CHAPTER 3

Emerging Business Ethics Issues

CHAPTER OBJECTIVES

- To define ethical issues in the context of organizational ethics
- To examine ethical issues as they relate to the basic values of honesty, fairness, and integrity
- To delineate abusive and intimidating behavior, lying, conflicts of interest, bribery, corporate intelligence, discrimination, sexual harassment, environmental issues, fraud, insider trading, intellectual property rights, and privacy as business ethics issues
- To examine the challenge of determining an ethical issue in business

CHAPTER OUTLINE

Recognizing an Ethical Issue
- *Honesty*
- *Fairness*
- *Integrity*

Ethical Issues and Dilemmas in Business
- *Abusive or Intimidating Behavior*
- *Lying*
- *Conflicts of Interest*
- *Bribery*
- *Corporate Intelligence*
- *Discrimination*
- *Sexual Harassment*
- *Environmental Issues*
- *Fraud*
- *Consumer Fraud*
- *Financial Misconduct*
- *Insider Trading*
- *Intellectual Property Rights*
- *Privacy Issues*

The Challenge of Determining an Ethical Issue in Business

AN ETHICAL DILEMMA*

As Lavonda sat in the Ethics Office of the vice president of Emma-Action Pharmaceuticals (EAP), she was worried. Because she was new in the company and didn't know the unwritten rules, the chain-of-command philosophy, and the employees and associates around her very well, her time in the office was very uncomfortable. Given how well things had started, it was painful for her to remember how she had gotten here.

Lavonda had been lured away from her last company because of her expertise in the pharmaceutical industry and her early success in management. Out of college just three and a half years, she had gotten out of the gate remarkably quickly. She had helpful mentors, challenging tasks that she excelled in, and came in below budget on each assignment. Lavonda was typically described as effective and efficient; in fact, at the last company, they even started to call her "E."

But the lure of a six-figure salary, the encounter with Allen (her future boss at EAP), and the chance to be close to her elderly mother made it nearly impossible for Lavonda to say no. She loved her mother and, being an only child, felt responsible for her. Her mother once said that she would prefer to take her own life rather than move to a nursing home.

In the beginning, Lavonda's immediate supervisor, Allen, had been very charming and taught her about the company, its products, the salespeople, and the politics. She knew from experience that she would have to earn the respect of the salespeople she would manage, all of whom were 10 years her senior, and the fact that these men had never had a female boss was just another hurdle to overcome. Allen had helped her find a nice house in a good neighborhood, had assisted with the moving, and eventually had become more than her superior. The months slipped by, and their relationship had become "close," to the point where they began to discuss living arrangements. And then something strange happened—she heard a story about Allen and Karline.

Karline, who had come to EAP six months prior to Lavonda, worked in Human Resources, and in a few short months she had become head of the HR department at EAP amidst rumors of Allen "helping" her get the promotion. Six more months passed, and Lavonda learned that the rumors about Karline and Allen were probably true. She heard the same type of scenario that she had experienced for herself: friend, helping with housing, possible intimacy, and so on. The rumors became so intense that Lavonda confronted

Allen about them and discovered that they were true. Devastated, Lavonda ended the relationship with Allen in a heated confrontation, but it seemed as though Allen didn't understand that it was over.

Weeks went by with little contact between the two of them, and then one afternoon Allen stopped by her office. He apologized for his behavior, and Lavonda accepted his apology. But the next day he stopped by and began to touch and even grope Lavonda. She made a joke of it to defuse the situation, but several days later Allen repeated the same behavior, making several sexual remarks. He asked, "Honey, why can't it be like it was before?" and then whispered some graphic sexual language.

Lavonda's face reddened and she said, "Allen, you are a pig. How dare you say such things to me! You've crossed the line. I've never heard such filth. Don't you ever say such things to me again, or I'll report you to Human Resources!"

Several weeks went by, and Lavonda got a phone call from Allen in which he described even more sexually suggestive things. Every few days, Allen would stop by or call and remind her of some "private" experience they had together, using vulgar sexual language. He would taunt her by saying, "Lavonda, you know you want this from me." It became almost a daily ritual. Allen never wrote any of the things that he described to her, being sure not to leave tangible proof of his behavior, but occasionally he would grab or attempt to grab her sexually.

Eventually, Lavonda had had enough and went to the Human Resources department to complain formally about Allen, his sexual advances, and the hostile environment that they had created. The person she met at HR was Karline. As Lavonda described the situation in detail, she finally said, "Karline, I need you to help me. What Allen is doing to me is wrong and illegal. I can't get my work done. He's undermining my position with my sales staff, he's giving me poor evaluations, and he's suggesting that I could change all that if I wanted to!"

Karline's response was, "Lavonda, I've heard what you've said, but I also have had people come to me with some very disturbing reports about you as well. For example, you and Allen were supposedly sleeping together, and he is your direct supervisor. If this was the case, then it should have been reported immediately; but it wasn't. You have no tangible evidence except for your word. Even if I believed you, the allegation that you had been sexually active with Allen can be construed as making all of what you've said mutual or consensual. If that's the case, then I would have to fire you because of the superior–employee ethics code, and a letter would go into your permanent file that would probably haunt your career for years to come. From my perspective, we can call this an informal and confidential meeting that is not to be repeated, or you can continue this formally and take your chances. It's your call, Lavonda, but you should know that I am disinclined to support your accusations."

In shock, Lavonda mumbled a thank you to Karline and left her office. The next day Allen stopped by, smiled, waved his finger at her and said, "Your performance review is next week, and it doesn't look good. By the way, just so you know, the pharmaceutical industry is quite small, and I have friends at all the majors. Oh, I forgot to tell you how sorry I am for your mother and her cancer diagnosis. Chemo and the side effects are very draining. I'm glad that you're close by to help her through the ordeal. They say it takes months to fully recover. It would be horrible if you weren't here to help her and she had to go to a nursing home. Those places scare me."

Lavonda said, "Allen, why are you doing this to me? I'm not fond of you anymore. We have no future together. Doesn't that tell you something?"

Allen smiled and said, "It tells me that you're not interested in a permanent relationship, which is good, because neither am I. And you know that if you want to be promoted or go to another company with a good recommendation, it all starts with me. Lavonda, there might be another 'solution' to your perceived problem. You know that new sales rep you just hired out of school, Soo-Chin? Well, if you could have her assigned to me and maybe 'coax her in the right way,' I know of a position in the company that would be a promotion for you and you wouldn't be around me. But everything depends upon the success of your coaxing."

So now here Lavonda was, about to meet with the vice president of ethical affairs. As she got up from the chair, she pondered her alternatives and what had led her there. In school she had learned that each company had its own individual code of ethics, but she didn't know the reality of the code at EAP until it was too late.

QUESTIONS • EXERCISES

1. Keeping in mind the facts and timeline of this situation, discuss Lavonda's situation in terms of legal and ethical issues.
2. Discuss Lavonda's alternatives and possible professional and private outcomes for her.
3. Is Allen in violation of sexual harassment and/or sexual discrimination laws in the United States?
4. Certainly Allen has damaged Lavonda's performance level; however, discuss whether he has created a legally hostile work environment.

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

Stakeholders' ethical concerns determine whether specific business actions and decisions are perceived as ethical or unethical. In the case of the government, community, and society, what was merely an ethical issue can soon become a legal debate and eventually law. Most ethical conflicts in which there are perceived dangers turn into litigation. Additionally, stakeholders often raise ethical issues when they exert pressure on businesses to make decisions that serve their particular agendas. For example, corporate shareholders often demand that managers make decisions that boost short-term earnings, thus maintaining or increasing the value of the shares of stock they own in that firm. Atlanta-based home builder Beazer Homes was issued a cease and desist order by the SEC when it was discovered that the company had fraudulently manipulated funds to smooth earnings fluctuations. When the real estate market was booming in Atlanta, the company put portions of its earnings in "rainy day funds" that it planned to use later to smooth out reported income during slow times. The company clearly anticipated that the housing bubble would burst, and was trying to find a way to keep investors happy over the long term. However, its solution was deemed illegal.[1]

People make ethical decisions only after they recognize that a particular issue or situation has an ethical component; thus, a first step toward understanding business ethics is to develop ethical issue awareness. Ethical issues typically arise because of conflicts among individuals' personal moral philosophies and values, the values and culture of the organizations in which they work, and those of the society in which they live. The business environment presents many potential ethical conflicts. For example, a company's efforts to achieve its organizational objectives may collide with its employees' endeavors to fulfill their own personal goals. Similarly, consumers' desires for safe and quality products may conflict with a manufacturer's need to earn adequate profits. The ambition of top executives to secure sizable increases in compensation may conflict with the desires of shareholders to control costs and increase the value of the corporation. For example, for companies being helped by the government bailout, strict rules for executive pay have been established retroactively. For example, any firm receiving funds is restricted from paying top performers bonuses equal to more than one-third of their total annual compensation. The compensation rules will mostly apply to more than 350 banks. Bank of America CEO Kenneth D. Lewis was paid $16.4 million in 2007. Under the bailout plan his 2009 compensation would be limited to $2.25 million.[2] A manager's wish to hire specific employees that he or she likes may be at odds with the organization's intent to hire the best-qualified candidates, as well as with society's aim to offer equal opportunity to women and members of minority groups.

Characteristics of the job, the culture, and the organization of the society in which one does business can also create ethical issues. Gaining familiarity with the ethical issues that frequently arise in the business world will help you identify and resolve them when they occur.

In this chapter, we consider some of the ethical issues that are emerging in business today, including how these issues arise from the demands of specific stakeholder groups. In the first half of the chapter, we explain certain universal ethical concepts that pervade business ethics, such as honesty, fairness, and integrity. The second half of the chapter explores a number of emerging ethical issues, including abusive and intimidating behavior, lying, conflicts of interest, bribery, corporate intelligence, discrimination, sexual harassment, environmental issues, fraud, insider trading, intellectual property rights, and privacy. We also examine the challenge of determining an ethical issue in business. Because of the global financial meltdown, there are certain practices and products that have or will become issues and will either be defined as illegal or unethical in the coming years. It is important that you understand that what was once legal can become an ethical issue, resulting in well-known practices becoming illegal.

RECOGNIZING AN ETHICAL ISSUE

Although we have described a number of relationships and situations that may generate ethical issues, in practice it can be difficult to recognize specific ethical issues. Failure to acknowledge such ethical issues is a great danger in any organization, particularly if business is treated as a "game" in which ordinary rules of fairness do not apply. Sometimes people who take this view are willing to do things that are not only unethical but also illegal so that they can maximize their own position or boost the profits of their organization. Those involved in the marketplace have an additional set of values related to profit, increased revenue, earnings per share, sales, return on assets, and/or return on investment that must be addressed. All or part of these objectives come into play within business and impact what people will do and how they justify their actions. In one's home life, one does not have the profit motive with which to contend. To be clear, businesspeople do not have a unique set of values from others; rather, the values they have are weighted differently when doing business activities because of the additional responsibilities associated with the marketplace.

Business decisions, like personal decisions, involve an unsettled situation or dilemma. Just because an activity is considered an ethical issue does not mean the behavior is necessarily unethical. An ethical issue is simply a situation, a problem, or even an opportunity that requires thought, discussion, or investigation to make a decision. And because the business world is dynamic, new ethical issues are emerging all the time. Table 3–1 defines specific ethical issues identified by employees in the National Business Ethics Survey (NBES). Three types of misconduct make up 30 percent of the ethical problems within organizations. Putting one's own interests ahead of the organization, abusive behavior, and lying to employees are all personal in nature, but these activities are

TABLE 3-1 Specific Types of Observed Misconduct.

	2009	2007
Company Resource Abuse	23%	N/A
Abusive behavior	22%	21%
Lying to employees	19%	20%
Email or internet abuse	18%	18%
Conflicts of interest	16%	22%
Discrimination	14%	12%
Lying to stakeholders	12%	14%
Employee benefit violations	11%	N/A
Health or safety violations	11%	15%
Employee privacy breach	10%	N/A
Improper hiring practices	10%	10%
Falsifying time or expenses	10%	N/A
Poor product quality	9%	10%
Stealing	9%	12%
Sexual harassment	7%	10%
Substance abuse	7%	N/A
Document alteration	6%	6%
Misuse of company's confidential information	6%	6%
Customer privacy breach	6%	N/A
Environmental violations	4%	6%

Source: "2009 National Business Ethics Survey: Ethics in the Recession," (Washington D.C.: Ethics Resource Center, 2009): p. 32–33.

sometimes committed by individuals in the belief that they are furthering organizational goals. Misreporting hours worked, safety violations, and provision of low-quality goods and services are the top three issues that directly relate to the firm's agenda. Table 3–1 compares the percentage of employees who observed specific types of misconduct over the past two National Business Ethics Surveys.

Employees could select more than one form of misconduct; therefore, each type of misconduct represents the percentage of employees who saw that particular act. Although Table 3–1 documents many types of ethical issues that exist in organizations, it is impossible to list every conceivable ethical issue. Any type of manipulation, deceit, or even just the absence of transparency in decision making can create harm to others. For example, collusion is a secret agreement between two or more parties for a fraudulent, illegal, or deceitful purpose. "Deceitful purpose" is the relevant phrase in regard to business ethics, in that it suggests trickery, misrepresentation, or a strategy designed to lead others to believe one truth but not the entire truth.

Honesty

Honesty refers to truthfulness or trustworthiness. To be honest is to tell the truth to the best of your knowledge without hiding anything. Confucius defined several levels of honesty. The shallowest is called *Li,* and it relates to the superficial desires of a person. A key principle to *Li* is striving to convey feelings that outwardly are or appear to be honest but that are ultimately driven by self-interest. The second level is *Yi,* or righteousness, where a person does what is right based on reciprocity. The deepest level of honesty is called *Ren,* and it is based on an understanding of and empathy toward others. The Confucian version of Kant's Golden Rule is to treat your inferiors as you would want superiors to treat you. As a result, virtues such as familial honor and reputation for honesty become paramount.

Issues related to honesty also arise because business is sometimes regarded as a "game" governed by its own rules rather than by those of society. Author Eric Beversluis suggests that honesty is a problem because people often reason along these lines:

1. Business relationships are a subset of human relationships that are governed by their own rules, which, in a market society, involve competition, profit maximization, and personal advancement within the organization.
2. Business can therefore be considered a game people play, comparable in certain respects to competitive sports such as basketball or boxing.
3. Ordinary rules and morality do not hold in games like basketball or boxing. (What if a basketball player did unto others as he would have them do unto him? What if a boxer decided it was wrong to try to injure another person?)
4. Logically, then, if business is a game like basketball or boxing, ordinary ethical rules do not apply.[3]

This type of reasoning leads many people to conclude that anything is acceptable in business. Indeed, several books have compared business to warfare—for example, *The Guerrilla Marketing Handbook* and *Sun Tsu: The Art of War for Managers*. The common theme in these books is that surprise attacks, guerrilla warfare, and other warlike tactics are necessary to win the battle for consumers' dollars. An example of this mentality at work is Larry Ellison, the CEO of Oracle. Ellison's warlike mentality is demonstrated by his decision to sell PeopleSoft's technology and let most of its 8,000 employees go. PeopleSoft CEO Craig Conway stated that "Ellison has followed a page straight out of Genghis Khan." Ellison has frequently recited phrases of the thirteenth-century Mongol warlord such as "It's not enough that we win; everyone else must lose."[4] Ellison was ordered to donate $100 million to charity and pay another $22 million to the attorneys who sued him for alleged stock-trading abuses. Ellison argues that he acted in good faith and in the best interests of Oracle and Oracle's shareholders.[5]

This business-as-war mentality may foster the idea that honesty is unnecessary in business. In addition, an intensely competitive environment creates the potential for companies to engage in questionable conduct. For example, as competition in the market for beer intensified, Miller, Coors, and Anheuser-Busch increasingly created advertising and offered products that appealed to younger consumers, even though marketing to minors under the age of 21 is illegal.

Many argue, however, that business is not a game like basketball or boxing; because people are not economically self-sufficient, they cannot withdraw from the game of business. Therefore, business ethics must not only make clear what rules apply in the "game" of business but must also develop rules appropriate to the involuntary nature of participation in it.[6]

Because of the economic motive, many in business can become confused with the opposite of honesty—dishonesty. Dishonesty can be broadly defined as a lack of integrity, incomplete disclosure, and an unwillingness to tell the truth. Dishonesty is also synonymous with lying, cheating, and stealing. Lying, cheating, and stealing are the actions usually associated with dishonest conduct. The causes of dishonesty are complex and relate to both individual and organizational pressures. Many employees lie to help achieve performance objectives. For example, they may be asked to lie about when a customer will receive a purchase. Lying can be segmented into (1) causing damage or harm; (2) a "white lie," which doesn't cause damage but can be called an excuse or something told to benefit someone else; and (3) statements that are obviously meant to engage or entertain with no malice. These definitions will become important to the remainder of this chapter.

Fairness

Fairness is the quality of being just, equitable, and impartial. Fairness clearly overlaps with other commonly used terms such as justice, equity, equality, and morality. There are three fundamental elements that seem to motivate people to be fair: equality, reciprocity, and optimization. In business, **equality** is about how wealth or income is distributed between employees within a company, a country, or across the globe.

Reciprocity is an interchange of giving and receiving in social relationships. Reciprocity occurs when an action that has an effect upon another is reciprocated with an action that has an approximately equal effect upon the other. Reciprocity is the return of small favors that are approximately equal in value. For example, reciprocity implies that workers be compensated with wages that are approximately equal to their effort. An ethical issue about reciprocity for business is the amount CEOs and other executives are paid in relation to their employees. Is a 431 to 1 pay ratio an example of ethical reciprocity? That is the average wage distance between a CEO and a production worker in the United States.

> *"Dishonesty can be broadly defined as a lack of integrity, incomplete disclosure, and an unwillingness to tell the truth."*

Optimization is the trade-off between equity (that is, equality or fairness) and efficiency (that is, maximum productivity). Discriminating on the basis of gender, race, or religion is generally considered to be unfair because these qualities have little bearing upon a person's ability to do a job. The optimal way is to choose the employee who is the most talented, most proficient, most educated, and most able. Ideas of fairness are sometimes shaped by vested interests. One or both parties in the relationship may view an action as unfair or unethical because the outcome was less beneficial than expected.

Integrity

Integrity is one of the most important and often-cited terms regarding virtue, and refers to being whole, sound, and in an unimpaired condition. In an organization, it means uncompromising adherence to ethical values. Integrity is connected to acting ethically; in other words, there are substantive or normative constraints on what it means to act with integrity. This usually rests on an organization's enduring values and unwillingness to deviate from standards of behavior.

At a minimum, businesses are expected to follow all applicable laws and regulations. In addition, organizations should not knowingly harm customers, clients, employees, or even other competitors through deception, misrepresentation, or coercion. Although businesspeople often act in their own economic self-interest, ethical business relations should be grounded on honesty, integrity, fairness, justice, and trust. Buyers should be able to trust sellers; lenders should be able to trust borrowers. Failure to live up to these expectations or to abide by laws and standards destroys trust and makes it difficult, if not impossible, to continue business exchanges.[7] These virtues become the glue that holds business relationships together, making everything else more effective and efficient.

ETHICAL ISSUES AND DILEMMAS IN BUSINESS

As mentioned earlier, stakeholders define a business's ethical issues. An **ethical issue** is a problem, situation, or opportunity that requires an individual, group, or organization to choose among several actions that must be evaluated as right or wrong, ethical or unethical. An **ethical dilemma** is a problem, situation, or opportunity that requires an individual, group, or organization to choose among several wrong or unethical actions. There is not simply one right or ethical choice in a dilemma, only less unethical or illegal choices as perceived by any and all stakeholders.

A constructive next step toward identifying and resolving ethical issues is to classify the issues that are relevant to most business organizations. In this section, we classify ethical issues in relation to abusive or intimidating behavior, lying, conflicts of interest, bribery, corporate intelligence, discrimination, sexual harassment, environmental issues, fraud, insider trading, intellectual property rights, and privacy issues. In addition, a short review of the financial industry, its problem products, and the Securities and Exchange Commission are given.

Figure 3–1 reflects the ethical issues that are most likely to have impact on shareholder value for companies over the next five years. It is interesting to note that executives feel that their companies' shareholder value will be significantly affected by job loss and offshoring jobs when outsourcing to improve efficiency. Surprisingly, the ability to exert political influence or political involvement is also a major issue.

Abusive or Intimidating Behavior

Abusive or **intimidating behavior** is the most common ethical problem for employees, but what does it mean to be abusive or intimidating? The concepts can mean anything—physical threats, false accusations, being annoying, profanity, insults, yelling, harshness, ignoring someone, and unreasonableness—and the meaning of these words can differ by person. It is important to understand that with each term there is a continuum. For example, what one person may define as yelling might be another's definition of normal speech. Civility in our society has been a concern, and the workplace is no exception. The productivity level of many organizations has been damaged by the time spent unraveling abusive relationships.

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Is it abusive behavior to ask an employee to complete a project rather than be with a family member or relative in a crisis situation? What does it mean to speak profanely? Is profanity only related to specific words or terms that are common in today's business world? If you are using words that are normal in your language but others consider profanity, have you just insulted, abused, or disrespected them?

Within the concept of abusive behavior or intimidation, intent should be a consideration. If the employee was trying to convey a compliment, then it was probably a mistake. What if a male manager asks his female subordinate if she has a date for tonight because she is dressed so nice? Does the way (voice inflection) a word is said become important? Add to this the fact that we now live in a multicultural environment doing business and working with many different cultural groups and the businessperson soon realizes the depth of the ethical and legal issues that may arise. Finally, you have the problem of word meanings by age and within cultures. Is it okay to say "honey" to an employee, fellow employee, employee friend, and/or your superior, and does it depend on gender or location? For example, if you were to call a friend that worked with you "honey" in southern Illinois, Arkansas, or Kentucky, do you have the same acceptability factor in northern Illinois, Michigan, or Minnesota? Does abusive behavior vary by different genders? It is possible the term *honey* could be acceptable speech in some environments, and be construed as being abusive or intimidating in other situations?

Bullying is associated with a hostile workplace where someone (or a group) considered a target is threatened, harassed, belittled, or verbally abused or overly criticized. Bullying may create what some may call a hostile environment, but this term is generally associated with sexual harassment. Bullying can cause psychological damage that can result in health-endangering consequences to the target. As Table 3–2 indicates, bullying can use a

TABLE 3-2 Actions Associated with Bullies

1.	Spreading rumors to damage others
2.	Blocking others' communication in the workplace
3.	Flaunting status or authority to take advantage of others
4.	Discrediting others' ideas and opinions
5.	Use of e-mails to demean others
6.	Failing to communicate or return communication
7.	Insults, yelling, and shouting
8.	Using terminology to discriminate by gender, race, or age
9.	Using eye or body language to hurt others or their reputation
10.	Taking credit for others' work or ideas

Source: Cathi McMahan, "Are You A Bully?" *Inside Seven*, California Department of Transportation Newsletter, June 1999, page 6.

mix of verbal, nonverbal, and manipulative threatening expressions to damage workplace productivity. One may wonder why workers tolerate such activities; the problem is that 81 percent of workplace bullies are supervisors. Bullying happens more than people realize. For example, 37 percent (54 million) of American workers have been bullied at work and when witnesses are included it rises to 49 percent (71.5 million), and an estimated 72 percent of the perpetrators are employers.[8]

The concept of "bullying" in the workplace is now considered a legal issue. Some suggest that employers take the following steps to minimize workplace bullying:

- They should have policies in place that make it clear that bullying behaviors will not be tolerated.
- The employee handbook should emphasize that workers must treat each other with respect.
- Employers should encourage employees who feel bullied to report the conduct, much the same as discriminatory harassment complaints are handled.[9]

Bullying can also occur between companies that are in intense competition. Even respected companies such as Intel have been accused of monopolistic bullying. A competitor, Advanced Micro Devices (AMD), claimed in a lawsuit that 38 companies, including Dell and Sony, were strong-arming customers into buying Intel chips rather than those marketed by AMD. The AMD lawsuit seeks billions of dollars and will take years to litigate. In many cases, the alleged misconduct can have not only monetary and legal implications but also can threaten reputation, investor confidence, and customer loyalty. A front-cover *Forbes* headline stated "Intel to AMD: Drop Dead." An example of the intense competition and Intel's ability to use its large size won it the high-profile Apple account, displacing IBM and Freescale. ADM said it had no opportunity to bid because Intel offered to deploy 600 Indian engineers to help Apple software run more smoothly on Intel chips.[10] Intel's actions have landed it in trouble in the European Union, however, where courts found the company guilty of antitrust violations and anticompetitive behavior regarding competitor Advanced Micro Devices (AMD). AMD alleged that Intel was preventing the company from being competitive through such practices as paying computer makers rebates for using Intel chips and selling chips at below cost. The EU courts sided with AMD and Intel was fined a record $1.45 billion, which it continues to fight in courts. The EU is notoriously hard on antitrust cases. Microsoft too has been found guilty and has racked up $2 billion in fines over multiple years in the EU.[11]

Lying

Earlier in this chapter, we discussed the definitions of **lying** and how it relates to distorting the truth. We mentioned three types of lies, one of which is joking without malice. The other two can become very troublesome for businesses. For example, one can lie by commission or omission. *Commission lying* is creating a perception or belief by words that intentionally deceive the receiver of the message, for example, lying about being at work, expense reports, or carrying out work assignments. Commission lying also entails intentionally creating "noise" within the communication that knowingly confuses or deceives the receiver. *Noise* can be defined as technical explanations that the communicator knows the receiver does not understand. It can be the intentional use of communication forms that make it difficult for the receiver to actually hear the true message. Using legal terms or terms relating to unfamiliar processes and systems to explain what was done in a work situation facilitate this type of lie.

Lying by commission can involve complex forms, procedures, contracts, words that are spelled the same but have different meanings, or refuting the truth with a false statement. Forms of commission lying include puffery in advertising. For example, saying that a product is "homemade" when it is made in a factory is lying. "Made from scratch" in cooking technically means that all ingredients within the product were distinct and separate and were not combined prior to the beginning of the production process. One can lie by commission by showing a picture of the product that does not reflect the actual product. This happens frequently in business. For example, a national fast-food chain came out with a new product that had lettuce in it. There are many types of lettuce and the lettuce used in the national ad campaign both in print and TV used romaine lettuce. Yet this fast-food chain does not purchase that variety; it purchases iceberg lettuce. The obvious reason for using romaine in the ad is that it is prettier or more appealing than shredded iceberg lettuce. Another example is Schick's complaint against Gillette, alleging that the latter's claims for its Mach 3 Turbo Razor as "the world's best shave" and "the best a man can get" are false and misleading.

Omission lying is intentionally not informing the channel member of any differences, problems, safety warnings, or negative issues relating to the product, service, or company that significantly affects awareness, intention, or behavior. A classic example for decades was the tobacco manufacturers that did not allow negative research to appear on cigarettes and cigars. The drug Vioxx is being questioned because the manufacturer allegedly did not inform consumers as to the degree and occurrence of side effects, one of which is death. Finally, when lying damages others, it can be the focus of a lawsuit. For example, prosecutors and civil lawsuits often reduce misconduct to lying about a fact such as financial performance that has the potential to damage others. CEOs at AIG, Lehman Brothers, Fannie Mae, and Freddie Mac were scrutinized to see if they told the truth about the financial conditions of their companies.

When a lie becomes unethical in business, it is based on the context and intent to distort the truth. A lie becomes illegal if it is determined by the judgment of courts to damage others. Some businesspeople may believe that one must lie a little or that the occasional lie is sanctioned by the organization. The question you need to ask is whether lies are distorting openness and transparency and other values that are associated with ethical behavior.

Conflicts of Interest

A **conflict of interest** exists when an individual must choose whether to advance his or her own interests, those of the organization, or those of some other group. The medical industry has been faced with many accusations of conflicts of interest with doctors and medical schools regarding payments. For example, Harvard Medical School received an 'F' grade on its conflict of interest policies from the American Medical Student Association. One professor alone was forced to disclose 47 company affiliations from which he was receiving money.[12] To address the problem, a government panel has called for full disclosure of all payments made to doctors, researchers, and universities. The fear is that financial donations from medical and pharmaceutical companies could sway researchers' findings and what is taught in classrooms.[13]

"To avoid conflicts of interest, employees must be able to separate their private interests from their business dealings."

To avoid conflicts of interest, employees must be able to separate their private interests from their business dealings. Organizations must also avoid potential conflicts of interest when providing products.[14] The U.S. General Accounting Office has found conflicts of interest when the government has awarded bids on defense contracts. The conflicts of interest usually relate to hiring friends, relatives, or retired military officers to enhance the probability of getting the contract.[15]

Bribery

Bribery is the practice of offering something (usually money) in order to gain an illicit advantage. The key issue regarding whether or not something is considered bribery is determining whether the act is illicit or contrary to accepted morality or convention. Bribery therefore is defined as an unlawful act, but it can be a business ethics issue. The reason is that bribery can be defined differently in varying situations and cultural environments.

Bribery can be defined many ways. For example, there is something called active corruption or **active bribery,** meaning that the person who promises or gives the bribe commits the offense. **Passive bribery** is an offense committed by the official who receives the bribe. It is not an offense, however, if the advantage was permitted or required by the written law or regulation of the foreign public official's country, including case law.

Small **facilitation payments** made to obtain or retain business or other improper advantages do not constitute bribery payments. In some countries, such payments are made to induce public officials to perform their functions, such as issuing licenses or permits. However, criminalization by other countries does not seem a practical or effective complementary action. In many developed countries, it is generally recognized that employees should not accept bribes, personal payments, gifts, or special favors from people who hope to influence the outcome of a decision. However, bribery is an accepted way of doing business in many countries. Bribes have been associated with the downfall of many managers, legislators, and government officials. One source estimates that some $80 billion is paid out worldwide in the form of bribes or some other payoff every year.[16]

When a government official accepts a bribe, it is usually from a business that seeks some favor—perhaps a chance to influence legislation that affects it. Giving bribes to legislators or public officials, then, is a business ethics issue. The U.S. Department of Justice cracked down on cases of bribery involving hundreds of companies. Under these investigations Halliburton Company agreed to pay nearly $600 million after bribing officials in Nigeria in order to win oil contracts.[17]

Corporate Intelligence

Many issues related to corporate intelligence have surfaced in the last few years. Defined broadly, **corporate intelligence** is the collection and analysis of information on markets, technologies, customers, and competitors, as well as on socioeconomic and external political trends. There are three distinct types of intelligence models: a passive monitoring system for early warning, tactical field support, and support dedicated to top-management strategy. Today, theft of trade secrets is estimated at $100 billion. One explanation is the increase in people with intelligence-gathering competence and the proliferation of advanced technology.[18]

Corporate intelligence (CI) involves an in-depth discovery of information from corporate records, court documents, regulatory filings, and press releases, as well as any other background information that can be found about a company or its executives. Corporate intelligence is a legitimate inquiry into meaningful information that can be used in staying competitive. Corporate intelligence, like other areas in business, can be abused if due diligence is not taken to maintain legal and ethical methods of discovery. Computers, LANs (local-area networks), and the Internet have made the theft of trade secrets very easy. Proprietary information like secret formulas, manufacturing schematics, merger or acquisition plans, and marketing strategies all have tremendous value. NewRiver Inc. brought a suit against the investment research firm Morningstar Inc., accusing it of using Internet espionage to copy information off of a patented system for handling mutual fund prospectuses. Morningstar does not deny accessing the system, but claims it was only for "benchmarking purposes," and claims that it did not enter any password-protected areas of the site.[19] A lack of security and proper training allows one to use a variety of techniques to gain access to a company's vital information. Some techniques for accessing valuable corporate information include physically removing the hard drive and copying the information to another machine, hacking, dumpster diving, social engineering, bribery, and hiring away key employees.

Hacking is considered one of the top three methods for obtaining trade secrets. Currently, there are over 100,000 websites that offer free downloadable and customizable hacking tools that require no in-depth knowledge of protocols or Internet protocol addressing. Hacking has three categories: system, remote, and physical. **System hacking** assumes that the attacker already has access to a low-level, privileged-user account. **Remote hacking** involves attempting to remotely penetrate a system across the Internet. A remote hacker usually begins with no special privileges and tries to obtain higher level or administrative access. Several forms of this type of hacking include unexpected input, buffer overflows, default configurations, and poor system administrator practices. **Physical hacking** requires that the CI agent enter a facility personally. Once inside, he or she can find a vacant or unsecured workstation with an employee's login name and password. Next, the CI agent searches for memos or unused letterheads and inserts the documents into the corporate mail system. Or the CI agent could gain physical access to a server or telephone room, look for remote-access equipment, note any telephone numbers written on wall jacks, and place a protocol analyzer in a wiring closet to capture data, user names, and passwords.

Social engineering is another popular method of obtaining valuable corporate information. The basic goals are the same as hacking. **Social engineering** is the tricking of individuals into revealing their passwords or other valuable corporate information. Tactics include casual conversations with relatives of company executives and sending e-mail claiming to be a system administrator that asks for passwords under the guise of "important system administration work." Another common social engineering trick is **shoulder surfing,** in which someone simply looks over an employee's shoulder while he or she types in a password. **Password guessing** is another easy social engineering technique. If a person can find out personal things about someone, he or she might be able to use that information to guess a password. For example, a child's name, birthdays and anniversaries, and Social Security numbers are all common passwords and are easily guessed or figured out by someone trying to do so.

Dumpster diving is messy but very successful for acquiring trade secrets. Once trash is discarded onto a public street or alley, it is considered fair game. Trash can provide a rich source of information for any CI agent. Phone books can give a hacker names and numbers of people to target and impersonate. Organizational charts contain information about people who are in positions of authority within the organization. Memos provide small amounts of useful information and assist in the creation of authentic-looking fake memos.

Whacking is wireless hacking. To eavesdrop on wireless networks, all a CI agent needs is the right kind of radio and to be within range of a wireless transmission. Once tapped into a wireless network, an intruder can easily access anything on both the wired and wireless networks because the data sent over networks is usually unencrypted. If a company is not using wireless networking, an attacker can pose as a janitor and insert a rogue wireless access node into a supposedly secure hard-wired network.

Phone eavesdropping is yet another tool in the game of CI agent. A person with a digital recording device can monitor and record a fax line. By playing the recording back an intruder can reproduce an exact copy of a message without anyone's knowledge. Even without monitoring a fax line, a fax sent to a "communal" fax machine can be read or copied. By picking up an extension or by tapping a telephone, it is possible to record the tones that represent someone's account number and password using a tape recorder. The tape recording can then be replayed over the telephone to gain access to someone else's account.

Discrimination

Although a person's racial and sexual prejudices belong to the domain of individual ethics, racial and sexual discrimination in the workplace creates ethical issues within the business world. **Discrimination** on the basis of race, color, religion, sex, marital status, sexual orientation, public assistance status, disability, age, national origin, or veteran status is illegal in the United States. Additionally, discrimination on the basis of political opinions or affiliation with a union is defined as harassment.

A company in the United States can be sued if it (1) refuses to hire an individual, (2) maintains a system of employment that unreasonably excludes an individual from employment, (3) discharges an individual, or (4) discriminates against an individual with respect to hiring, employment terms, promotion, or privileges of employment as it relates to the definition of discrimination.

Race, gender, and age discrimination are a major source of ethical and legal debate in the workplace. Between 75,000 and 80,000 charges of discrimination are filed annually with the **Equal Employment Opportunity Commission** (EEOC).[20] Discrimination remains a significant ethical issue in business despite nearly 40 years of legislation attempting to outlaw it. For example, there are only two black chairs/CEOs of Fortune 500 companies: Richard D. Parsons of Dime Savings Bank of New York, and Ursula Burns of Xerox, who is also the first-ever African American woman to be CEO of a Fortune 500 company.

Once dominated by European American men, the U.S. workforce today includes significantly more women, African Americans, Hispanics, and other minorities, as well as disabled and older workers. Experts project that within the next 50 years, Hispanics will represent 24 percent of the population, and African Americans and Asian/Pacific Islanders will comprise 13 percent and 9 percent, respectively.[21] These groups have traditionally faced discrimination and higher unemployment rates and been denied opportunities to assume leadership roles in corporate America. Another form of discrimination involves discriminating against individuals on the basis of age. The **Age Discrimination in Employment Act** specifically outlaws hiring practices that discriminate against people between the ages of 49 and 69, as well as those that require employees to retire before the age of 70. Despite this legislation, charges of age discrimination persist in the workplace. For example, the EEOC has charged Sidley Austin Brown & Wood, a Chicago-based international law firm with over 1,500 lawyers, with age discrimination when it selected "partners" for expulsion from the firm on account of their age. The act prohibits employers with 20 or more employees from making employment decisions, including decisions regarding the termination of employment, on the basis of age or from requiring retirement after the age of 40. EEOC trial attorney Deborah Hamilton stated that "having the power to fire an employee does not mean that a law firm or any other covered employer can do so because of the employee's age, if the employee is over 40. That is a violation of the ADEA and that the making of unlawful age-based selections for termination is precisely what EEOC is targeting in this lawsuit."[22] For example, Lockheed Martin Global Telecommunications settled its age discrimination lawsuit filed by eight older employees for $773,000. Sprint Nextel settled its age discrimination lawsuit for $57 million. The settlement involves around 1,700 former Sprint employees. After legal fees ($21 million) each plaintiff will receive a settlement between $4,000 and $35,000, for an average of $20,000.[23]

> *"Race, gender, and age discrimination are a major source of ethical and legal debate in the workplace."*

A survey by the American Association for Retired Persons (AARP), an advocacy organization for people aged 50 years and older, highlighted how little most companies value older workers. When the AARP mailed invitations to 10,000 companies for a chance to compete for a listing in *Modern Maturity* magazine as one of the "best employers for workers over 50," it received just 14 applications. Given that nearly 20 percent of the nation's workers will be 55 years old or over by 2015, many companies need to change their approach toward older workers.[24]

To help build workforces that reflect their customer base, many companies have initiated **affirmative action programs,** which involve efforts to recruit, hire, train, and promote qualified individuals from groups that have traditionally been discriminated against on the basis of race, gender, or other characteristics. Such initiatives may be imposed by federal law on an employer that contracts or subcontracts for business with the federal government, as part of a settlement agreement with a state or federal agency, or by court order.[25] For example, Safeway, a chain of supermarkets, established a program to expand opportunities for women in middle- and upper-level management after settling a sex-discrimination lawsuit.[26] However, many companies voluntarily implement affirmative action plans in order to build a more diverse workforce.[27] For example, a Chicago real estate developer decided to help employers identify available female workers by launching the Female Employment Initiative, an outreach program designed to create opportunities for women in the construction industry through training programs, counseling and information services, and referral listings.[28]

Although many people believe that affirmative action requires that quotas be used to govern employment decisions, it is important to note that two decades of Supreme Court rulings have made it clear that affirmative action does not permit or require quotas, reverse discrimination, or favorable treatment of unqualified women or minorities. To ensure that affirmative action programs are fair, the Supreme Court has established a number of standards to guide their implementation: (1) There must be a strong reason for developing an affirmative action program; (2) affirmative action programs must apply only to qualified candidates; and (3) affirmative action programs must be limited and temporary and therefore cannot include "rigid and inflexible quotas."[29]

Discrimination can also be an ethical issue in business when companies use race or other personal factors to discriminate against specific groups of customers. Many companies have been accused of using race to deny service or charge higher prices to certain ethnic groups. For example, four airlines have settled lawsuits alleging discrimination against perceived Arab, Middle Eastern, or Southeast Asian descent passengers. United, American, Continental, and Delta have all denied any violations but agreed to spend as much as $1.5 million to train staff on respecting civil rights.[30]

Sexual Harassment

Sexual harassment is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964. Title VII applies to employers with 15 or more employees, including state and local governments. To understand the magnitude of this volatile issue, in one year the EEOC received 13,136 charges of sexual harassment, of which over 15 percent were filed by men. In another recent year, the EEOC resolved 13,786 sexual harassment charges and recovered $37.1 million in penalties.[31] **Sexual harassment** can be defined as any repeated, unwanted behavior of a sexual nature perpetrated upon one individual by another. It may be verbal, visual, written, or physical and can occur between people of different genders or those of the same sex. "Workplace display of sexually explicit material—photos, magazines, or posters—may constitute a hostile work environment harassment, even though the private possession, reading, and consensual sharing of such materials is protected under the Constitution."[32]

Even the United Nations, an organization whose mission is to protect human rights globally, has dealt with a series of sexual harassment cases. Many U.N. employees who have made or faced accusations claim that the system is poorly equipped to handle complaints, resulting in unfair, slow, and arbitrary rulings. For example, one employee who claimed she was harassed for years in Gaza saw her superior cleared by one of his colleagues.[33]

To establish sexual harassment, an employee must understand the definition of a **hostile work environment,** for which three criteria must be met: the conduct was unwelcome; the conduct was severe, pervasive, and regarded by the claimant as so hostile or offensive as to alter his or her conditions of employment; and the conduct was such that a reasonable person would find it hostile or offensive. To assert a hostile work environment, an employee need not prove that it seriously affected his or her psychological well-being nor caused an injury; the decisive issue is whether the conduct interfered with the claimant's work performance.[34]

Sexual harassment includes unwanted sexual approaches (including touching, feeling, groping) and/or repeated unpleasant, degrading, or sexist remarks directed toward an employee with the implied suggestion that the target's employment status, promotion, or favorable treatment depend on a positive response and/or cooperation. It can be regarded as a private nuisance, unfair labor practice, or, in some states, a civil wrong (tort) that may be the basis for a lawsuit against the individual who made the advances and against the employer who did not take steps to halt the harassment. The law is primarily concerned with the impact of the behavior and not the intent. An important facet of sexual harassment law is its focus on the victim's reasonable behaviors and expectations.[35] However the definition of reasonable varies from state to state, as does the concept of expectations. In addition, an argument used by some in defense of sexual harassment is the freedom of speech granted by the First Amendment.

> *"An important facet of sexual harassment law is its focus on the victim's reasonable behaviors and expectations."*

The key ethical issue within sexual harassment is called dual relationships or unethically intimate relationships. A **dual relationship** is defined as a personal, loving, and/or sexual relationship with someone with whom you share professional responsibilities. Potentially, **unethical dual relationships** are those where the relationship causes either a direct or indirect conflict of interest or a risk of impairment to professional judgment.[36] Another important factor in these cases is intent. If the sexual advances in any form are considered mutual, then consent is created. The problem is that, unless the employee or employer gets something in writing before the romantic action, consent can always be questioned, and when it comes to sexual harassment, the alleged perpetrator must prove mutual consent.

For example, in a case in Illinois, a professor made advances to his office assistant, repeatedly asking her "Do you love me?" and "Would you ever marry a man like me?" He would also ask her for hugs, rub her shoulders, and tickle her. The assistant was troubled by these behaviors, and although she confided her distress to the proper authorities, nothing was done until she went to another institution and filed an official complaint. The university responded by directing the professor to undergo training in proper behavior toward female students and by placing a letter in his personnel file, outlining the actions to be taken and the method for evaluating their effectiveness. In this case, the university believed that there was no duality and the EEOC awarded no monetary damages to the assistant.

Three former female employees sued Florida-based Airguide Corporation and its parent company, Pioneer Metals, Inc., for sexual harassment. The courts awarded each of the three women $1 million, but the penalties for sexual harassment do not stop there. In addition, Airguide and Pioneer Metals must conduct annual training in 19 facilities in Florida and undergo monitoring by the EEOC for three years.[37]

To avoid sexual misconduct or harassment charges a company should, at the minimum, take the following steps:

1. *Establish a statement of policy* naming someone in the company as ultimately responsible for preventing harassment at the company.
2. *Establish a definition of sexual harassment* that includes unwelcome advances, requests for sexual favors, and any other verbal, visual, or physical conduct of a sexual nature; that provides examples of each; and that reminds employees that the list of examples is not all-inclusive.
3. *Establish a nonretaliation policy* that protects complainants and witnesses.
4. *Establish specific procedures for prevention* of such practices at early stages. However, if a company puts these procedures in writing, they are expected by law to train, measure, and ensure that the policies are being enforced.
5. *Establish, enforce, and encourage* victims of sexual harassment to report the behavior to authorized individuals.
6. *Establish a reporting procedure.*
7. *Make sure that the company has timely reporting requirements to the proper authorities.* Usually, there is a time limitation to file the complaint for a formal administrative sexual charge, ranging from six months to a year. However, the failure to meet a shorter complaint period (for example, 60 to 90 days) so that a "rapid response" and remediation may occur and to help to ensure a harassment-free environment could be a company's defense against the charge that it was negligent.

Once these steps have been taken, a training program should identify and describe forms of sexual harassment and give examples, outline the grievance procedure, explain how to use the procedures and discuss the importance of them, discuss the penalty for violation, and train employees for the essential need of a workplace that is free from harassment, offensive conduct, or intimidation. A corporation's training program should cover such items as how to spot sexual harassment; how to investigate complaints including proper documentation; what to do about observed sexual harassment, even when no complaint has been filed; how to keep the work environment as professional and non-hostile as possible; how to teach employees that the consequences can be dismissal; and how to train management to understand follow-up procedures on incidents.

Environmental Issues

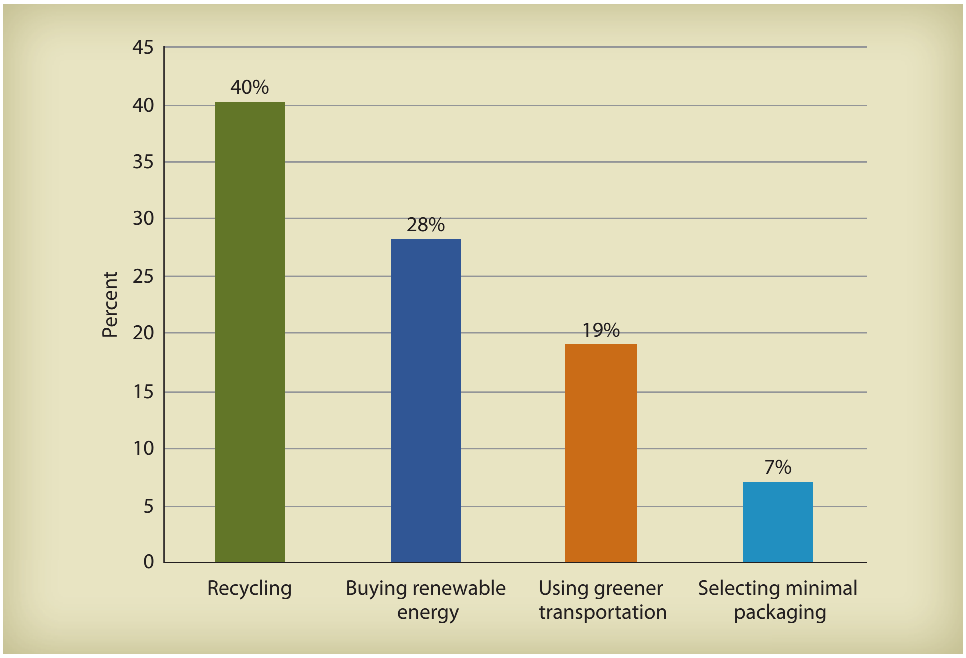
Environmental issues are becoming the significant concerns within the business community. The **Kyoto Protocol,** one example of the world's growing concern about global warming, is an international treaty on climate change committed to reducing emissions of carbon dioxide and five other greenhouse gases and to engaging in emissions trading if member signatories maintain or increase emissions of these gases. The objective is to stabilize greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous climate changes. Some current estimates indicate that, if these objectives are not successfully and completely implemented, the predicted global temperature increase could be between 1.4°C to 5.8°C. Possible massive tidal surges and extreme weather patterns are in store for our planet in the future if countries do not restrict specific gases emanating from business activities. The United States is one of the only countries not to sign the protocol.

Water pollution results from the dumping of raw sewage and toxic chemicals into rivers and oceans, from oil and gasoline spills, and from the burial of industrial wastes in the ground where they may filter into underground water supplies. Fertilizers and pesticides used in farming and grounds maintenance also drain into water supplies with each rainfall. When these chemicals reach the oceans, they encourage the growth of algae that use up all the nearby oxygen, thus killing the sea life. According to the Environmental Protection Agency (EPA), more than one-third of the nation's rivers, lakes, and coastal waters are not safe for swimming or fishing as a result of contaminated runoff.

Waste management has flourished in Europe, especially in Germany, and appears to be growing globally. One green issue is plastic; in the United States alone, 30 million plastic bottles are thrown away daily for a total of nearly 11 billion a year. Those that are recycled use large amounts of energy in the recycling process. An even bigger problem for the future is that, as the world becomes more capitalistic, more people will buy more things using plastics that are made from oil and that do not degrade easily. Consumers currently consider recycling to be the most important thing they can do to live "greener" lives, as Figure 3–2 demonstrates. However, more drastic measures will need to be made by businesses and consumers alike to cut back on energy consumption and waste.

Buildings are rarely considered major pollution sources. Yet 33 percent of major U.S. energy use, 33 percent of major greenhouse gas emissions, and 30 percent of raw material use are the result of buildings.[38] Currently, there are two competitive certification groups that authorize schools, houses, and commercial buildings as green. These two rival groups, Green Globes and Leadership in Energy and Environmental Design (LEED), are vying for leadership in government adoption of environmental rules that determine

FIGURE 3–2 Consumers' Favorite Green Practices



Source: "Environmentally Friendly Choices," *USA Today Snapshots,* March 3, 2009, from Green Seal and Enviromedia Social Marketing survey of 1,000 adults by Opinion Research Corp.

whether a building can be called green. There is concern about stakeholder relationships between the two groups. Green Globes is led by a former timber company executive and received much of its seed money from timber and wood products companies. LEED is a nonprofit organization with less ties to business interests. Already two states, Maryland and Arkansas, have adopted Green Globes as an alternative to LEED, giving officials an alternative for government-funded construction. The Clinton Presidential Library in Little Rock as well as the 7 World Trade Center, the first tower rebuilt near Ground Zero in New York, was certified by Green Globes.[39]

Green energy sources are often considered "green" because they are perceived to lower carbon emissions and create less pollution. They include natural energetic processes that can be harnessed with little pollution. Anaerobic digestion or biomass, geothermal, wind, small-scale hydropower, solar, and tidal power fall under this category. Some definitions may also include power derived from the incineration of waste. Some organizations have specifically classified nuclear power as green energy, but environmental organizations indicate the problems with nuclear waste and claim that this energy is neither efficient nor effective in cutting CO2 emissions, excluding it from clean energy. No power source is entirely impact-free. All energy sources require energy and give rise to some degree of pollution from manufacture of the technology.

Companies that do not recognize the profit potentials and ethical ramifications to brand and corporate reputation will pay later. For example, Exxon Mobil's CEO, Rex Tillerson, has encouraged the U.S. Congress to enact a tax on greenhouse gas emissions in order to fight global warming. "My greatest concern is that policy makers will attempt to mandate or ordain solutions that are doomed to fail," Mr. Tillerson said.[40]

Fraud

When an individual engages in deceptive practices to advance his or her own interests over those of his or her organization or some other group, charges of fraud may result. In general, **fraud** is any purposeful communication that deceives, manipulates, or conceals facts in order to create a false impression. Fraud is a crime and convictions may result in fines, imprisonment, or both. Fraud costs U.S. organizations more than $400 billion a year; the average company loses about 6 percent of total revenues to fraud and abuses committed by its own employees.[41] Among the most common fraudulent activities employees report about their coworkers are stealing office supplies or shoplifting, claiming to have worked extra hours, and stealing money or products.[42] Table 3–3 indicates what fraud examiners view as the biggest risk to companies. In recent years, accounting fraud has become a major ethical issue, but as we will see, fraud can also relate to marketing and consumer issues as well.

TABLE 3-3 Greatest Fraud Risk for Companies

Conflicts of interest	56%
Fraudulent financial statements	57%
Billing schemes	22%
Expense and reimbursement schemes	41%
Bribery/economic extortions	35%

Source: "The 2007 Oversight Systems Report on Corporate Fraud," Ethics World, http://www.ethicsworld.org/ethicsandemployees/PDF%20links/Oversight_2007_Fraud_Survey.pdf (accessed March 12, 2009).

Accounting fraud usually involves a corporation's financial reports in which companies provide important information on which investors and others base decisions that may involve millions of dollars. If the documents contain inaccurate information, whether intentionally or not, then lawsuits and criminal penalties may result. For example, trustees of New Century Financial Corporation sued its auditor, KPMG, for "reckless and grossly negligent audits" that hid the company's financial problems and sped its collapse. New Century was one of the early casualties of the subprime mortgage crisis, but was once one of the country's largest mortgage lenders to those with poor credit histories. After it disclosed accounting errors not discovered by KPMG the company collapsed.[43] Scrutiny of financial reporting increased dramatically in the wake of accounting scandals in the early twenty-first century. As a result of the negative publicity surrounding the allegations of accounting fraud at a number of companies, many firms were forced to take a second look at their financial documents. More than a few chose to restate their earnings to avoid being drawn into the scandal.[44] For example, WellCare Health Plans Inc. was forced to restate over three years of its earnings following a Florida Medicare fraud investigation that also led to changes in management and a loss of profits.[45]

The field of accounting has changed dramatically over the last decade. The profession used to have a club-type mentality: Those who became certified public accountants (CPAs) were not concerned about competition. Now CPAs advertise their skills and short-term results in an environment in which competition has increased and overall billable hours have significantly decreased because of technological innovations. Additionally, accountants are now permitted to charge performance-based fees rather than hourly rates, a rule change that encouraged some large accounting firms to promote tax-avoidance strategies for high-income individuals because the firms can charge 10 to 40 percent of the amount of taxes saved.[46]

Pressures on accountants today include time, reduced fees, client requests to alter opinions concerning financial conditions or lower tax payments, and increased competition. Other issues that accountants face daily involve compliance with complex rules and regulations, data overload, contingent fees, and commissions. An accountant's life is filled with rules and data that have to be interpreted correctly, and because of such pressures and the ethical predicaments they spawn, problems within the accounting industry are on the rise.

As a result, accountants must abide by a strict code of ethics that defines their responsibilities to their clients and the public interest. The code also discusses the concepts of integrity, objectivity, independence, and due care. Despite the standards the code provides, the accounting industry has been the source of numerous fraud investigations in recent years. Congress passed the Sarbanes–Oxley Act in 2002 to address many of the issues that could create conflicts of interest for accounting firms auditing public corporations. The law generally prohibits accounting firms from providing both auditing and consulting services to the same firm. Additionally, the law specifies that corporate boards of directors must include outside directors with financial knowledge on the company's audit committee.

Marketing fraud—the process of creating, distributing, promoting, and pricing products—is another business area that generates potential ethical issues. False or misleading marketing communications can destroy customers' trust in a company. Lying, a major ethical issue involving communications, is potentially a significant problem. In both external and internal communications, it causes ethical predicaments because it destroys trust. Misleading marketing can also cost consumers hard-earned money. A U.S. district court passed judgment on Ira Rubin and his company Global Marketing

Group. Rubin allegedly debited millions of dollars from U.S. consumers' bank accounts on behalf of many telemarketing scams dating back to 2003. The judgment involved a halt on all payment processing associated with the case.[47] False or deceptive advertising is a key issue in marketing communications. One set of laws that is common to many countries are laws concerning deceptive advertising—that is, advertisements that are not clearly labeled as advertisements. For example, in the United States, Section 5 of the Federal Trade Commission (FTC) Act addresses deceptive advertising. Abuses in advertising can range from exaggerated claims and concealed facts to outright lying, although improper categorization of advertising claims is the critical point. Courts place false or misleading advertisements into three categories: puffery, implied falsity, and literal falsity. **Puffery** can be defined as exaggerated advertising, blustering, and boasting upon which no reasonable buyer would rely and is not actionable under the Lanham Act. For example, in a Lanham Act suit between two shaving products companies, the defendant advertised that the moisturizing strip on its shaving razor was "six times smoother" than its competitors' strips, while showing a man rubbing his hand down his face. The court rejected the defendant's argument that "six times smoother" implied that only the moisturizing strip on the razor's head was smoother. Instead, the court found that the "six times smoother" advertising claim implied that the consumer would receive a smoother shave from the defendant's razor as a whole, a claim that was false.[48]

Implied falsity means that the message has a tendency to mislead, confuse, or deceive the public. The advertising claims that use implied falsity are those that are literally true but imply another message that is false. In most cases, this can be done only through a time-consuming and expensive consumer survey, whose results are often inconclusive.[49]

The characterization of an advertising claim as **literally false** can be divided into two subcategories: *tests prove* (*establishment claims*), in which the advertisement cites a study or test that establishes the claim; and *bald assertions* (*non-establishment claims*), in which the advertisement makes a claim that cannot be substantiated, as when a commercial states that a certain product is superior to any other on the market. For example, the FTC filed formal complaints against Stock Value 1 Inc. and Comstar Communications Inc. for making unsubstantiated claims that their radiation-protection patches block the electromagnetic energy emitted by cellular telephones. The FTC's complaint charged that the companies "made false statements that their products had been scientifically 'proven' and tested," when in fact that was not the case.[50]

Another form of advertising abuse involves making ambiguous statements in which the words are so weak or general that the viewer, reader, or listener must infer the advertiser's intended message. These "weasel words" are inherently vague and enable the advertiser to deny any intent to deceive. The verb *help* is a good example (as in expressions such as "helps prevent," "helps fight," "helps make you feel").[51] Consumers may view such advertisements as unethical because they fail to communicate all the information needed to make a good purchasing decision or because they deceive the consumer outright.

Labeling issues are even murkier. For example, Netgear Inc. agreed to settle a class action lawsuit that claimed it exaggerated the data-transfer speeds of its wireless equipment. As part of the settlement, the company must pay $700,000 in legal fees, give a 15 percent discount to members of the class action, donate $25,000 of product to charity, and include disclaimers about the data-transfer speed of its products.[52]

Slamming, or changing a customer's phone service without authorization, is an important issue involving labeling that is specific to the telephone industry. AT&T sued

Business Discount Plan (BDP), accusing it of using fraud and deception to routinely "slam" customers to its telecommunication service by suggesting that BDP was affiliated with AT&T. As part of the settlement, BDP had to send letters to consumers telling them that BDP was not affiliated with AT&T.[53] Such misleading behavior creates ethical issues because the communicated messages do not include all the information that consumers need to make good purchasing decisions, frustrating and angering customers who feel that they have been deceived. In addition, they damage the seller's credibility and reputation.

Advertising and direct sales communication can also mislead by concealing the facts within the message. For instance, a salesperson anxious to sell a medical insurance policy might list a large number of illnesses covered by the policy but fail to mention that it does not cover some commonly covered illnesses. Indeed, the fastest-growing area of fraudulent activity is in direct marketing, which employs the telephone and impersonal media to communicate information to customers, who then purchase products via mail, telephone, or the Internet.

Consumer Fraud

Consumer fraud is when consumers attempt to deceive businesses for their own gain. The FTC estimates that more than 25 million consumers annually engage in consumer fraud.[54] Shoplifting, for example, accounts for 35 percent of the losses at the largest U.S. retail chains, although this figure is still far outweighed by the nearly 44 percent of losses perpetrated by store employees, according to the National Retail Security Survey. Together with vendor fraud and administrative error, these losses cost U.S. retailers $36 billion annually and are on the rise. Retail shrinkage, or stealing from stores, accounts for losses averaging around 1.52 percent of total sales and 92 percent of retailers surveyed say that they have been a victim.[55]

"Consumer fraud involves intentional deception to derive an unfair economic advantage by an individual or group over an organization."

Consumers engage in many other forms of fraud against businesses, including price tag switching, item switching, lying to obtain age-related and other discounts, and taking advantage of generous return policies by returning used items, especially clothing that has been worn (with the price tags still attached). Such behavior by consumers affects retail stores as well as other consumers who, for example, may unwittingly purchase new clothing that has actually been worn.[56]

Consumer fraud involves intentional deception to derive an unfair economic advantage by an individual or group over an organization. Examples of fraudulent activities include shoplifting, collusion or duplicity, and guile. *Collusion* typically involves an employee who assists the consumer in fraud. For example, a cashier may not ring up all merchandise or may give an unwarranted discount. *Duplicity* may involve a consumer staging an accident in a grocery store and then seeking damages against the store for its lack of attention to safety. A consumer may purchase, wear, and then return an item of clothing for a full refund. In other situations, the consumer may ask for a refund by claiming a defect. *Guile* is associated with a person who is crafty or understands right/wrong behavior but uses tricks to obtain an unfair advantage. The advantage is unfair because the person has the intent to go against the right behavior or end. Although some of these acts warrant legal prosecution, they can be very difficult to prove, and many companies are reluctant to accuse patrons of a crime when there is no way to verify it. Businesses that operate with the "customer is always right" philosophy have found that some consumers will take advantage of this promise and have therefore modified return policies to curb unfair use.

Financial Misconduct

The failure to understand and manage ethical risks played a significant role in the financial crisis and recession of 2008–2009. While there is a difference between bad business decisions and business misconduct, there is also a thin line between the ethics of using only financial incentives to gauge performance and the use of holistic measures that include ethics, transparency, and responsibility to stakeholders. From CEOs to traders and brokers, lucrative financial incentives existed for performance in the financial industry.

The global recession was caused in part by a failure of the financial industry to take appropriate responsibility for its decision to utilize risky and complex financial instruments. Loopholes in regulations and the failures of regulators were exploited. Corporate cultures were built on rewards for taking risks rather than rewards for creating value for stakeholders. Ethical decisions were based more on what was legal rather than what was the right thing to do. Unfortunately, most stakeholders, including the public, regulators, and the mass media, do not always understand the nature of the financial risks taken on by banks and other institutions to generate profits. The intangible nature of financial products makes it difficult to understand complex financial transactions. Problems in the subprime mortgage markets sound the alarm for the most recent recession.

> *"The top executives or CEOs are ultimately responsible for the repercussions of their employees' decisions."*

Ethics issues emerged early in subprime lending, with loan officers receiving commissions on securing loans from borrowers with no consequences if the borrower defaulted on the loan. "Liar loans" were soon developed to create more sales and higher personal compensation for lenders. Lenders would encourage subprime borrowers to provide false information on their loan applications in order to qualify for and secure the loan. Some appraisers provided inflated home values in order to increase the loan amount. In other instances consumers were asked to falsify their incomes to make the loan more attractive to the lending institution. The opportunity for misconduct was widespread. Top managers, and even CEOs, were complacent about the wrongdoings as long as profits were good. Congress and President Clinton encouraged Fannie Mae and Freddie Mac to support home ownership among low-income people by giving out home mortgages. Throughout the early 2000s, in an economy with rapidly increasing home values, the culture of unethical behavior was not apparent to most people. When home values started to decline and individuals were "upside down" on their loans (owing more than the equity of the home), the failures and unethical behavior of lending and borrowing institutions became more obvious.

The top executives or CEOs are ultimately responsible for the repercussions of their employees' decisions. Top executives at Merrill Lynch awarded $3.6 billion in bonuses shortly before its merger with Bank of America in 2008. A combined $121 million went to four top executives. This was done in spite of the fact that Merrill Lynch had to be rescued by the government to save it from bankruptcy. Two ethics issues are at play. First, paying out the bonuses at all; and second, rushing their distribution in order to complete the job before Bank of America's takeover. Risk management in the financial industry is a key concern, including paying bonuses to executives who failed in their duties. Unfortunately, at the same time the industry was focused on its own bottom line, regulatory agencies and Congress were not proactive in investigating early cases of financial misconduct and the systemic issues that led to the crisis. The legal and regulatory systems were more focused on individual misconduct rather than systemic ethical failures.

Insider Trading

An insider is any officer, director, or owner of 10 percent or more of a class of a company's securities. There are two types of **insider trading:** illegal and legal. *Illegal insider trading* is the buying or selling of stocks by insiders who possess material that is still not public. The act, which puts insiders in breach of their fiduciary duty, can be committed by anyone who has access to nonpublic material, such as brokers, family, friends, and employees. In addition, someone caught "tipping" an outsider with material nonpublic information can also be found liable. The Securities and Exchange Commission brought a first-ever case alleging insider trading in credit default swaps in New York. The case centers on a small profit earned in the buyout of Dutch Media Company VNU NV. It alleges that a salesperson for Deutsche Bank AG passed on confidential information about VNU to a trader at Millennium Partners, who then allegedly used the information to earn a $1.2 million profit on credit default swaps tied to the value of the company's debt.[57] To determine if an insider gave a tip illegally, the SEC uses the *Dirks test,* which states that if a tipster breaches his or her trust with the company and understands that this was a breach, he or she is liable for insider trading.

Legal insider trading involves legally buying and selling stock in an insider's own company, but not all the time. Insiders are required to report their insider transactions within two business days of the date the transaction occurred. For example, if an insider sold 10,000 shares on Monday, June 12, he or she would have to report this change to the SEC by Wednesday, June 14. To deter insider trading, insiders are prevented from buying and selling their company stock within a six-month period; therefore, insiders buy stock when they feel the company will perform well over the long term.

A major player in the subprime mortgage crisis, Countrywide Financial's former CEO, Angelo Mozilo, was charged with fraud and insider trading. Mozilo was accused of fraudulently deliberately misleading investors about the risks being taken by the company. The SEC also alleges that Mozilo engaged in insider trading when he sold his Countrywide stock for $140 million in profits when he knew that the company's business was deteriorating.[58]

Intellectual Property Rights

Intellectual property rights involve the legal protection of intellectual properties such as music, books, and movies. Laws such as the Copyright Act of 1976, the Digital Millennium Copyright Act, and the Digital Theft Deterrence and Copyright Damages Improvement Act of 1999 were designed to protect the creators of intellectual property. However, with the advance of technology, ethical issues still abound for websites. For example, until it was sued for copyright infringement and subsequently changed its business model, Napster.com allowed individuals to download copyrighted music for personal use without providing compensation to the artists.

A decision by the Federal Copyright Office (FCO) helped lay the groundwork for intellectual property rules in a digital world. The FCO decided to make it illegal for Web users to hack through barriers that copyright holders erect around material released online, allowing only two exceptions. The first exception was for software that blocks users from finding obscene or controversial material on the Web, and the second was for people who want to bypass malfunctioning security features of software or other copyrighted goods they have purchased. This decision reflects the fact that copyright owners are typically being favored in digital copyright issues.[59] There have been many lawsuits related to this issue, and some have had costly results. MP3.com paid Universal Music Group $53.4 million to end its dispute with major record label over copyright infringement.[60]

As China has grown into an economic powerhouse, the market for pirated goods of all types ranging from DVDs to pharmaceuticals, and even cars, has grown into a multibillion dollar industry.[61] China's government has thus far proven weak in protecting intellectual property, and the underground market for such pirated goods—which are sold all over the world—has grown at a rapid pace. While intellectual property rights infringement always poses a threat from companies that risk losing profits and reputation, it can also threaten the health and well-being of consumers. For example, illegally produced medications, when consumed by unknowing consumers, can cause sickness and even death. Research on software piracy has shown that high levels of economic well-being and an advanced technology sector are effective in deterring software piracy.[62] Perhaps as China's economy moves forward piracy will become less of a problem, but in the meantime it poses a major threat.

"There are few legal protections of an employee's right to privacy,"

Privacy Issues

Consumer advocates continue to warn consumers about new threats to their privacy, especially within the health care and Internet industries. As the number of people using the Internet increases, the areas of concern related to its use increase as well.[63] Some **privacy issues** that must be addressed by businesses include the monitoring of employees' use of available technology and consumer privacy. Current research suggests that, even if businesses use price discounts or personalized services, consumers remain suspicious. However, certain consumers are still willing to provide personal information, despite the potential risks.[64]

A challenge for companies today is meeting their business needs while protecting employees' desires for privacy. There are few legal protections of an employee's right to privacy, which allows businesses a great deal of flexibility in establishing policies regarding employees' privacy while they are on company property and using company equipment. The increased use of electronic communications in the workplace and technological advances that permit employee monitoring and surveillance have provided companies with new opportunities to obtain data about employees. From computer monitoring and telephone taping to video surveillance and GPS satellite tracking, employers are using technology to manage their productivity and protect their resources.

To motivate employee compliance, over 25 percent of 596 companies have fired workers for misusing the Internet, 6 percent have fired employees for misusing office telephones, 76 percent monitor their workers' website connections, and 65 percent use software to block connections to inappropriate websites. In addition, 36 percent of those employers track content, keystrokes, and time spent at keyboards and store the data in order to review it later. Employers are also notifying employees when they are being watched; of the organizations monitoring employees, 80 percent informed their workers.[65]

Because of the increased legal and regulatory investigations, employers have established policies governing personal e-mail use, personal Internet use, personal instant messenger use, personal blogs, and operation of personal websites on company time. Companies are also concerned about inappropriate telephone use, such as 1-900 lines or personal long-distance calls. Hence, some businesses routinely track phone numbers and, in selected job categories, record and review all employees' phone calls. More than half of the companies surveyed use video monitoring to counter theft, violence, and sabotage. The use of video surveillance to track employees' on-the-job performance has also increased, although companies that videotape workers usually notify them of the practice.

Concerns about employee privacy extend to Europe as well. In Finland an executive vice president and several employees of Sonera Corporation were arrested as part of an investigation into whether the wireless telecommunications company violated the privacy of its workers by monitoring their call records, a serious offense in Finland. The investigation was launched after a local newspaper reported that Sonera was tracing employees' phone calls in order to identify who may have leaked information about the company to the media. The company denied the accusation.[66]

Clearly conveying the organization's policy on workplace privacy should reduce the opportunity for employee lawsuits and the resulting costs of such actions. However, if a company fails to monitor employees' use of e-mail and the Internet, the costs can be huge. For example, Chevron Corporation agreed to pay $2.2 million to employees who claimed that unmonitored sexually harassing e-mail created a threatening environment for them.[67] Instituting practices that show respect for employee privacy but that do not abdicate the employer's responsibility should help create a climate of trust that promotes opportunities for resolving employee–employer disputes without lawsuits.

Electronic monitoring allows a company to determine whether productivity is being reduced because employees are spending too much time on personal Web activities. Knowing this can then enable the company to take steps to remedy the situation. Internet filtering companies such as Cyber Patrol, Surfcontrol, Surfwatch, and WebSense provide products that block employee access to websites deemed distracting or objectionable. WebSense launched AfterWork.com, a personal homepage for each employee at a company that allows employees to visit nonwork-related websites during breaks and lunch, as well as before and after work hours.[68] One survey about this subject found that 58 percent of employees considered using company resources for personal Web surfing to be an "extremely serious" or "very serious" business ethics violation.[69]

There are two dimensions to consumer privacy: consumer awareness of information collection and a growing lack of consumer control over how companies use the personal information that they collect. For example, many are not aware that Google Inc. reserves the right to track every time you click on a link from one of its searches.[70] Online purchases and even random Web surfing can be tracked without a consumer's knowledge. A survey by the Progress and Freedom Foundation found that 96 percent of popular commercial websites collect personally identifying information from visitors.[71]

For example, the FTC asked a federal judge to shut down Odysseus Marketing Inc. on the grounds that it secretly installed spyware that could not be removed by the consumers whose computers it infected. The company offered a free software package to make peer-to-peer file sharing anonymous, but consumers ended up downloading a program called Clientman, a spyware program that altered search results, disseminated pop-up ads, and installed third-party ads without notice to consumers. The company denies any wrongdoing.[72]

A U.S. Department of Commerce study on e-commerce and privacy found that 81 percent of Internet users and 79 percent of consumers who buy products and services over the Web were concerned about online threats to privacy.[73] Another survey found that 38 percent of respondents felt that it is never ethical to track customers' Web activities, and 64 percent said that they do not trust websites that do.[74] These concerns have led some companies to cut back on the amount of information they collect: Of the sites surveyed by the Progress and Freedom Foundation, 84 percent indicated that they are collecting less data than before.[75] However, many consumers have expressed a low level of confidence in their ability to avoid becoming a victim of credit or debit card fraud.

Companies are also working to find ways to improve consumers' trust in their websites. For example, an increasing number of websites display an online seal from BBBOnline, available only to sites that subscribe to certain standards. A similar seal is available through TRUSTe, a nonprofit global initiative that certifies those websites that adhere to its principles. (Visit http://e-businessethics.com for more on Internet privacy.)

THE CHALLENGE OF DETERMINING AN ETHICAL ISSUE IN BUSINESS

Most ethical issues will become visible through stakeholder concerns about an event, activity, or the results of a business decision. The mass media, special interest groups, and individuals, through the use of blogs, podcasts, or other individual-generated media, often generate discussion about the ethicalness of a decision. Another way to determine whether a specific behavior or situation has an ethical component is to ask other individuals in the business how they feel about it and whether they view it as ethically challenging. Trade associations and business self-regulatory groups such as the Better Business Bureau often provide direction for companies in defining ethical issues. Finally, it is important to determine whether the organization has adopted specific policies on the activity. An activity approved of by most members of an organization, if it is also customary in the industry, is probably ethical. An issue, activity, or situation that can withstand open discussion between many stakeholders, both inside and outside the organization, probably does not pose ethical problems.

> *"Over time, problems can become ethical issues as a result of changing societal values."*

However, over time, problems can become ethical issues as a result of changing societal values. For instance, for decades Kraft Foods Inc. has been a staple in almost every home in the United States, with products such as Kraft Macaroni and Cheese, Chips Ahoy! cookies, Lunchables, Kool-Aid, Fruity Pebbles, and Oreos. Nothing was said about such foods until 2004. However, a problem was perceived first by parents, then schools, and then politicians who became aware that the United States has the most obese people in the world, with approximately 40 percent of the population overweight.

The fact is that since 1980 the rate of obesity in children (ages 6 to 11) has more than doubled, and it has tripled in adolescents. Children who are 10 years of age weigh 10 pounds more than they did in the 1960s. As a result, Congress has proposed legislation relative to obesity and concerning the advertising of unhealthy food products to children. Kraft realized that it now has an ethical situation regarding the advertising of such items as hotdogs, cookies, and cereals with high sugar levels. Some consumer groups might now perceive Kraft's $90 million annual advertising budget, which was primarily directed at children, as unethical. Because ignoring the situation could be potentially disastrous, Kraft instead devised a compromise: It would stop advertising some of its products to children under 12 years of age and instead market healthier foods. As a result of government recommendations, Kraft executives have continually revised their advertising guidelines regarding children and the advertisement of products containing large amounts of sugar, fat, and calories, knowing that their decisions would probably negatively affect their bottom line.[78]

Once stakeholders trigger ethical issue awareness and individuals openly discuss it and ask for guidance and the opinions of others, one enters the ethical decision making process, which we examine in Chapter 5.

SUMMARY

Stakeholders' concerns largely determine whether business actions and decisions are perceived as ethical or unethical. When government, communities, and society become involved, what was merely an ethical issue can quickly become a legal one. Shareholders can unwittingly complicate the issue of conducting business ethically by demanding that managers make decisions to boost short-term earnings to maintain or boost the value of their shares of stock.

A first step toward understanding business ethics is to develop ethical issue awareness; that is, to learn to identify which stakeholder issues contain an ethical component. Characteristics of the job, the corporate or local culture, or the organization of the society in which one does business can all create ethical issues. Recognizing an ethical issue is essential to understanding business ethics and therefore to creating an effective ethics and compliance program that will seek to minimize unethical behavior. In order to do this, people must understand the universal moral constants of honesty, fairness, and integrity, which are accepted by businesspeople everywhere. Without embracing these concepts, running a business becomes very difficult. To be honest is to tell the truth to the best of your ability without hiding anything. Confucius defined several levels of honesty: *Li*, which relates to the superficial desires of a person; *Yi*, which relates to doing business based on reciprocity; and *Ren*, which is based on empathy and understanding others. Confucianism advocates treating inferiors as you would want superiors to treat you, an idea that is later reflected in Kant's Golden Rule. Virtues such as a family's honor and a person's reputation for honesty are of paramount importance.

Fairness is the quality of being just, equitable, and impartial, and it overlaps terms such as *justice, equity, equality*, and *morality*. The three fundamental elements that motivate people to be fair are equality, reciprocity, and optimization. Equality relates to how wealth is distributed between employees, within a company or a country or globally; reciprocity relates to the return of small favors that are approximately equal in value; and integrity relates to a person's character and is made up of two basic parts: a formal relation that one has to oneself and a person's set of terminal, or enduring, values from which he or she does not deviate.

An ethical issue is a problem, situation, or opportunity that requires an individual, group, or organization to choose among several actions that must be evaluated as right or wrong, ethical or unethical, but an ethical dilemma has no right or ethical choice.

Bribery is the practice of offering something (usually money) in order to gain an illicit advantage. A conflict of interest is when an individual must choose whether to advance his or her own interests, those of the organization, or those of some other group. Corporate intelligence is the collection and analysis of information on markets, technologies, customers, and competitors, as well as on socioeconomic and external political trends. There are three intelligence models: passive, tactical, and top-management. The tools of corporate intelligence are many. One tool is hacking, which has three categories: system, remote, and physical; another is social engineering in which someone is tricked into revealing valuable corporate information; other techniques include dumpster diving, whacking, and phone eavesdropping.

Another ethical/legal issue is discrimination, which is illegal in the United States when it occurs on the basis of race, color, religion, sex, marital status, sexual orientation, public-assistance status, disability, age, national origin, or veteran status. Additionally, discrimination on the basis of political opinions or affiliation with a union is defined as harassment. Sexual harassment is a form of sex discrimination. To help build workforces that reflect their customer base, many companies have initiated affirmative action programs. Environmental issues such as air, water, and waste are becoming an ethical concern within business. In general, fraud is any purposeful communication that deceives, manipulates, or conceals facts in order to create a false impression. There are several types of fraud: accounting, marketing, and consumer.

An insider is any officer, director, or owner of 10 percent or more of a class of a company's securities. There are two types of insider trading: legal and illegal. Intellectual property rights involve the legal protection of intellectual properties such as music, books, and movies. Consumer advocates continue to warn consumers about new threats to their privacy.

IMPORTANT TERMS FOR REVIEW

honesty
fairness
equality
reciprocity
optimization
integrity
ethical issue
ethical dilemma
abusive or intimidating behavior
lying
conflict of interest
bribery
active bribery
passive bribery
facilitation payment
corporate intelligence
hacking
system hacking
remote hacking
physical hacking
social engineering
shoulder surfing
password guessing
dumpster diving
whacking
phone eavesdropping
discrimination
Equal Employment Opportunity Commission
Age Discrimination in Employment Act
affirmative action program
sexual harassment
hostile work environment
dual relationship
unethical dual relationship
environmental issue
Kyoto Protocol
water pollution
green energy
fraud
accounting fraud
marketing fraud
puffery
implied falsity
literally false
labeling issue
slamming
consumer fraud
insider trading
intellectual property rights
privacy issue