce. This entails anything from information management and public relations to customer service and sales⁴.

2.1 Business models online

The advent of the internet created new ways of crafting your business model. “The Internet is a mediation technology”⁵, which means that you can create new ways of distributing your products, communicate your product solutions and new ways of trading your products⁶.

Perhaps the most profound change that has come about with the Internet is the creation of networks. Millions of people can engage in dialogue regarding specific products or troubleshooting solutions as well as product design and development.

Business models online consists of B2B (Business to Business), B2C (Business to Consumer) or C2C (Consumer to Consumer).

B2B models are more complex and were later to develop relative to B2C models⁷. These models can be straight retail models where you pay for the advertised product, or they can be

² Mohammed et al. *Internet Marketing, building advantage in a networked economy*

³ <http://en.wikipedia.org/wiki/E-marketing>

⁴ <http://en.wikipedia.org/wiki/E-marketing>

⁵ Methlie, Leif B. *A Business Modell for Electronic Commerce*

⁶ Methlie, Leif B. *A Business Modell for Electronic Commerce*

⁷ <http://en.wikipedia.org/wiki/E-marketing>

in the form of auctions, and finally a barter transaction where interested parties swap merchandise.

The Internet has made dynamic pricing a possibility and in fact made it a sustainable pricing strategy. It has done this because it has reduced the menu costs, or costs associated with changing a price of a product, as well as increased interactivity between buyers and sellers around the world so they can better negotiate prices⁸.

Today consumers can do pretty much everything from their computers at home. Shopping for clothes, cars, real-estate or even groceries that will be delivered at your door is possible.

Many also conduct financial transactions such as pay bills, check bank statements or trade stocks.

All of these online services are marketed to the consumer in several different media, and I will now explain a few tools that businesses use in their online marketing effort.

2.2 Online Marketing Tools

2.2.1 E-mail marketing

This type of online marketing is a form of direct marketing which uses electronic mail as a means of communicating commercial or fundraising messages to an audience⁹.

E-mail marketing can be used by a business to foster a current relationship with a consumer or to create repeat business with that customer. This type of marketing can also be used to acquire new customers or because they contain advertisements sent from other businesses to their customers¹⁰.

E-mail marketing is considerably less expensive than other forms of direct or mass marketing, such as phone or catalogues. It is also instantaneous and offers an easy way to respond should the recipient wish to do so.

One problem that has been hotly debated is the so-called spam message or unsolicited e-mail.

This is essentially mass mailings to people that have an e-mail address. These have proven

⁸ Mohammed et al. *Internet Marketing, building advantage in a networked economy*

⁹ <http://en.wikipedia.org/wiki/E-marketing>

¹⁰ <http://en.wikipedia.org/wiki/E-marketing>

less effective than e-mail marketing to people who have opted-in, or agreed to receive e-mails from the respective business. More and more businesses today have the opt-in, where you agree to receive e-mails from the company, or opt-out function, which is where the customer options not to receive e-mails from the company. This is fast becoming the way to do e-mail marketing because most people resent the spam, or unsolicited e-mail because it clogs the mail box and causes aggravation.

2.2.2 Pop-ups

This is a form of online advertising on the World Wide Web intended to increase web traffic or capture e-mail addresses. Certain web sites open a new window displaying an advertisement. They are thereby linked to certain Web browser and appear when you enter the site. These pop-up ads can also be displayed by many spyware programs.¹¹

The viewer can either close the window, or click on the advertisement to enter either the website it originated from or a fuller advertisement for that specific product or including other products.

2.2.3 Web banner

Web banners or banner ads are essentially embedded advertisements on a website. It is a link to the advertisers' website. The banner is displayed when a web page that references the banner is loaded into a web browser, known as an "impression"¹². The viewer is directed to the advertisers' website by clicking on the banner ad. The act of clicking on a banner ad and going to the advertised website is known as "click-through" which can be monitored for several reasons. The advertising company wants to see which web banners on which websites cause the most traffic, but also how many people access their website through a banner ad. Websites that have banner ads may get paid per click-through.

¹¹ <http://en.wikipedia.org/wiki/E-marketing>

¹² http://en.wikipedia.org/wiki/Banner_ads

2.2.4 Search Engine Marketing

“In Internet marketing, search engine marketing, or SEM, is a set of marketing methods to increase the visibility of a website in search engine results pages (SERP’s)”¹³. This essentially means that the creators of websites take action to make their websites appear prominently on search engine results so as to create the most traffic. Three main methods make up search engine marketing:

Search engine optimization attempts to improve rankings for relevant keywords in search results by improving a web site’s structure and content¹⁴.

Pay per click advertising uses sponsored search engine listings to drive traffic to a web site. The advertiser bids for search terms, and the search engine ranks ads based on a competitive auction¹⁵.

Paid inclusion can provide a guarantee that the website is included in the search engine’s natural listings¹⁶.

2.2.5 HTTP cookie

Cookies are parcels of text sent by a server to a web browser and then sent back unchanged by the browser each time it accesses that server¹⁷. What this means is that the cookie can authenticate, track, and maintain specific information about the user such as site preferences and the content of their electronic shopping cart. Although the cookie is in your computer they can not read any personal information that might be stored there, or erase data like a virus. Cookies are there to detect Web pages viewed by a user on a given site or set of sites, thereby enabling a profile to be constructed. These profiles are often anonymous, unless the customer has given the consent to include and use personal information.

¹³ http://en.wikipedia.org/wiki/Search_engine_marketing

¹⁴ http://en.wikipedia.org/wiki/Search_engine_marketing

¹⁵ http://en.wikipedia.org/wiki/Search_engine_marketing

¹⁶ http://en.wikipedia.org/wiki/Search_engine_marketing

¹⁷ http://en.wikipedia.org/wiki/HTTP_cookie

2.2.6 Data mining

This is also known as Knowledge-Discovery in Databases (KDD)¹⁸. Essentially data mining is the process of automatically searching large volumes of data for patterns using tools such as classification, associate rule mining and clustering¹⁹.

This is a much utilized process by businesses or other organization, as well as the sciences to go through vast amounts of information in order to detect patterns, trends or generally just picking out relevant information.

Data mining can be used for either knowledge discovery, which is to provide explicit information on patterns or trends that are manifested in the world today, or forecasting, which are predictive models that view potential future events.

Data mining can provide a great benefit to many companies that have access to large databases of information because trends, both present and future can more accurately be assessed and companies can be proactive in their development and marketing efforts.

2.2.7 Viral marketing

This marketing technique makes use of pre-existing social networks to increase brand awareness. In essence the technique entails people sending e-mails to friends or by making them aware of certain content online that is interesting to them, this content in turn is sponsored by a brand thereby enhancing the awareness of this brand²⁰. This is then sent on to friends of friends spreading through the net at a very high pace. This is a sophisticated word-of-mouth. It is a cheap method of marketing that can generate huge amounts of traffic and reach a large number of people very rapidly.

2.2.8 Affiliate marketing

This is a method of promoting a web business through an affiliate. This means that there exists a link on a website to another brand website. The affiliate can be compensated for

¹⁸ http://en.wikipedia.org/wiki/Data_mining

¹⁹ http://en.wikipedia.org/wiki/Data_mining

²⁰ http://en.wikipedia.org/wiki/Viral_marketing

“click-throughs”, or for business generated from a “click-through” from his or her website, as well as registrations or new customer profile generations that stem from the affiliate website²¹. This is a well liked marketing program because it is a “pay-for-performance” tool that can potentially be very profitable.

Affiliate sites can be personal websites, comparison shopping sites, content sites or blogs, to mention a few.

I have mentioned a few online marketing tools that are most widely used today. Web businesses often utilize a combination of these in order to create the highest amount of traffic and online transactions, as well as information gathering for future marketing efforts and to maximize the effectiveness of their product portfolio.

²¹ http://en.wikipedia.org/wiki/Viral_marketing

3.0 Ethics theory

Ethics, sometimes referred to as moral philosophy, is the attempt at systematically understanding moral concepts such as right, wrong, good, and bad²². Ethical theory is also aimed at justifying moral principles and theories. I will in my description of ethics and in my discussions view morality and ethics as synonymous, because they are in my mind interrelated subjects that describe the same basic principles.

This section will include three major ethical theories that all fall under the area of normative ethics. These are Utilitarianism, Deontological ethics and Virtue ethics. Normative ethics is the study of how to determine ethical values and it differs from the other primary areas; meta-ethics and applied ethics. Meta-ethics is in its essence the study of the concepts of ethics, while applied ethics is the study of the use of ethical values. Normative ethics tries to bridge the gap between these two major areas of ethics²³.

3.1 Utilitarianism

This is a subset of Consequentialism, and has as its central theme the “doctrine that the moral worth of an action is solely determined by its contribution to overall utility”²⁴. Hence it is the outcome of an act that determines the morality of that act. The outcome in Utilitarianism is utility, or the good to be maximized, and is defined by many as happiness and pleasure. An immoral act then would be one that results in suffering and pain.

Jeremy Bentham (1748-1832) was the first proponent of utilitarianism who systematized its components.²⁵ In his words utilitarianism is explained such:

“Nature has placed mankind under the governance of two sovereign masters, pain and pleasure. It is for them alone to point out what we ought to do, as well as what we shall do”²⁶. The utility concept was also defined by Bentham as “the good is whatever brings the greatest amount of happiness to the greatest number of people”²⁷.

²² <http://en.wikipedia.org/wiki/Ethics>

²³ <http://en.wikipedia.org/wiki/Ethics>

²⁴ <http://en.wikipedia.org/wiki/Utilitarianism>

²⁵ <http://en.wikipedia.org/wiki/Utilitarianism>

²⁶ Pojman, Louis P. *Ethical Theory*

Bentham's philosophy has been criticized for being slightly simplistic because he did not distinguish types of pleasure or the occupier of pleasure. His philosophy was often referred to as pig-philosophy because a pig enjoying his life would describe a higher moral state than a slightly satisfied human.²⁸ To further the view of utilitarianism, John Stuart Mill (1806-1873) attempted to separate happiness from mere sensual pleasure:

“It is better to be a human dissatisfied than a pig satisfied; better to be Socrates dissatisfied than a fool satisfied”²⁹.

Utilitarianism can further be divided into act utilitarianism and rule utilitarianism. The adherents of the former say that we ought to apply the principles of utility to all of the alternatives open to us, while the proponents of the latter believe that an act is right if it conforms to a valid rule within a system of rules and that, if followed, will result in the best state of affairs³⁰.

Rule utilitarianism can be viewed as similar to the next big ethical theory, Deontological ethics.

3.2 Deontological ethics

This is a theory that has as its main proponent Immanuel Kant (1724-1804).³¹ The main difference between deontological ethical theory and that of utilitarianism is that while a utilitarian views an act as moral by its outcome, adherers to deontological theory see intrinsic value in the act itself. Deontologists can see an act as morally wrong even though it maximizes good, and hence the principles of right and good are furthered from the utilitarian view that essentially states that an act is right if it maximized good³². So under deontological principles there is something wrong about lying even though it can maximize good, and there is something right about truth-telling and promise-keeping even though this might bring about harm.

²⁷ <http://en.wikipedia.org/wiki/Utilitarianism>

²⁸ Pojman, Louis P. *Ethical Theory*

²⁹ Pojman, Louis P. *Ethical Theory*

³⁰ Pojman, Louis P. *Ethical Theory*

³¹ <http://en.wikipedia.org/wiki/Deontological>

³² <http://en.wikipedia.org/wiki/Deontological>

Kant's view on ethics were such that an action was morally wrong if it acted against the principle of a person being a free and rational being, and conversely morally right if it furthered the status of people as being free and rational. Kant preached of duty to follow the latter act and a duty to avoid the former. He also distinguished between what he called *contingent duties*, which only needed be carried out under very special circumstances, and *categorical duties*, which always need to be carried out. The only true categorical duty as Kant saw it was the furthering of human freedom and rationality. He called this the *categorical imperative*.³³

3.3 Virtue ethics

This is perhaps one of the oldest ethical theories and it dates back to Aristotle and Plato. The difference from the action or duty based principles that fall under the prior two ethical theories, virtue ethics does not center on consequences but rather virtue-based ethics involves the principle, the agent, the person and the character and disposition of that person. Virtue ethics emphasizes what makes a good person, rather than what makes a good action.³⁴

As mentioned Virtue ethics, like much of Western tradition, originated from ancient Greek philosophy. Plato's Symposium includes a discussion of virtue. Here four major virtues are presented known as the Four Cardinal Virtues; prudence, justice, fortitude and temperance.³⁵

Aristotle further categorized virtues as moral and intellectual. He presented nine intellectual virtues, the most important being Sophia (theoretical wisdom) and phronesis (practical wisdom).³⁶ The moral virtues included the Four Cardinal Virtues described above.

The purpose of living a virtuous life according to Aristotle was to achieve a state of Eudaimonia, or human flourishing. This is the ultimate end state of human life, and is characterized by the well-lived life. In order to achieve eudaimonia one has to adhere to and

³³ <http://en.wikipedia.org/wiki/Deontological>

³⁴ http://en.wikipedia.org/wiki/Virtue_ethics

³⁵ http://en.wikipedia.org/wiki/Virtue_ethics

³⁶ http://en.wikipedia.org/wiki/Virtue_ethics

practice the virtues, which in modern virtue ethics has translated into habits or qualities that allows for a person to succeed at their purpose.³⁷

³⁷ http://en.wikipedia.org/wiki/Virtue_ethics

4.0 Marketer's responsibilities

This chapter deals with the responsibilities of marketers from an ethical point of view. It also raises some ethical concerns of Internet marketing.

Marketers have a responsibility to provide the public with information on products and services so that they are best suited to make autonomous and well educated choices on products and services that maximizes their utility. Ethical marketing then “involves practices that emphasize transparent, trustworthy, and responsible policies and actions that exhibit integrity and fairness to customers and other stakeholders”³⁸.

Looking at this from an ethical theory perspective there are two distinct ways of viewing how the marketer might adhere ethicality within their profession.

4.1 A deontology of marketers³⁹

As mentioned previously, the deontological view sees the act it self as either ethical or unethical. In the case of marketers then we can claim that deontology becomes rules for best behavior. Many businesses today have instilled codes of conduct for how to act in the marketplace. These rules guide the individual employee, as well as the corporation as a whole on how to market the product so that it preserves the interests of customers and other stakeholders.

Codes of conduct can however be flawed because they are not specific enough as to what constitutes ethical behavior. Words such as integrity and honesty are often repeated in codes of conduct, but can seem ambiguous at best if not misleading. It does not give a specific definition on how to achieve these standards and in some cases might only set a minimum acceptable standard for which there are many loopholes.

³⁸ Klein et al. *Ethical Marketing: Looking on the bright side*

³⁹ Thompson, Mike. *Marketing Virtue*

In other cases however codes of conduct can be effective at setting ethical standards for best behavior. One example from the Advertising Standards Authority seems to be more explicit in its wording: “Advertisers are called on not to exploit the credulity, lack of knowledge or inexperience of consumers”⁴⁰. They also say that “advertisers should not “mislead by inaccuracy, ambiguity, exaggeration, omission or otherwise”.

Perhaps the most comprehensive codes of conduct are those provided by the American Marketing Association. They have lists of best behavior for promotion, distribution, pricing and marketing research. The AMA also has a code of ethics for marketing on the internet:

*Internet marketers’ professional conduct must be guided by*⁴¹:

- 1. Support of professional ethics to avoid harm by protecting the rights of privacy, ownership and access*
- 2. Adherence to all applicable laws and regulations with use of Internet marketing that would be illegal, if conducted by mail, telephone, fax or other media*
- 3. Awareness of changes in regulations related to Internet marketing*
- 4. Effective communication to organizational members on risks and policies related to Internet marketing, when appropriate*
- 5. Organizational commitment to ethical Internet practices communicated to employees, customers and relevant stockholders*

Many companies have codes of conduct, and they are more or less specific. A major problem however, and one that is multiplied by the Internet, is that of enforcement. The lack of an international standard and the lack of an independent international body of accountability makes the reliance on individual codes of conduct alone extremely inefficient in the quest for best behavior within, and across industries.⁴²

A different view of marketing ethics is that of the marketer as a moral agent.

⁴⁰ Thompson, Mike. *Marketing Virtue*

⁴¹ Bush et al. *Ethics and Marketing on the Internet: Practitioners’ Perception of Societal, Industry and Company Concerns*

⁴² Thompson, Mike. *Marketing Virtue*

4.2 The virtuous marketer⁴³

The virtue approach to marketing ethics focuses both on the moral character and the motives of marketers⁴⁴. The virtuous marketer has the responsibility of acting as a moral agent. That is the marketer needs to make judgments about the ethical nature of the marketing mix and the brand communication. The ethical performance of the individual must be examined through training and appraisal systems. This is something which a deontological view might not manage because it sets up rigid rules, or codes of conduct.

Being a moral agent the marketer can put him or her self in the position of the receiver of the marketing message and empathize with the recipient. The questioning of the morality of the message can aid the marketer in becoming more truthful, honest and deliver a message that fulfils a real demand, at the maximum utility.

W. D. Ross (1930) set out six guiding principles to best behavior. These can very easily be adopted by marketers in their quest for morality. These principles are in actuality duties that the individual has in order to be a virtuous person⁴⁵.

1. The duty to honesty
2. The duty to exactitude
3. The duty to gratitude
4. The duty to justice
5. The duty to self-improvement
6. The duty no to place the health or safety of others in danger

Honesty and exactitude in marketing goes directly to the question of deception. Many marketing campaigns have been wrought with misrepresentation, misguidance, or omission which can have an adverse effect among the target audience. The content of certain products, the promises made or the safety of use can be areas where honesty and exactitude have an effect.

⁴³ Skinner, Heather. *Towards a Typology of Virtuous Marketing*

⁴⁴ Thompson, Mike. *Marketing Virtue*

⁴⁵ Thompson, Mike. *Marketing Virtue*

The marketer should also take into consideration all the various stakeholders, and the roles they play with regards to the product or the service being offered. The duty to gratitude as well as that of justice, applies in this case. By upholding their duties to justice the marketer can also steer clear of manipulative and exploitative practices.

These duties are best described by Ben & Jerry, the American ice-cream makers:

“Traditional marketing falsely attributes desirable qualities – sexiness, wealth, coolness, power – to products and brands through the use of techniques, like advertising, that have no real value to people or society”⁴⁶.

The duty to self-improve is another important aspect in the creation of a virtuous marketer. This deals with the responsibility one has to the development of character and can be promoted through exemplary ethical leadership and training programs as well as higher business education.

Finally, the duty one has not to place anyone’s health or safety in danger is essential to become a virtuous marketer. This also addresses the duty to honesty and exactitude in that the use of manipulative, exploitative advertising or the misguiding, omitting, or misrepresentation of facts must be avoided.

⁴⁶ Thompson, Mike. *Marketing Virtue*

5.0 Online Trust

One of the most debated issues with regards to the web is that of trust. How can we trust that the online vendor will deliver the right product? Can we be sure that our credit card information or personal information isn't shared with others online? Are our children safe from online predators who seek to take advantage of them in one way or another?

These are all valid questions that have been raised time and time again. Particularly in the infancy of the Internet and when online commerce started picking up were these real and valid concerns. Because the Internet was such a new medium there were people or organizations who saw the opportunity to take advantage of a yet to be tested and secure system. Some of these transgressions were obviously of a criminal nature, but many found themselves in that large grey area of ethical judgment.

In an article in the *Journal of Business Ethics* Victoria D. Bush et. al. questioned several marketing executives to gauge the perception of ethics at the societal, industry and organizational levels. The research came up with several very distinct ethical issues with regards to the Internet. They are in order of frequency of response:

1. Security of transactions
2. Illegal activity (fraud, hacking)
3. Privacy
4. Honesty/truthfulness
5. Judged by the same standards as other medium
6. Pornography
7. Product warranty
8. Plagiarism
9. Targeting children
10. Unsolicited e-mail
11. False advertising

It is worth mentioning that this was an article published in 2000 so there is reason to believe that security measures on personal computers is improved. However, the topic of security and privacy is a recurring theme with Internet use. Users of the Internet are still concerned that the personal information they provide online will be secure from abuse from third parties, and

that credit card information will remain with the entity with whom you made the initial transaction.

This might not be unwarranted concerns because many web sites do not disclose what they do with the personal information, in addition there is a whole new business entity online that makes their profits selling e-mail listings and such to businesses who seek to more effectively reach their target audience.

The Internet has increased the opportunity for marketers. Not only is this a new un-chartered medium it also functions as an advertising channel as well as a point of sales. By expanding a business from purely bricks-and-mortar to bricks-and-clicks you have increased the venue for reaching your target audience. But in addition to the opportunities, marketers have the obligation to shape this new medium to adhere to ethical standards that apply in the physical world. The lack of ethical standards, especially international standards, has left the Internet wide open for those with little moral fortitude, so it is up to those who wish to serve their stakeholders by acting according to ethical standards.

5.1 Effects of trust

What are the potential benefits of achieving trust on the Internet? E-loyalty⁴⁷ is a term that has come up in recent years. This is a term that describes the action of returning to a website for future transactions. By achieving e-loyalty a website can receive a lot of free advertising. Web-of-mouth is a furtherance of the more traditional word-of-mouth, and it is infinitely more effective than the traditional form. Information online spreads instantaneously and so does rumors, gossip, hot tips and whether or not a website is good or bad. If a website is repeatedly seen to break some moral code or doing something against the good of the people who visit it this is information that can be disseminated throughout the web instantly, and cause the website to loose business. At the other hand by creating an ethical climate you as a business online can achieve competitive advantages such as better reputation, increased sales and market share and higher profits.

⁴⁷ Reichheld and Schefter. *E-loyalty: Your secret weapon on the web*

Trust and e-loyalty has an effect on how much personal information the customer is willing to share with you⁴⁸. The more you know about your customer the better suited you are to meet their demand with a solution that maximizes their utility, which again might lead to repeat business and positive web-of-mouth. This positive spiral is unachievable with constant violations of ethical standards and therefore an incentive to online marketers and businesses to change their policy.

⁴⁸ Reichheld and Schefter. *E-loyalty: Your secret weapon on the web*

Part II: Frame of reference

6.0 Frame of reference

6.1 The Virtuous Marketer: A utopia or a question of conviction

There is much to be said for the different ethical perspectives I have presented in this paper. All three have as their main purpose to better human beings actions towards each other and society. Whether it be maximizing utility, defining the act it self as ethical or becoming an overall more virtuous person they all aspire to define something that is ultimately indefinable. The reason I believe it to be indefinable is the very nature of ethics. It is not a mathematical equation or a chemical formula, but rather people's view of what constitutes good behavior or pleasure and happiness. One can only adapt values that to you see as good and decent, but they may be judged differently by others because of the outcome of those choices or even the choice themselves. The biggest pitfall as I see it to establishing an ethical standard is that of culture. The reason we have so many different definitions and starting points for evaluating why an act or an outcome is ethical is because of differences in culture. Let's take the practice of gift-giving. In many Asian and Latin-American countries gift-giving is a sign of respect and that one wishes to get to know ones business partners as well as a sign that you are serious about the relationship you are about to embark upon, while some Western countries view gift-giving as bribes and therefore something to shy away from or at least deal with extremely carefully. The gift is viewed differently by the two sides because the inference drawn from the act of giving something to a potential partner is different. A gift has a positive connotation while a bribe has a negative one, and this is a result of a definition of what is ethically right and wrong.

So if the question of ethics is indefinable and the problems seem insurmountable why then even have a discussion around it and a definition of it. In my mind it isn't so much a question of definitions and rules as it is what I believe to be good ethical behavior. I am a firm believer that all humans are essentially good, but are corrupted at different junctions in their lives and therefore are unable to always make good ethical decisions. I think they still have that notion of what constitutes good ethical behavior and could make the "right" choice, but choose not too for various reasons.

When it comes to marketers I don't see the situations as any different. They are simply humans who are able to recognize what constitutes good ethical behavior and an ethical marketer and either choose to abide by that or not, for what ever reason. This is essentially what the virtue ethics teach us that a person can strive to be a virtuous person in every thing they do. This is easily transferred to marketing because what constitutes a virtuous person outside of business is the same as within the business realm.

There is still the problem of defining what a virtuous person or marketer is. I know what I believe it to be but it is infinitely hard to describe. I have therefore borrowed from the American Marketing Associations' statement of ethics to give an idea of some of the values a virtue marketer must possess and act on in their interaction with all the stakeholders they affect.

6.2 Ethical Values⁴⁹

Honesty – to be truthful and forthright in our dealings with customers and stakeholders

Responsibility – to accept the consequences of our making decisions and strategies

Fairness – to try to balance justly the needs of the buyer with the interest of the seller

Respect – to acknowledge the basic human dignity of all stakeholders

Openness – to create transparency in our marketing operations

Citizenship – to fulfill the economic, legal, philanthropic and societal responsibilities that serve stakeholders in a strategic manner.

I believe these values represent the essential ingredients to become a virtuous marketer. They embody the characteristics that enable a marketer to care for all the different stakeholders so that no-one is made to suffer during any encounter with the marketer.

⁴⁹ <http://www.marketingpower.com/content435.php> (AMA Statement of Ethics)

Honesty is a critical aspect in marketing. I believe a marketer has the obligation to be honest in every aspect of business. This is an area where many find loopholes, because omitting certain details or twisting the facts to fit a marketing campaign or make the product seem more appealing might not be viewed by some as un-ethical, but in truth to be a truly virtuous marketer should not be used as a tool to manipulate any of the stakeholders. Honesty should also be viewed proactively, that is to say one should be honest from the start of a marketing campaign or design and production of a product and not merely used reactively when someone has found a fault.

Responsibility is another critical aspect that is closely linked to honesty. If the marketer takes full responsibility for their actions and decisions they need to be honest about it from the outset, but also acknowledge their responsibility to always be honest. It is difficult to theorize every conceivable situation that warrants scrutiny over who's responsible or not, but I feel it is uncomplicated for the marketer to carefully review his or her actions and the information they possess and determine whether or not they had the responsibility to act on it or not. Whether they do so or not is what separates the virtuous marketer from the rest.

Fairness within the field of marketing is as the definition rendered by the AMA, the obligation that marketers have to balance justly the needs of the buyers and sellers. It should be an easy matter to discern if one of the two, or any other stakeholder, receives an unfair advantage in any given transaction. This is a topic that is also closely linked to the previous two, honesty and responsibility, and if the three are followed should fulfill each other.

Respect is a fairly easy component of the value system provided by the AMA to acknowledge. If you treat your stakeholders the way you would want them to treat you there should be few transgression of this particular topic. However, many might believe they have a higher stake in the relationship and that this therefore warrants more or less respect. This perceived asymmetry can be taken advantage of by those who do not adhere to the values represented by the virtuous marketer.

Openness is also fairly easily defined in the area of marketing, and business in general. It is the question of whether or not you have something to hide, and if you do you are probably not pursuing a perfect score with the other values in the AMA value set. Transparency is a fancy word that has become popular in business. It can mean different things but what the general

idea is, is that others can view the inner workings of a business to see that they are not breaking the law or creating unfair advantages by manipulating facts and figures to name a few things. Providing information about anything from risks and safety concerns to product development and costs as well as communicating your company's philosophy on business, and welcoming un-biased third parties to investigate your practices can fall under the category of transparency. Some organizations hide behind security concerns related to patents or especially efficient business practices and I'm not suggesting that product secrets that are vital to the business need to be shared, but some things may be omitted under the cover of trade secrets because the truth can be uncomfortable. The criteria for whether information that was presented to the public could damage the company because it was related to patents or secret recipes or because it was embarrassing for other reasons should not be difficult to determine and the virtuous person would not have a problem discerning what falls in to which category.

Citizenship is a far more complex topic to cover. What can be said to be the corporate responsibility, as well as personal responsibility of any employee is to fulfill the requirements for economic, legal, philanthropic, and societal areas of concern with regards to every stakeholder. This can range from ensuring that the environment and the community in which you operate is taken care of as well as to help further the area of marketing to make sure it always strives to better itself.

I have covered some of the topics that I feel best embodies what a virtuous marketer is, and what every marketer should strive to accomplish. But are these unreachable ideals that in the cut-throat world of business today simple constitute a utopia. I'm afraid the answer is yes because the extrinsic awards of not adhering to such values all the time are greater and of more importance than the intrinsic award of becoming a virtuous person. I might seem an idealist when I say that I wish it wasn't so, but I also firmly believe that things can change because a person who has a conviction to better the profession of marketing, and him- or her self in general, can use these values to guide their actions.

Part III: Method and Research

7.0 Method: Case

I have chosen to use the case method for my thesis. The case study is a research strategy not linked to any particular type of evidence or method of data collection. Instead of using large samples and following strict procedures to examine a limited number of variables the case study involves in-depth studying of a single instance or event; a case. They provide a systematic way of looking at events, collecting data, analyzing information, and reporting results.⁵⁰ The case method of research has historically been viewed as an inferior qualitative research method. Some researchers like Robert K. Yin find this stereotype to be erroneous because researchers might have misunderstood the methods' strengths and weaknesses and that in fact may have great potential as an exploratory design for future research.⁵¹ The flexibility offered by the case study can greatly increase the researchers understanding of the event it self, as well as the potential underlying causes for the event. The case can in and of itself offer great insight both for the actors involved in the case but also for students and professional from a variety of fields.⁵² Future research can also be more clearly determined as well as potential problems that may surface in the future.⁵³

The case study also describes events in a framework within an environment. This can provide the researcher with a more profound understanding of the event. This understanding can more easily be used to hypothesize about causality for future research. The flexibility of the case study may lead to ambiguity as to the problem at hand, especially during the preliminary stages of the study, but problems emerges as the case material is subjected to analysis. A conclusion is not necessarily stated nor is the situation reached in the case irreversible, but rather the case can highlight further issues for analysis or research which might be just as valuable as what the initial case study set out to uncover.⁵⁴

I have chosen to include three cases in this thesis. They have been chose based on my perception of their value in order to highlight ethical issues in online marketing, as well as potential ethical issues with off-line marketing that might be accentuated when taken online.

⁵⁰ http://en.wikipedia.org/wiki/Case_method

⁵¹ Yin, Robert K. *Case Study Research: Design and Methods*

⁵² Ims, Knut O. *Budsjettering i teori og praksis. Spesialoppgave ved høyere avdelings siviløkonomeksamen*

⁵³ http://en.wikipedia.org/wiki/Case_method

⁵⁴ http://en.wikipedia.org/wiki/Case_method

The cases are both illustrative and narrative in style which means they aim at describing a domain or making the unfamiliar familiar, and gives the reader a common language about the topic. They also aim at describing situations that can be seen as belonging to similar categories, in this case ethical issues of marketing with an emphasis on the potential effects of online marketing.⁵⁵

The three cases describe varying issues that highlight the complexity of doing business online. There are many blurred lines that make for both opportunities and threats. Opportunities for those of questionable ethical or legal standing who might wish to take advantage of loopholes, missing legal precedence or generally un-chartered territory. The threat is to those who wish to use the Internet as a tool to further their business in an ethically and legally sound manner. They can fall prey to speculative action by others or miss opportunities because other players in the market might have hedged their bets by acquiring space online through speculation.

The three cases include Yahoo!'s legal bout in France over Nazi memorabilia made available through their auction site. This was a question of ethicality and freedom of speech and as we shall see a highly debated topic.

The second case is one of competing universities in the US over domain name. This is a case of ceasing an opportunity that existed at the time in acquiring a domain name in order to get more visitors, but in essence boils down to a question of unethical behavior to gain a competitive advantage.

The third case involves the creation of software that makes it harder to decipher who created the online content so as to uphold the anonymity of the person or persons. The question here is whether the software itself is ethical and/or the use of the software is ethical.

I will give an in-depth description of the three cases as well as a thorough analysis of the ethical questions they invoke.

⁵⁵ http://en.wikipedia.org/wiki/Case_method

8.0 Empirical research

8.1 Case 1: Yahoo! and the promotion of hatred⁵⁶

The Internet has become the gathering place for people of similar ideologies and faiths around the world. The instantaneous access and availability for communication is what makes the Internet unique as well as a problem when dealing with questionable ideas. One of the major problems that arose in the later parts of the last century was that of objects on e-commerce sites that promoted hatred. Nazi memorabilia and items related to other rights wing extremists such as the Ku Klux Klan outraged the general public.

8.1.1 The protests see results

As a consequence to the uproar voiced by the public, online commercial sites such as Barnesandnoble.com and Amazon.com discontinued their sales of items such as Mein Kampf on their German sites. This was also a reaction to the actions taken by the Simon Wiesenthal Centre in Los Angeles who notified the German Ministry of Justice that the companies might be in violation of the Federal Republic's laws against hate literature.

eBay was another e-commerce site that attracted public outrage because of the availability of Nazi memorabilia and items related to the Ku Klux Klan. They also decided to adhere to the resentment felt by the majority and said: "eBay will not become a platform for those who promote hatred toward their fellow man".⁵⁷

8.1.2 Yahoo! in trouble

Although Yahoo! had acceded to some of the demands made by the U.S.'s Anti-Defamation League (ADL) to remove questionable material related to White Pride clubs on their site they refused to establish broad pre-emptive standards for user-generated content. Despite their own "Terms of Service" which prohibited users from posting content of racially, ethnically or

⁵⁶ Marc Le Menestrel, Mark Hunter, Henri-Claude de Bettignies. *Internet e-ethics in Confrontation with an Activists' Agenda: Yahoo! on Trial*. 2002 in "Cases in Business Ethics" by David J. Sharp 2006

⁵⁷ Menestrel et.al

otherwise objectionable nature, they did not establish pre-emptive standards for user-generated content for fear of accusations of censorship.

In February 2000 Marc Knobel, a Paris-based researcher for the Wiesenthal Centre, discovered 800 Nazi-related items for sale on yahoo.com. Of the most atrocious he found what was described as “museum quality replica” Zyklon B. This is the poison gas that was used to execute prisoners in Auschwitz. He decided to put pressure on Yahoo! to remove these items from the auction site and with the help of French Lawyer Stephane Lilti started a pressure campaign led by the Union of Jewish French Students (UEJF), and the International League Against Racism and Anti-Semitism (LICRA). The campaign began on February 17, 2000 in the weekly Paris-Match and a subsequent article in L’Express was forwarded by Yahoo! France’s general director, Phillipe Guillanton to Yahoo! Inc. There was no reaction from Yahoo! Inc. to the article and no contact was made by Yahoo! to LICRA even though LICRA threatened to file charges in France if the Nazi items were not removed within eight days. Three days after the letter was forwarded to Yahoo! Inc. Yahoo! France learned in the press that they as well as their parent company were being sued.

8.1.3 Yahoo! stands trial

The French trials got under way in April and May of 2000 and the demands made by the plaintiffs were that Yahoo! be fined 100,000 Euros (\$90,000) for every day the sales of Nazi objects continued. Further demands included the removal of all links to “negationist” (Holocaust denial) websites from Yahoo! France, and eliminating two sites that offered the text of Mein Kampf on Yahoo! Inc.’s geocities.com subsidiaries.

Yahoo! Inc.’s response to LICRA president Patrick Gaubert was one of a principled stance: “Yahoo! applauds the mission of your organization and in no way does Yahoo! endorse anti-Semitism or racism of any sort. In fact, as you may recall, Yahoo! France has cooperated extensively this year with LICRA regarding your concerns about Nazi-related items.... Within the bounds of the law of the 23 different countries in which our international properties are located, we promote freedom of expression and choice and Yahoo! believes it should not act as a political censor.... in the U.S., the removal of such items would be

considered censorship and treated by many as more offensive than the isolated postings themselves”.⁵⁸

This statement is a perfect example of the view taken by Yahoo! Inc. on what they see this case to be about. They do not agree that by allowing Nazi memorabilia or other such items to be available on their auction sites they are in fact promoting hatred, rather they view this as a case of freedom of speech, of expression and does not want to be viewed as a political organ that censors those who wish to express themselves through their websites. This received a great deal of media coverage in France, but the rest of the world did not seem to be as interested by it.

8.1.4 The first hearings: May 15-22, 2000

The first hearing in the Tribunal de Grande Instance de Paris started on May 15, 2000. The plaintiffs counsel argued that Yahoo! had taken no action to remove these offensive items, while the defenses’ counsel argued that firstly such a removal was technically impossible and that since those who entered the yahoo.com website undertook a virtual tour and that there was no offense taking place in France.

“On May 22, Judge Jean-Jacques Gomez ruled that though the unintentional character of Yahoo!’s fault was evident, the sales were nonetheless an offense to the collective memory of a nation profoundly wounded by the atrocities committed in the name of the Nazi criminal enterprise.”⁵⁹ He also ruled that the technical difficulties that faced Yahoo! in removing said items did not constitute “insurmountable obstacles”. He ordered Yahoo! to remove all Nazi items for online sales and to render impossible future such postings on Yahoo!’s websites.

The ruling in the French court led to international coverage of the case and serious damage was inflicted on the Yahoo! brand.

⁵⁸ Menestrel et. al.

⁵⁹ Menestrel et. al.

8.1.5 Yahoo! counters

On June 16, 2000 co-founder of Yahoo! Jerry Yang appeared in an interview in *Libération* where he claimed that it was firstly naïve to think that one could render a verdict on a website nationally that had international affiliates and that the French court had no jurisdiction over an American enterprise and could therefore not order Yahoo! to remove such items from their other websites. Yang then made a plea for a free cyberspace and that favoring one group of people over another is wrong.

8.1.6 Technical difficulties discussed

On July 24, 2000 the defense counsel for Yahoo! informed Judge Gomez that Yahoo! could not obey the order of the court due to the fact that the order ignored the Internet as a free space for speech and expression. Yahoo! would however advise French visitors to their websites that content on the U.S. site might be in violation of French law.

On August 11, Judge Gomez named a college of experts to discuss the technical difficulties that might exist in carrying out his order. They agreed that no technical measure could prevent internet users from accessing offensive types of information, but that 80 percent of French visitors could be identified using various techniques. They did however provide a cautionary remark in that such monitoring of the Internet was a dangerous move towards a Big Brother society.

8.1.7 Final verdict

“On November 20, Judge Gomez ruled that Yahoo! was avoiding a moral and ethical exigency that all democratic societies share”.⁶⁰

His previous ruling was not amended and Yahoo! was ordered to make the changes within three months or face a \$13,900 per day fine thereafter.

⁶⁰ Menestrel et. al.

8.1.8 Changing jurisdiction

Yahoo! feared that an appeal in French court would not go through so they changed venue by filing a complaint for declaratory relief in a U.S. court. They did this because the U.S. courts are the only ones who can rule on U.S. businesses with U.S. assets. They believed that their first amendment rights (the right to free speech) would be a strong defense and thereby shifting the debate from Nazism to free speech.⁶¹

However, on January 6, 2001, Yahoo! Inc. announced the removal of all objects related to Nazism from its auction sites, except for 140 collectible coins, stamps and anti-Nazism books and films.

⁶¹ Menestrel et. al.

8.2 Case 2: WWW.CENTRALMBA.COM⁶²

8.2.1 Prelude

Dave Newman, an Associate Dean at Central University found himself in a quandary when he typed in the URL www.centralmba.com and ended up on the Website of Central University's closest competitor, State University.

These two schools were in fierce competition over students for the Executive Education programs.

8.2.2 Executive Education

Executive Education is an intensive, part-time educational program, that last from one to three weeks and does not award a university degree for completion. Program participants are usually middle- or upper-level managers in large organizations who do not hold a graduate degree.

In 1999, the cost for top-tier non-degree programs was approximately \$6,000 per week, including meals and accommodations and a variety of social and recreational activities. If we look at the contrasting full-time MBA programs they cost between \$12,000 and \$15,000 per year. So the competition for participants in the Executive Education programs is fierce.

8.2.3 Central vs. State

The competition between Central and State University had started in the early 80s when State entered the two week executive education market with non-degree programs in human resources management and industrial relations. State had also hired several faculty members from Central to teach on a part-time basis. Due to increasing demand for these executive education programs State expanded their portfolio to include programs in general management, marketing, operations, finance, and strategy.

⁶² Prepared by Professors Michael Parent and Robert J. Fisher 1999 in "Cases in Business Ethics" by: David J. Sharp 2006

State and Central's programs differed in some ways. State used faculty from several different academic institutions as well as from the private sector while Central only used faculty from their own institution. The method of teaching was also different. Central made use of a case based method of teaching, which required the application of broad skills, concepts and approaches on core issues to real managerial problems. State on the other hand placed much more emphasis on lecture based teaching and class-room discussions.

The two schools also differed somewhat in their method of marketing. Both had an internet presence and provided glossy pamphlets with relevant information, but State used a more aggressive marketing approach and made claims such as being the number one school for MBA's as well as comparing itself to leading international business schools. They had also initiated a campaign where they offered a video executive MBA program in Central's hometown.

Newman recognized that the aggressive approach by State threatened Central's market leadership and that the competition between the two schools for the \$ 350 million a year pot would only increase. Even though the industry was highly profitable the overall growth was flat so an increase in market share by State would undoubtedly capture profits from Central.

8.2.4 Metatagging, IP Addressing and Cyberstuffing

In order to understand the root of the problem I have to explain some of the technical intricacies that cause them. The fact that State used an URL that resembles one that Central might use is not a clear cut question of right and wrong and the outcome of a fight over rights to the URL is (at least at the time) not obvious.

8.2.5 HTML

Hypertext Markup Language or HTML, was developed to publish information on the Internet using Web browsers such as Internet Explorer or Netscape. HTML allows for easy embedding of images into a document. One of the most important components of HTML is what is known as "tags", which are special codes that instructed the Web browser on where to insert

page breaks, images, and new paragraphs. These tags can not be seen on the web page by the reader but can be viewed using a browser's "View source" function.

One special type of HTML tag is what is known as a "meta-tag". The meta-tag contains information about the author of the HTML document as well as its expiration date, its version date. Perhaps most importantly they include a description of the content of the Web page as well as a list of keywords describing the page. This is important because these are the keywords that search-engines look for to match those you have put into the search field.

One way of trying to fool the search engine was to include as many meta-tags or keywords as possible on their website thereby ensuring that their Web page would be included in the top five or ten hits on a search engine. This practice is known as "cyberstuffing" and was especially efficient in the earlier years of the Internet. Today, most search engines disregard meta-tags altogether or use them in conjunction with their own rules for categorizing Web pages.

It is however still possible to take advantage of meta-tags by including and registering alphabetic addresses or "domain names", that were permutations of the company name in order to ensure that users reached their pages. An example might be that Ford included the names "Ford," "Lincoln," "Mercury," "Mazda," "Volvo," "Jaguar," "Land-Rover" or any specific model car from one of the brands to ensure that viewers ended up on their Web page.

8.2.6 Registering Domain Names

The domain name system (DNS) was created by the Internet Society (ISOC), a joint government-industry governing body regulating the assignment of domain names on the Internet. As of 1999 the most popular naming authority was the Internet Network Information Centre (InterNIC) run by Network Solutions Company. They held the license over all cite names ending with the popular ".com", ".net" ".org" and ".edu" suffixes.

To register a domain name you simply filled out an application online at the Network Solutions Web cite and paid a registration fee of \$100. There was also a yearly renewal fee of \$100. Network Solutions did not monitor registrations but it would cancel illegitimate or

inappropriate registrations. The Web cite included listings of all currently registered domain names so that prospective customers could browse through the list to see if the name they wanted was already registered.

This listing of registered domain names led to speculation by early Internet entrepreneurs in registering names, or permutations of names of large companies so as to profit from selling it back to them later. The most famous of these is that of Joshua Quittner who in 1994 registered the name www.McDonalds.com. MacDonalDs and Quittner eventually settled out-of-court but it showed the possibilities of speculating in domain names. The practice of domain name speculation has been disallowed but remains unavoidable as in the case of Central and State.

8.2.7 Central's Reaction

A search through the Network Solutions domain name lists showed that the name www.centralmba.com had been registered by the advertising department at State. This showed Newman that it was not a malicious hack or a student prank but a deliberate marketing ploy.

As far as Newman was concerned he had two options available to him. The first was to do nothing. For students who wanted information about Central's MBA program they would most likely be annoyed if they typed in the address www.centralmba.com and ended up at States' Web cite. This could work in Central's favor because it would be obvious to prospective students that State was using "dirty tricks" to attract business. On the other hand if Central did nothing it could leave room for a lot of confusion as to the difference between State and Central, were they in fact different schools and if so why wasn't Central taking steps to correct the misunderstanding.

The second option available to Newman and Central was to take remedial action. There were of course varying degrees of actions available to them. They could at the very least make State aware of the impropriety of using tags and domain names that created x amount of confusion with the public or at the other end of the spectrum could sue State for copyright infringement. There were of course downsides to this as well because it would be time consuming and expensive and could damage Central's own marketing campaign because

Executive Education student would be discouraged from attending Universities that were involved in such activities.

8.3 Case 3: Publius⁶³

The Internet is said to be one of the last places where a person can be truly anonymous. It is the last media where we can express ourselves without the threat of censorship. This is to some extent true but there are ways that government's or law officials can track, examine, censor material online. All they would have to do is to go to the server from which the material originated and find the files they want removed as well as the people who created them and remove them effectively breaking down the barriers of anonymity and censorship that we once thought impossible.

8.3.1 The creation of Publius

On Friday June 30, 2000 the researchers at AT&T Labs announced the creation of Publius, a software program that enables the Web user to encrypt their files. This could be text, picture or music files and the way the software works is that it breaks these files up into little pieces and then stores these individual encrypted pieces on many different servers around the globe. The result of this is that anyone who might want to access these files, such as governments or law official would have to sift through dozens of servers around the world, as well as breaking the encryption code for those individual pieces of files. It would therefore render the tracking of these files impossible without the person or persons who created the file. The person or persons who created the file would however be able to retrieve the entire file by accessing the directory of his or her files on a Publius-affiliated website, and the Publius network would reassemble the file for him or her at their request.

8.3.2 Mixed welcoming of Publius

Many people welcomed the creation of Publius because it championed free speech, whilst others were dismayed because the software made it more difficult to track and identify people of questionable ethical and legal standing. An anti-pornography advocate stated: "It's nice to be anonymous, but who wants to be more anonymous than criminals, terrorists, child molesters, child pornographers, hackers, and e-mail virus punks".

⁶³ Velasquez, Manuel G. *Business Ethics: Concepts and Cases*

The creators of Publius, Aviel Rubin and Lorrie Cranor, however hoped that the Publius software would help people in countries where freedom of speech was repressed and individuals were punished for speaking out.

Part IV: Empirical analysis

9.0 Empirical analysis

The three cases described in this paper give us a glimpse of some of the complexities that surround the Internet as a medium. Some of the problems are related to multi-jurisdiction and the fact that no-one owns the Internet and therefore can not govern it. Other problems are related to the lack of legislation which leaves the door open for people or organizations to take advantage of loopholes for their own personal gain. However, the questions do not stop at the legality of the actions taken by the companies presented in this paper. It is in fact far more complicated than that and the issues of ethical or unethical behavior gives us an idea of the many shades of grey that exist in the online world.

This section is devoted to a more in-depth view of the ethicality of the actions taken by the three companies. There are marked differences between the three which can only further fuel the debate of the Internet as a communications medium.

9.1 The main issues

Yahoo! was a landmark case that sparked a debate of limitations of the Internet. The popular opinion was clear that the promotion of hate, be it white supremacist websites or Nazi memorabilia, would not be tolerated on commercial websites such as yahoo.com. Although other websites had voluntarily put restrictions on who could post messages or items on their websites the Yahoo! case helped set a precedent as to what would be accepted. This is as I see it also a landmark case because many were unsure as to the constraints relating to the Internet. What is allowed? Who governs the Internet? Who is protecting us? These are questions more easily answered in the physical world, but more diffuse in the online world and the case against Yahoo! provided the less initiated with a clue as to what would be tolerated.

The Yahoo! case is however more complicated from an ethical perspective. Yahoo! vehemently argued for the Internet as a sanctuary for free speech and for it being governed by no man. They did not argue that the items of Nazi memorabilia were seen as offensive in France, nor did they want to lessen the impact that the Nazi's had on France but they fervently believed they needed to champion the cause of a free Internet. Seeing this from an ethical perspective there are certainly pros and cons to both sides, although most of us would at first

glance side with the French, I mean who would need Zyklon B anyway. Seeing it in light of the argument for free speech and self-regulation however, the shades of grey start to emerge. Yahoo! saw it as their mission to make the Internet a forum for people to communicate freely without government censorship and thereby needed to take the stance of refusal to remove the items in question.

The case of Central versus State universities is a more clear-cut case of one organization taking advantage of a loophole in a system that was not yet clearly defined from a legislative point of view. State endeavored to increase their competitive advantage in a battle for very lucrative clients and therefore used “dirty tricks” to acquire them. This shows the lengths people and organizations are willing to go in order to secure their business and the difficulties the rapid development of the Internet brought with it. From an ethical point of view there are few grey spots in this case but rather two sides, right and wrong, black and white.

The case of AT&T Labs, and Publius, is also beset with contradictions as to the legitimacy of the software produced. This is a case of whether or not the benefits outweigh the costs related to the question of anonymity and freedom of speech. Who benefits most from this software? Is it people in third world countries who observe human rights violations and that have not means of safely communicating this or is it child pornographers who wants to continue their business online without the fear of being prosecuted? These questions are difficult to answer and present a slippery slope because outlawing anything that has a potential downside or could be misused by people of a less than admirable ethical standing is in reality impossible. Should for instance cars be outlawed or car manufacturers be penalized for their cars being used in drive by's or bank robberies, or should knife manufacturers be targeted for their knives being used in sexual assaults?

From the case it was clear that the creators of Publius wanted it to be a tool for instance for people in third world countries who needed to express themselves freely but couldn't due to fear of government persecution, and in general to enhance free speech online.

The three cases illustrate both the difficulties of defining an action online and the stand the three companies had from an ethical perspective. It is clear that both Publius and Yahoo! followed an “ends justifying the means”, or consequentialist approach because the consequences of their actions were an Internet with free speech for everyone and not censored

by anyone. Their definition of an end might not be what others consider a justifiable end but from their perspective what they did was within an ethical framework. One can also argue that they acted within a rule based system of ethics, because their convictions led Yahoo! to allow certain items to be sold through their website and create a software, Publius, that had certain characteristics because they wanted to champion freedom of speech and a free Internet at all cost.

State University also clearly followed a utilitarian or consequentialist approach, although I doubt they had really sunk their teeth into a profound ethical debate before taking action. They saw an opportunity and took advantage of the situation without regard for the ramifications for them or their competitive school.

9.2 Effect of actions

An important aspect that needs to be discussed is the outcome or potential outcome of the actions taken in the three cases. It is important because it helps shape public opinion as well as future actions for the three companies and sets precedence for future actions by other companies. This can also be seen as shaping how companies view actions taken online from an ethical perspective.

The Yahoo! brand clearly took a big hit when the trial became public. Their refusal to budge on the issues at hand did only hurt them with the public regardless of their nobler goal of a free Internet and freedom of speech. It should have been clear to Yahoo! that the public opinion believed there to be certain things that just would not be allowed online and that Yahoo! as a major player in online commerce and communication should be in the forefront of combating these things. It was a valuable lesson to both Yahoo! and other organizations similar to Yahoo! but there are bound to be more cases in the future where free speech and the Internet are on the agenda.

In the case of Central vs. State it is probably safe to say that Central came out on top. Although I do not have information on what the long term effects were on the brand names of the two schools, what we do know in the short term is that the speculation in domain names has been disallowed in the U.S. and most likely in a majority of the western world. One can

also hypothesize that the effects were more adverse in relation to State than Central because of the sheer audacity of using your competitors name in the domain name for your website. People who discovered what State had done would probably lose respect for State and thereby turn their attention to other schools such as Central, but this is merely conjecture.

The Publius software is going to find an audience irrespective of what certain special interest groups might think and feel. They offer a product that can benefit many people and that can be used for good. There are potential downsides to the software as I have described, but that is true for most of the things that surround us on a daily basis. With this in mind it is a question of personal belief whether or not one thinks they acted in an unethical manner.

9.3 Corporate Social Responsibility

Corporate social responsibility is a term that has gotten much attention in the last couple of decades. How the corporation act and relate towards their surroundings and their stakeholders is an issue that has to be acknowledged and proactively debated within the organization as well as an issue important to the public opinion. Many organizations have found it beneficial to leverage good corporate conduct in their marketing campaigns and have actively promoted their philanthropy to the public.⁶⁴ This should obviously be done with caution because falsely advocating a belief will most certainly be detected by eager investigators outside the organizations.

Corporate social responsibility is a term that I see falling under the topic of virtue ethics, because it is something that saturates the business. A corporation that seeks to act in a manner that benefits society as a whole as well as treating their various stakeholders with respect and generosity is truly aiming at fulfilling the parameters of virtue ethics.

It is difficult, if not impossible, to determine the overall level of social responsibility that exist within the business based on these individual cases. However, it seems that the ethical transgressions committed by especially State University are far more significant than Yahoo! and AT&T because they were overt and deliberate. Without drawing a definite conclusion as

⁶⁴ Stoll, Mary L. *The Ethics of Marketing Good Corporate Conduct*

to how State University operates, this can be a clue as to how they view their social responsibilities and their relationship with their competitors.

When it comes to corporate social responsibility there is much to be said for acting proactively and not just reacting to specific incidences. Clearly Yahoo! did not foresee the damage the case against them would have on their brand name, which is a potential outcome of ignoring their social responsibilities. The Publius software was bound to receive some criticism however, the creators of the software had a noble objective which took precedence over the potential negative publicity.

9.4 Internet as a technical medium vs. content

An important question to address in this discussion of ethics in online marketing is the techniques that the Internet allows for communicating with consumers.⁶⁵ One can obviously always discuss the legitimacy of the content, for example as far as the ethical issues related to selling Nazi memorabilia at all or creating a software that helps you hide information from government officials, but perhaps as important are the techniques used by the companies to communicate their offers to the public.

It is the interaction between an e-commerce business and the consumer that poses the real ethical quandary. Many of the same problems that exist with types of product as well as who is selling them exist in both the online and offline world. But the amount of interaction and personalization that the Internet allows should spark a real ethical debate within the companies that operate online.

Yahoo! is the only of the three companies in this paper that is strictly an online commerce site. They have an extremely interactive website that can be personalized to better the offer to you as an individual. This personalization goes to preferences in product categories and types so that you can receive offers of new products that are up for auction. There are also chat-rooms that allow you to share interests with your peers. The problem arises when you realize that the information you provide on the website is no longer just yours. It belongs to Yahoo!

⁶⁵ Palmer, Daniel E. *Pop-Ups, Cookies, and Spam: Toward a Deeper Analysis of the Ethical Significance of Internet Marketing Practices*

in the sense that they now can use this information to target you specifically in the hope of repeat business. Many chat-rooms are also monitored to get an understanding of you as a consumer in order to improve the offers available to the specific categories of preferences. The potential for this information being shared with others is also very real, although many companies have disclaimers that the information you provide is confidential.

The question then becomes how much information should the companies really store for each individual? If Yahoo! were to be bought by another company then that information would be available to them for use in their marketing campaign or production.

The Central vs. State case is in my mind a basic example of an opportunist that saw a loophole in a system that had not had time to catch up to the advancements in technology. The speculation in domain names became a hotly debated topic when it first surfaced as a problem for businesses who wanted to go online. The fact that it since has become illegal in many countries just goes to show that given time there will be a leveling out effect of what will and will not be tolerated online. It is however a perfect example of how the Internet has provided tools and techniques to gain an advantage that did not exist prior to the Internet, and also that there are always someone willing to take advantage of ethically dubious means to get ahead.

9.5 Codes of Conduct vs. Virtue

A majority of corporations in the western world have some sort of established code of ethics or items of good governance.⁶⁶ These guidelines have two main purposes which are to serve as a guide for the employees as to how to behave towards customers, other employees, the corporation and the outside environment as well as a justification to current and potential customers for choosing their company. The question that I have put forth in this paper is whether mere codes or guidelines are enough to ensure ethical compliance from employees and management or if an overall sense of virtue needs to be present throughout the organization in every activity performed. I realize that the term virtue is somewhat ambiguous and intangible and therefore hard to define in a business sense, but AT&T have in my mind tried to instill some of the values that are presented in virtue ethics theory. First I present their

⁶⁶ Thompson, Mike. *Marketing Virtue*

code of ethics which in their words are set forth in order to uphold their promise of integrity towards their employees and customers.

Code of Ethics⁶⁷

- *“Encourage honest and ethical conduct, including fair dealing and the ethical handling of conflicts of interest.*
- *Encourage full, fair, accurate and timely disclosure.*
- *Encourage compliance with applicable laws and governmental rules and regulations.*
- *Ensure the protection of the company's legitimate business interests, including corporate opportunities, assets and confidential information.*
- *Deter wrongdoing”*

They have also established a set of guiding principles which is more of an overall “common-sense compass”⁶⁸ for how they treat their customers, employees and all the other stakeholders in the company.

- ***“Talk Straight; Follow Through.** We earn trust by speaking clearly and honestly and by keeping promises. We adhere to the highest ethical standards in every interaction with customers, suppliers and one another.*
- ***Lead by Example.** We are leaders because of what we accomplish, not because we say so. As an industry leader, we set the standard for service, convenience and reliability. As a technology leader, we challenge ourselves to develop new and better solutions. As a community leader, we seek opportunities to expand the educational and economic benefits of communications.*
- ***Work Together.** What we do is more than just a job; it is a calling that we pursue with passion and purpose. We deliver our best results when we work as a team, take responsibility for our actions and hold each other accountable for results. We treat all people with dignity and respect, knowing that a diversity of perspectives is one of our greatest strengths.*

⁶⁷ <http://www.att.com/gen/corporate-citizenship?pid=8510>

⁶⁸ <http://www.att.com/gen/corporate-citizenship?pid=8510>

- ***Deliver Our Future.*** *We are dedicated to keeping our company strong for decades to come. We invest in the future – in our company, in our networks and in our team. We focus on creating long-term value for our stockholders, our customers and the communities in which we work.*”⁶⁹

An established set of ethical codes is important because it signals the public as well as members of the organization the intention of the corporation. This makes the corporation accountable for transgressions made to these codes and provides an incentive for working proactively against ethical misconduct. A second reason why tangible ethical codes are important is because it gives the employees something to relate to. They have parameters for their every day working situation and can avoid much of the confusion and misunderstandings that might otherwise be present. These codes also gives the employee a signal as to the accountability of upper management and can provide a reassurance for the employee that they are part of an organization that takes care of them and their responsibilities towards them, much like an extended family.

Are these codes of conduct sufficient to create an ethical corporation? Time and again we see that this is not the case. Enron, Arthur Andersen, Halliburton are but a few of the cases in recent history that illustrate grievous un-ethical behaviour. These are all large corporations that promoted ethics with codes of conduct, but for various reasons chose to overlook these. AT&T has taken the ethics debate within corporations a step further by introducing their guiding principles. These can be viewed as extensions of the golden rule which is “do unto others as you want others to do unto you”.⁷⁰ By instilling an overall virtuous standard they might be able to overcome future ethical indiscretions and create a better environment for management, employees, customers and other stakeholders. The combination of both a deontological approach as in the code of conduct and a virtue approach as in the guiding principles is a better solution than applying them individually and separate.

⁶⁹ <http://www.att.com/gen/corporate-citizenship?pid=8510>

⁷⁰ Skinner, Heather. *Towards a Typology of Virtuous Marketing*

10.0 Conclusion

The intention of this paper was not to ultimately conclude on which approach to ethics would be more valuable or more efficient. What I found was a better understanding of how different corporations view business ethics based upon their actions. This might be in stark contrast to what they have as their official policy on ethics or it might simply be that action is far more susceptible to the many grey areas of ethics than is philosophical conjecture. What I also found was that this grey area is accentuated by the Internet because the Internet has provided so many new different tools and a ground-breaking avenue for spreading information that is yet to be fully understood by all the different users.

Further the Internet is not subject to any single jurisdiction which makes it hard if not impossible to regulate. The exponential rise in websites and Internet tools have left the legislative system lagging behind, which in itself is cause for concern but also makes it a matter for the individual corporation to self-regulate. This is where a strong ethical foundation comes into play. What I intuitively have concluded in this paper is that a combination of both a deontological approach with ethical codes of conduct together with a virtue approach that tries to instill common sense ideals, or adherence to the golden rule, is the best way of achieving an ethical business.

This paper has also revealed some of the difficulties in dealing with ethics. Two of the cases presented were not clear-cut breaches of ethical principles. Like most issues they were debated from at least two sides and both sides had valid arguments for their case. One of the most debated issues regarding the Internet is that of freedom of speech and that the Internet is free for anyone who has an opinion. Although this is not absolutely true, because many countries censor certain websites and certain content, it is a valid argument both in the case of Yahoo! and AT&T's software Publius and an argument that can be viewed as ethical or unethical depending on which side you are on in the individual cases. I can't however categorically conclude for or against the ethicality of this argument because I do not know the underlying causes for the corporations making the argument. Perhaps Yahoo! did not want anything removed from their auction site because they wanted the absolute maximum amount of business they could get, or maybe AT&T simply wanted to be a first-mover with their ground-breaking new product without regard for whom might make use of it. This becomes

supposition and can not be used to conclude for or against the issue, but in an ethical debate should be included because no aspect of the case should be overlooked.

If anything this thesis has shown that ethical issues in marketing have not been simplified by the introduction of the Internet, but rather more complex issues are now facing those who use the Internet as a tool in their marketing process as well as the individual customer who make decisions bases on information they find online. Only time will tell if the Internet becomes a haven for those who wish to prey on the innocent, or if the Internet becomes a functional, cross-jurisdictional avenue for commerce.

11.0 Future Research

This thesis aimed at unearthing certain ethical concerns that might be present in online marketing. Online marketing is growing rapidly and new tools are introduced constantly in order to better reach the consumer and target the market offer. The parameters of this thesis did not allow for an in-depth study of the individual marketing tools that exist. Further research on the ethicality of individual online marketing tools would be very interesting.

The cases I have used are well suited for highlighting some ethical issues that exist in online marketing however, further research could certainly include other cases that either present other problems so as to get an even better picture of online ethics or cases that corroborate or contradict the existing work

The case-based research method is a useful tool to get an overview of the initial problems that exist and therefore a very good exploratory method. However, future research might include quantitative methods that can provide answers to questions of causality and from which one can draw an inference.

Whatever the future research method might be one thing is clear; this is a subject that requires constant attention and the importance of continuous monitoring can not be understated. The Internet will continue to grow and the marketing efforts companies will undertake will continue to stretch the envelope.

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