The Ethics in the Product Marketing

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Introduction

Everyday situations persuade us about very flexible applying of the newest scientific and technical achievements in the praxis of product marketing. All the more the product marketing represents an integration of technical, humanities and social sciences at opened European Union market. On this basis there arise many problems in the area of ethics, most of all in a situation when a producer or a seller do not take into account the ethics dimension but only a financial dimension of the product, either purposefully or subconsciously.

In our article we can solve following topics:

• Important theoretical principles of the product marketing and product marketing ethics
• Related problems and determination of the marketing ethics and product marketing ethics
• Most visible and actual ethics problems in the area of product marketing
• Identification of adequate customer protection in the European Union and in the Slovak Republic consequently.

1. The Theory “Due Care” to Customers

At the beginning it is important to describe the basic principles of the known theory due care to customers. Its fundamental content is responses to question: Exactly what do companies and organizations owe their customers? [1]

Due care theory involves:

a. Design - products and services should meet all governmental regulations and specifications and be safe under all foreseeable conditions, including misuse by the consumer
b. Materials – materials should meet governmental regulations and durable enough to withstand reasonable use
c. Production – products should be made without defects
d. Quality control – products should be inspected regularly for quality
e. Packaging, labelling and warnings – products should be safely packaged, should include clear, easily understood directions for use, and should include a clear description of any hazards
f. Notification – manufacturers should have a system in place to recalls products that prove to be dangerous at some time after manufacture and distribution.
2. Attributes of the Product Quality

The definition of product quality used here is: **the degree to which product performance meets predetermined expectation with respect to reliability, service life, maintainability and safety:**

a. **Reliability:**

Claims of reliability refer to the probability that a product will function as the consumer is led to expect that it will function. If a product incorporates a number of interdependent components, then the probability that it will function properly is equal to result of multiplying together each component’s probability of proper functioning. This is especially the case when malfunction poses health or safety hazards.

b. **Service life:**

Claims concerning the life of a product refer to the period of time during which the product will function as effectively as the consumer is led to expect it to function. The consumer implicitly understands that service life will depend on the amount of wear and tear to which one subjects the product. Consumers also base some of their expectations of service life on the explicit guarantees the manufacturer attaches to the product.

c. **Maintainability:**

Claims of maintainability are claims concerning the ease with the product can be repaired and kept in operating conditions. Claims of maintainability are often made in form of an express warranty.

d. **Product safety:**

Implied and expressed claims of product safety refer to the degree of risk associated with using of product. Since the use of virtually any product involves some degree of risk, question of safety is essentially question of acceptable known levels of risks. That is – a product is safe if its attendant risks are known and judged to be “acceptable” or “reasonable” by the buyer in view of benefits the buyer expects to derive from using the product. This implies that the seller complies with his or her part of free agreement if the seller provides a product that involves only those risks he or she says it involves and the buyer purchases it with that understanding. The seller of product has a moral duty to provide a product whose use involves no greater risks than those the seller expressly communicates to the buyer or those the seller implicitly communicates by the implicit claims made when marketing the product for a use whose normal risks level is well known.

On this basis, we provide following **recommendations for more moral behaviour with respect to customer safety:**

- Business can give to safety the priority warranted by the product
- Business should abandon the misconception that accident occurs exclusively as a result of product misuse and abuse
- Business must monitor the manufacturing process itself
- When a product is ready to be marketed, companies should have their product safety staff review advertising for safety-related content
- When a product reaches the market place, firms should make available to consumers everything related to the product’s performance in writing
- Companies should investigate consumer complaints.
3. Marketing Ethics

The marketing ethics is the area of applied ethics which deals with the moral principles behind the operation and regulation of marketing.

Practising ethics in marketing means deliberately applying standards of fairness, or moral rights and wrongs, to marketing decision making, behaviour, and practice in the organization.

Some areas of marketing ethics - ethics of advertising and promotion overlap with media ethics. Good marketing is ethical marketing - good marketing is about satisfying and developing a long-term relationship with your customers. Caring about your customers not only results in profits (or achieving your organization’s objectives if an organization is not-for-profit), it is the ethical thing to do. [3]

In the area of marketing ethics we can identify following framework attributes:

a. **Value-orientated framework** - analysing ethical problems on the basis of the values which they infringe: e.g. honesty, autonomy, privacy, and transparency.

b. **Stakeholder-orientated framework** - analysing ethical problems on the basis of whom they affect: e.g. consumers, competitors, society as a whole.

c. **Process-orientated framework** - analysing ethical problems in terms of the categories used by marketing specialists: (e.g. research, price, promotion, placement).

d. **None of these frameworks allows**, by itself, a convenient and complete categorisation of the great variety of issues in marketing ethics.

e. **Power-based analysis**: Contrary to popular impressions - not all marketing is adversarial, and not all marketing is stacked in favour of the marketer. In marketing, the relationship between producer/consumer or buyer/seller can be adversarial or cooperative. If the marketing situation is adversarial, another dimension of difference emerges, describing the power balance between producer/consumer or buyer/seller. Power may be concentrated with the producer, but factors such as over-supply or legislation can shift the power towards the consumer. Identifying where the power in the relationship lies and whether the power balance is relevant at all are important to understanding the background to an ethical dilemma in marketing ethics.

In this part we can focus on specific issues in marketing ethics:

a. **Market research**
   Ethical danger points in market research include:
   
   ◊ **Invasion of privacy**
   
   ◊ **Stereotyping:**
   * Stereotyping occurs because any analysis of real populations needs to make approximations and place individuals into groups.
   * However, if conducted irresponsibly, stereotyping can lead to a variety of ethical undesirable results.

b. **Market audience**
   Ethical danger points include:
   
   * **Targeting the vulnerable** (e.g. children, the elderly).
   * **Excluding potential customers from the market**: selective marketing is used to discourage demand from undesirable market sectors or disenfranchise them altogether.
Examples of unethical market exclusion or selective marketing are past industry attitudes to the gay, ethnic minority and obese ("plus-size") markets. Contrary to the popular myth that ethics and profits do not mix, the tapping of these markets has proved highly profitable. For example, 20% of US clothing sales are now plus-size. Examples of marketing which unethically targets the elderly include: living trusts, time share fraud, mass marketing fraud and others. In the case of children, the main products are: unhealthy food, fashion ware and entertainment goods.

Other vulnerable audiences include emerging markets in developing countries, where the public may not be sufficiently aware of skilled marketing ploys transferred from developed countries, and where, conversely, marketers may not be aware how excessively powerful their tactics may be.

The definition of vulnerability is also problematic: for example, when should indebtedness be seen as vulnerability and when should "cheap" loan providers be seen as loan sharks, unethically exploiting the economically disadvantaged.

c. **Pricing ethics**

Following list presents unethical pricing practices:

- Price fixing
- Price skimming
- Price discrimination
- Variable pricing
- Predatory pricing
- Supra competitive pricing
- Price war
- Bid rigging
- Dumping (pricing policy)

d. **Ethics in advertising and promotion**

Tab.1: Ethical Pitfalls in Advertising

<table>
<thead>
<tr>
<th>ETHICAL PITFALLS IN ADVERTISING AND PROMOTIONAL CONTENT</th>
</tr>
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<tbody>
<tr>
<td>Issues over truth and honesty:</td>
</tr>
<tr>
<td>◊ In the 1940's and 1950's, tobacco used to be advertised as promoting health.</td>
</tr>
<tr>
<td>◊ Today an advertiser who fails to tell the truth not only offends against morality but also against the law.</td>
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<tr>
<td>◊ However the law permits &quot;puffery&quot; (a legal term).</td>
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<tr>
<td>Issues with violence, sex and profanity:</td>
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<tr>
<td>◊ Sexual innuendo is a mainstay of advertising content (see sex in advertising).</td>
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<tr>
<td>◊ Violence is an issue especially for children's advertising and advertising likely to be seen by children.</td>
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<tr>
<td>Taste and controversy:</td>
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<td>◊ The advertising of certain products may strongly offend some people while being in the interests of others.</td>
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<tr>
<td>◊ Examples include: feminine hygiene products, hemorrhoid and constipation medication. Some companies have actually marketed themselves on the basis of controversial advertising (e.g. Benetton).</td>
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</tbody>
</table>
### Negative advertising techniques (such as attack ads):

- In negative advertising, the advertiser highlights the disadvantages of competitor products rather than the advantages of their own.

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#### e. Delivery channels

- **Direct marketing:**
  - Is the most controversial of advertising channels, particularly when approaches are unsolicited.
  - TV commercials and direct mail are common examples - electronic spam and telemarketing push the borders of ethics and legality more strongly.
  - Shills and astroturfers are examples of ways for delivering a marketing message under the guise of independent product reviews and endorsements, or creating supposedly independent “watchdog” or review organizations.

- **Business ethics has been an increasing concern** among larger companies, at least since the 1990's:
  - Major corporations increasingly fear the damage to their image associated with press revelations of unethical practices.
  - Marketers have been among the fastest to perceive the market's preference for ethical companies, often moving faster to take advantage of this shift in consumer taste.

- **The body shop** is an example of a company, which marketed itself and its entire product range solely on an ethical message. However, the story of the Body Shop ended with increasing criticism of a gap between its morals and its practices.

- **Green wash** is an example of a strategy used to make a company appear ethical when its unethical practices continue.

- **Liberation marketing** is another strategy whereby a product can masquerade behind an image that appeals to a range of values, including ethical values related to lifestyle and anti-consumerism.

#### f. Marketing strategy

The main theoretical issue here is the antagonism between free markets and regulated markets:

- In a truly free market, any participant can make or change the rules.
- However, when new rules are invented which shift power too suddenly or too far, other participants may respond with accusations of unethical behavior, rather than modifying their own behaviour to suit.
- Most markets are not fully free: the real debate is as to the appropriate extent of regulation.

Following list presents unethical or controversial marketing strategies:

- Bait and switch
- Pyramid scheme
- Planned obsolescence
- Vendor lock-in / vendor lock-out
- Viral marketing / guerilla marketing
- Anti-competitive practices
- Controversial marketing strategies associated with the internet:
  - Search engine optimization
4. Basic Tasks of Product Marketing Ethics

The ethics of product marketing identifies and solves still more numerous and more complicated problems, which a day-to-day praxis has determined. We submit only a few for discussion:

a. The opportunity for unethical behaviour to customers - is present at almost every level of a company, including, among many others:

◊ The manufacturing process - for instance, cutting corners on quality without informing customers
◊ Sales and quotes - misleading customers about product features, or deliberately underbidding then adding costs as the job proceeds
◊ Distribution - changing orders without informing customers
◊ Customer service - not following through with guarantees.

b. Ethics in the marketplace:

◊ What degree of disclosure does a product manager owe to consumers who will be using the organizations branded product?
◊ What responsibilities do product manufacturers and retailers have related to the social ramifications of their products?

c. Product counterfeiting:

◊ Unauthorized copy of patented products, inventions & trademarks and the violation of registered copyrights
◊ Unethical and illegal activities in much of the world product marketing

d. Product liability:

<table>
<thead>
<tr>
<th>Product Liability</th>
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<td><strong>Tab. 2: Product Liability</strong></td>
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</table>

<table>
<thead>
<tr>
<th>I. Typology of Injury Sources</th>
<th>II. Four Legal Bases for Product Liability</th>
</tr>
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<tbody>
<tr>
<td>◊ Inherent risk in product</td>
<td>◊ Manufacturer let the product be injurious</td>
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<td>◊ Design defects</td>
<td>◊ A promise</td>
</tr>
<tr>
<td>⇒ Dangerous condition</td>
<td>⇒ Express warranty: a statement of fact about a product</td>
</tr>
<tr>
<td>⇒ No safety device</td>
<td>⇒ Implied warranty: arises when product is made available for a given use</td>
</tr>
<tr>
<td>⇒ Inadequate materials</td>
<td>◊ Seller is responsible for not putting a defective product on the market:</td>
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<tr>
<td>◊ Defects in manufacture</td>
<td>⇒ Defences:</td>
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<tr>
<td>◊ Inadequate instructions</td>
<td>• Assumption of risk;</td>
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</tbody>
</table>
On this basis, we provide the following guidelines for better orientation in ethics of the product marketing...

- Is the product safe when used as intended and proposed?
- Is the product safe when misused in a way that is foreseeable?
- Have any competitor’s patents or copyrights been violated?
- Is the product compatible with the environment?
- Is there a reasonable way to dispose of the product?
- Will informed stakeholders of the organization object to the product?

5. Consumer Protection

Consumer protection is a form of government regulation, which protects the interests of consumers. For example, a government may require businesses to disclose detailed information about products - particularly in areas where safety or public health is an issue, such as food. Consumer protection is linked to:

- The idea of consumer rights - that consumers have various rights as consumers
- The formation of consumer organizations which help consumers make better choices in the marketplace

Consumer protection law (or consumer law):

Is considered as an area of public law that regulates private law relationships between individual consumers and the businesses that sell those goods and services.

Covers a wide range of topics including but not necessarily limited to product liability, privacy rights, unfair business practices, fraud, misrepresentation, and other consumer/business interactions:

a. The European Union:

- Is very active in the field of consumer protection
- Producing a considerable volume of Directives which require member states to regulate consumer protection to a particular standard (which may or may not allow a higher standard of regulation), e.g.:
  - A very important innovation - Unfair Commercial Practices Directive
  - Directives on Unfair Contract Terms (93/13/EC)
- There exists a European Commissioner for Consumer Protection - a post currently held by the Bulgarian Meglena Kuneva.

b. The Slovak Republic:
## Tab. 3: Consumer Protection Legislation in the Slovak Republic

### Consumer Protection Legislation in the Slovak Republic

<table>
<thead>
<tr>
<th>Special Legislation</th>
<th>Legislation with Direct Impact</th>
<th>Legislation with Indirect Impact</th>
<th>General Legislation</th>
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</thead>
<tbody>
<tr>
<td>Consumer Protection Law</td>
<td>State Commercial Inspection Law</td>
<td>State Agriculture and Food Inspection Law</td>
<td>Civil Code</td>
</tr>
<tr>
<td>Package Act</td>
<td>Commercial Chain Law</td>
<td>Commercial Code</td>
<td></td>
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<tr>
<td>Price Act</td>
<td>Network Line Regulation Law</td>
<td>Authors' Act</td>
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<tr>
<td>Advertising Law</td>
<td>Electronic Communication and E-Commerce Act</td>
<td>Environment Law</td>
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<td>Transmition and Retransmition Law</td>
<td>Animal Protection Law</td>
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<td>Act about an Access to Public Information</td>
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<td>Economics Competition protection Law</td>
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<td>Etc.</td>
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Resource: own research

### Conclusion

For an improvement of ethics consciousness in product marketing area there are important the following activities:

- To perfect legislation in the area of the product quality standardization, first of all
- To improve legislation in the area of product control mechanisms
- To adhere to the existing legislation (rights and duties) of producers, sellers, advertising agency and other stakeholders of demand side subjects
- Requisition of own rights to serious parameters of the products and services by customers, consumers, clients, patients …..[5]
- Enhancement and objectification of informness (in medias, in advertising…) about products and services from demand side subjects [2]
- Institutionalization of the corporate social responsibility as the instrument of ethics code recruitment of enterprises in the area of the product marketing [6]
- Activation, integrated procedure and efficiency enhancement of the consumer association activities
- Incorporation of customer protection topic and related topics of product marketing into learning texts of the primary school and secondary school.
Literature:


Etika v produktovom marketingu
Štefan Majtán - Gabriela Dubcová

ABSTRAKT
Teória náležitej starostlivosti o spotrebiteľa (dizajn; materiály; produkcia; kontrola kvality; balenie, označenie a varovanie; informovanie). Atribúty kvality produktu (spôsobilivosť; životnosť; udržiavateľnosť; produktová bezpečnosť). Etika v marketingu. Základné otázky etiky produktového marketingu. Ochrana spotrebiteľa (v Európskej únii, v Slovenskej republike).

Kľúčové slova: etika, marketing, produktový marketing, ochrana spotrebiteľa

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ABSTRACT
The Theory “Due Care” to Customers (design; materials; production; quality control; packaging, labelling and warnings; notification); Attributes of the Product Quality (reliability; service life; maintainability; product safety). Marketing Ethics. Basic Tasks of Product Marketing Ethics. Consumer Protection (the European Union, the Slovak Republic)

Key words: ethics; marketing; product marketing, consumer protection

JEL classification: M31, K2, B52