CHAPTER OUTLINE

The world is beset with critical environmental, economic and social issues and persisting geo-political tensions. Under convergence, every lobby, organisation and consumer has a voice that can be expressed powerfully through digital communication. Brand organisations must expect, anticipate and engage with complaints, boycotts and other expressions of dissent and dismay. In this highly sensitised environment, global advertising strategies must be informed by an acute sensitivity to advertising and promotional ethics and regulation. Brands have a social impact, and a social responsibility. This chapter outlines some of the issues of advertising ethics and regulation, and introduces some concepts of moral philosophy that might be of assistance in understanding the ethical dimensions of advertising.

KEY CHAPTER CONTENT

Brands and ethics
Ethics and controversy over advertising
International advertising regulation
Applied ethics and advertising regulation
BRANDS AND ETHICS

Brand managers have a problem. Consumers are fussy and fickle, shareholders are demanding, marketing is expensive, and competitors are ruthless. Sales and market share must be maintained otherwise jobs, livelihoods and pensions will be lost. Who has time for ethics? Marketing, in particular, is often accused of being an ethics-free zone, and advertising is often seen as the dark heart of marketing with concerns about the putatively sinister and manipulative uses of research and subliminal advertising techniques (Packard, 1957; Samuel, 2016). Brands have huge potential to generate confusion, controversy, anger and angst (Klein, 2000; Holt, 2002; Ritzer, 2011). Increasingly, brands are expected to have an ethical purpose, and in the post-COVID 19, post-George Floyd world, brands need to demonstrate that tangibly, or suffer the consequences. For example, in mid-2020, a time when the Google-Facebook duopoly on digital advertising was facing challengers such as Amazon, Facebook owner Mark Zuckerberg was attracting criticism for his platform’s stance, or lack of it, on racism. Brands have to consider the possible effects of their perceived stance on social issues on their reputation, and their revenue. A chapter on ethics in an advertising text might be seen as tokenistic, or worse, it might be seen as a manual for ticking the ethical communications box in corporate social responsibility programmes. If the shareholders, regulators, employees and senior officers of the company, along with the trade press, are all happy, then consumers can look after themselves. Right?

But this mis-characterisation oversimplifies the nature of ethics in management, and it ignores the fact that brands are now in a continuous dialogue with the world (Crane and Matten, 2015). Consumers place great trust in brands, and they expect brands to respond to that trust. Brand managers who ignore this truism place their brands’ long-term welfare at risk. The purpose of this chapter is not to caricature or to preach, but to try to tease out some of the complexity entailed in considering the ethical status of advertising and promotion, and the ways in which brands engage with consumers’ concerns about fairness, honesty, the environment and other ethical issues. There are many topic areas in marketing that connect to ethics, including consumer protection, environmental protection and sustainability, financial reporting, data privacy, surveillance, employment practices and community responsibility. Advertising and promotion agencies of all kinds along with brand marketing organisations need to pay heed to all these matters and more for both commercial and non-commercial reasons. In this chapter, we will focus mainly on the ethical issues that are particular to advertising and promotional communication. The chapter will argue that this is far more complex than a matter of telling truth or untruth, although standards of truth are unquestionably important in maintaining trust in marketing in general.

We have seen over the past few years that as brand marketing techniques have embraced political and social campaigning, brands find themselves in the firing line for their perceived association with one ideology or another. Earlier in the book we have seen how Nike’s 2017 announcement of its sports hijab excited both ideological support and protest on social media, as did Coca-Cola’s ‘America the Beautiful’ Super
Bowl ad in 2014, and on to the Pepsi Kylie Jenner debacle in 2017 and many more. Even innocuous items such as clothing and soda cannot avoid being seen through an ideological lens, or, indeed, soap and shampoo. In Chapter 10 we mentioned the Dove campaign that has attached itself to ethical issues of women's representation in media and society. Brand purpose, that is, the ethical and ideological standpoints of the brand, has become important to many consumers. The #BlackLivesMatter protests and COVID-19 crisis highlighted this in 2020 as many brands struggled to make a valid point and a few struck the right note. Brands need to be seen as relevant and connected to the world of their consumers, whether the issue is race or gender inequality, and fairness, the environment, or any other concern.

Of course, some brands have gone the opposite way and thrived on controversy in some of their campaigns, such as Ryanair, FCUK, Benetton (see Snapshot 11.3 and this chapter's case study), Nike, and Brew Dog. But for a brand to succeed in creating controversy, the creative work has to be finely judged. For example, Nike has consistently created campaigns that enhance the anti-establishment and progressive credentials of the brand while also generating huge social media storms of opposition with calls for boycotts of the brand. They seem to have understood their key market segments well and alienated consumers who they were happy to lose. For most brands, though, controversy and giving offence are things they want to avoid most of the time. Even though many concerns raised about the conduct of brands are matters of deep importance, it is also true that brands can be great opportunities for lobbyists to earn some publicity for their cause by raising a complaint and politicising the brand. In these times of polarised opinion, for some people, social media are a landscape in which social and political issues are dichotomous and brands are either with them, or against them. For every promotional campaign there will probably be some claims of being offended or deceived by the advertising, and further critical comment will be levelled at brands' environmental practices, their pricing or supply chain and labour practices, and their policies and practices on race, gender and disability. What is more, competitive rivals can sometimes be the most energetic complainants about ads, so public outrage may not always be what it seems.

Under convergence, PR and ethics/corporate social responsibility (CSR) are intimately connected but they are not the same thing (Crane and Matten, 2015). Dealing with complaints at the level of communication is a PR task. Dealing with the underlying issues is a matter of CSR and brand policy. Brands must accept that, for many consumers, their relationship with a brand is deeply personal, and, equally for many consumers, personal choices are political choices. For example, the VW emissions scandal that exploded in the USA in 2015 has major ongoing implications for the company. In mid-2020, the British courts ruled against VW in a class action lawsuit for compensation over the matter. Many environmentally concerned consumers felt let down. Trust, and sales in the USA and Europe, have been affected. Nonetheless, the brand still became the world's biggest car brand by sales volume in 2016, overtaking Toyota with some 10.3 million sales. By 2018, Volkswagen Group remained the world's biggest car brand by sales, in front of the Renault-Nissan-Mitsubishi Alliance, Toyota Group, General Motors and Hyundai-Kia. However, by 2020, Volkswagen group
ADVERTISING AND PROMOTION

had slipped to second place after Toyota, although all car brands were hit hard by COVID-19 (only Tesla showed sales growth in 2020) and VW’s reliance on the Chinese market left it exposed. Clearly, when a brand is as global as VW, catastrophic legal and ethical problems in one region do not necessarily dent the global sales picture, at least until a pandemic arrives.

Selling cars was seldom seen as an inherently controversial business until greater awareness grew about the environmental damage caused by NO₂ and CO₂ emissions – yet judging by the sales pattern for VW Group from 2015 to 2020, a lot of consumers still find exhaust emissions an arcane technical detail that is not uppermost in their purchase decision making. What are the issues around more ethically charged products, such as formerly illegal drugs? The legalised marijuana market in the USA is booming in spite of anecdotal stories emerging of rising health problems associated with marijuana use. At the time of writing, marijuana cultivation and sale in the USA is still a controversial business that isn’t quite mainstream – it remains illegal under federal law and recreational use of the drug was only legal in 14 states by mid-2020, yet the USA is the biggest market in the world for marijuana, and in 2020 accounted for an estimated 340,000 jobs and US$13 billion in sales, with huge growth projected over the next ten years. In many countries, it is illegal to sell or advertise alcohol brands, birth control products, certain categories of drugs, cigarettes and guns. Advertising, then, finds itself at the centre of ethical controversy and political debate: firstly, because of its inherently challenging nature as a form of discourse; secondly, because it is often regarded as being deceptive and manipulative; and thirdly, because the things that are advertised often excite fiercely opposing views about their ethical legitimacy. In this chapter we will try to navigate a way through some of these complex issues, while acknowledging that, for many brands, a safe, neutral path will not be possible – brands have to deal with the politicisation of the world head on, and they have a serious responsibility.

ETHICAL QUESTIONS AROUND ADVERTISING

Marketing in general offers a wide range of ethical issues for consideration, many of them mobilised through advertising (Brenkert, 2008; Hackley et al., 2008; Eagle and Dahl, 2015; Shaw et al., 2016). For example, is it ethically correct to advertise to children using the same techniques that are used when advertising to adults (a problem that particularly exercised Packard, 1957)? Is it right to advertise toys that are not necessarily good for children’s development, and which might cost their parents or carers a lot of money? Should advertising be permitted to use imagery and words that shock, offend or insult particular groups? Should advertising intrude on such a large number of social spaces such as roadside billboards, posters and even in-school advertising? Should august institutions such as political parties, law firms, places of religious worship, and (heaven forfend) even universities use the manipulative and vulgar techniques of advertising to spread their message? Indeed, is advertising intrinsically and inevitably a medium of exaggeration, mendaciousness and deception? Should it be permitted at all? These and
many more questions can be asked about advertising, and about campaigns and advertisements in particular.

Advertising communications can commit many acts of dubious ethics in their attempts to seduce us into buying. Some are listed in Table 11.1.

<table>
<thead>
<tr>
<th>TABLE 11.1 Some examples of unethical advertising practices</th>
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<tbody>
<tr>
<td>Overselling, exaggeration</td>
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<tr>
<td>Exploitation of vulnerable groups, such as the old, the disabled, children, the poor</td>
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<tr>
<td>Deception – lying</td>
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<td>Misuse of data</td>
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<td>Not protecting consumers’ privacy</td>
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<tr>
<td>Exploiting negative racial, sexual or gender stereotypes</td>
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<tr>
<td>Promoting prejudice against vulnerable groups</td>
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<tr>
<td>Promoting socially or personally harmful values or behaviours</td>
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<tr>
<td>Offending public taste</td>
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<tr>
<td>Exploiting base motives of greed and envy</td>
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Ethical issues in product or service marketing can be relatively clear-cut in the sense that if, say, a car explodes when shunted from the rear because of a rear-mounted petrol tank (for example, the notorious Ford Pinto®), this is clearly dangerous manufacturing practice, although it can take a number of years for the manufacturer to be made accountable for the defect. At least, the ethical problems are made clear with hindsight. If a product or service is injurious to health, such as cigarettes or alcohol, again this is subject to public scrutiny and can be addressed, although it can take decades. We can probably all agree that things that might harm anyone's health are generally bad, even if some may be legal (alcohol, cigarettes, marijuana, diesel powered cars, processed foods), although this runs into the problem that we do sometimes willingly choose to consume things that we know are bad for us. A lot of people willingly, indeed, enthusiastically, consume all the above products. The problem with advertising, as we can see straight away, is that ethical judgements in general are predicated on certain values and interests that are not universally agreed upon. People cannot agree on matters of secular civil governance that are, on the face of it, quite concrete and substantial, such as the correct penalties for particular crimes, the right way to treat planning permission for buildings, or the right level of funding for education. How much more difficult is it to agree on the ethical status of an advertisement, especially since all too often, as we saw in Chapter 2, it is far from easy even to agree on exactly what the ad means?

ADVERTISING’S PUBLICS

For some people, business is business and one should always be sceptical, even cynical, in assessing commercial claims in advertising. Caveat emptor or ‘buyer beware’
is a maxim that could apply here – if you believe advertisements tell you the truth, then, some people would say, more fool you. Another way of putting this is to say there’s a sucker born every minute, as legendary circus entrepreneur P.T. Barnum probably didn’t say. Advertising is just trying to sell us stuff, so perhaps we should not be surprised if it sometimes indulges in hyperbole. After all, we often read press or books and watch TV news reports that we regard as exaggerated, inaccurate, one-sided, misleading or even in bad taste, so why should we expect advertising to be any different? Of all those genres, advertising has the most pressing motivation to be biased. On the other hand, just because someone wants to sell you something can they be excused from any ethical standards? Is making money more important than other values? It is all very well to say that buyers in a marketplace have a responsibility to look out for themselves, but should they not also be protected from unscrupulous or mendacious sellers? Furthermore, advertising is a profoundly symbolic communication form that operates in a grey area characterised by polemic, puffery, and implicit rather than explicit suggestion. It is often very hard to reduce advertising claims to truth or lies. What about Axe/Lynx advertising and its claims that the deodorant will make men irresistible to women, or bread advertisements that evoke Victorian values when they are, in fact, made by modern production methods (see Snapshot 11.1)? The question is, to what extent should consumers be regarded as sophisticated readers of advertising, or do they need to be protected?

**SNAPSHOT 11.1**

Advertising ethics – a matter of interpretation

The Real Bread Campaign (RBC) is a food lobby group. RBC contacted the first author for support in a complaint they made to the UK advertising regulator, the Advertising Standards Authority (ASA), about an advertisement on the website of bread maker Allinson. The ad, made up in sepia with Victorian images, juxtaposed a picture of a pair of hands kneading dough with the line ‘Allinson Today’. RBC felt that it misleadingly suggested that the bread was made by Victorian methods, when in fact it is made by modern production methods. The ASA ruled that the complaint was without grounds because consumers would be expected to know that the images were merely part of the branding, and did not literally suggest that human hands were involved in kneading dough as part of the manufacturing process. Rulings like this one from the ASA gave advertisers huge scope to suggest implicitly what they could not say explicitly, because it was not true. Advertising regulation tends to hinge on debates about the meaning of ads, and there is often an assumption on the part of the regulator that ads carry distinct meanings, as with legal or scientific material. As we have seen, much advertising carries both ostensive and covert (Tanaka, 1994) communication used in combination. The precise intended meaning of the ad is left open to interpretation. Cook (2001) uses the example of a British TV ad for the Cadbury Flake chocolate bar to illustrate that ads, like any discourse, have connotations that are subtle and personal. The 1960s–70s Flake campaign was open
Further complicating advertising ethics is the fact that advertising serves many disparate interests: consumers, manufacturers, media owners, government agencies, media regulators, charities, the economy as a whole, employers, employees, and more. Consequently, deciding whether an ad is ethically acceptable by agreed standards, or unacceptable, can be a complex matter because of the different interests advertising must serve. An ad might be very effective in generating sales, and that is good for the company, its employees, its shareholders and its suppliers. If it is deemed to be an unethical ad, then consumers will be protected if it is banned, but what of the potential harm to the employees, shareholders and those connected with the value chain of the brand, such as raw material suppliers, their employees, shareholders, pension funds and so forth? Most shares are held by large financial institutions such as pension funds and insurance companies. These financial institutions manage savings schemes and pension funds and invest in businesses. People depend upon these funds for their retirement, health insurance, savings. Hence, advertising is not simply a matter of greedy companies trying to get our money – it is part of the connected economic system into which we pay, and from which we hope to get employment, pay, a lifestyle, and eventually, if we're very lucky, income for our retirement.

Even consumer protection is not a simple issue. Which groups, exactly, deserve protection, and from what or whom? Should citizens be protected from advertisers? Or should advertisers (and the income and employment they generate) be protected from citizens who are too easily offended by communications that were not aimed at them? Are there groups that deserve extra protection, such as children, the elderly, the less educated, the poor? And what if they don't want to be protected? For example, smokers of cigarettes cannot be unaware that they are potentially shortening their lives, yet in many countries they pay large taxes on each packet willingly, as the price of indulging their vice. Those taxes are sometimes justified as a public health measure.

to a Freudian interpretation of its visual metaphor. The consumer who points this out is risking the accusation that they are relating their interpretation, not the reality. As Cook (2001: 51) states, the 'assumption that meaning resides in the text quite independently of group or individual perceptions, is depressingly common in discussions of advertising'. Of course, the fact that certain individuals, perhaps even large numbers of individuals, might read particular connotations into an ad is well understood and used as a stratagem by the advertiser. Their indeterminacy of meaning makes ads a more intriguing and more compelling communication. Ads are frequently accused of using sexual suggestiveness and symbolism: they are able to do this without risk of official censure by locating sexual connotation within the covert dimension of the ad, where its presence cannot be objectively proven. The ASA, though, eventually moved to a less legalistic interpretation of ads with regard to gender stereotypes, under public pressure, and in 2020 it banned several ads because of their implied meaning rather than hiding behind their interpretation of the ad’s literal meaning.
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to reduce consumption. But smokers who do not want to give up smoking would, no doubt, prefer not to pay the taxes on each packet.

Ethical issues in advertising are not confined to the matter of economic relationships. Advertising does not merely sell stuff, as we have seen, it is also a form of social communication (Leiss et al., 2005) that can illustrate, reflect and amplify the social norms and conventional values of its time. Advertising, in the broadest sense, is a historical document detailing changing tastes, fashions, norms and attitudes. It reflects current standards of public taste and decency and modes of public discourse. By implication, from an ethical perspective, we get the advertising we (as in the silent majority) want and deserve. Of course, the ‘we’ in question is a heterogeneous group with the sharply differing views and values of the communities in which we live. Controversies about advertising, then, can serve a social function as a means of crystallising fundamental differences between social groups. Advertising also impacts on pressing issues of public policy such as alcohol-related social harm and ill-health, obesity, or lung and heart disease through unhealthy food and smoking, and there are ethical issues around guns, drugs or environmentally damaging products. All can elicit protests from lobby groups promoting a particular cause. Advertising, the eternal piano player, tends to get shot, every time.

ADVERTISING’S ECONOMIC ROLE

All these potentially problematic issues cannot obscure that fact that advertising exists for a very important reason. It creates wealth, for individuals, for companies and for economies (although we acknowledge that the economic justifications for advertising and marketing are also disputed, e.g. Davis, 2013). The regulations surrounding advertising must take account not only of ethical issues but also of the economic functions that advertising putatively fulfils. Advertising performs the indispensable economic functions for capitalist economies of communicating offers to consumers, increasing demand, and facilitating competition and choice. Some might argue that we can do without advertising and still generate the wealth that the world needs to feed itself. Maybe. Maybe not.

For whole economies, there is a strong correlation between advertising expenditure growth and growth in GDP. Growth in advertising expenditure reflects general economic confidence and feeds through to increased demand. So, advertising is said to be indispensable to economic growth, wealth and job creation. Without it, competition would be blunted since consumers would not be made aware of the rival offers and product features available. Manufacturers could not communicate offers and local monopolies would thrive. Companies would have no incentive to be more efficient or to improve their offer. Advertising is said to be the price we pay for wealth creation. There is an argument that poverty is the greatest evil facing the world and if advertising can help reduce poverty by creating demand, jobs and income then it should not be subject to regulation at all. But, one can also argue that advertising is too important a form of public communication not to be regulated, since uncontrolled advertising could not only discriminate against minorities and
offend public decency, it could also undermine public trust in marketing by making exaggerated or untrue claims.

TABLE 11.2  Economic arguments in favour of advertising

<table>
<thead>
<tr>
<th>Through advertising, it is claimed that producers are able to:</th>
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<tr>
<td>Expand their markets, enter new markets, defend market share</td>
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<tr>
<td>Differentiate offers to target heterogeneous consumer groups</td>
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<tr>
<td>Take advantage of economies of scale to reduce unit production costs</td>
</tr>
<tr>
<td>Increase revenue, employment, investment funds and returns to shareholders</td>
</tr>
<tr>
<td>Make consumers aware of choices, product qualities and offers</td>
</tr>
<tr>
<td>Compete with other producers, lowering prices and stimulating innovation</td>
</tr>
<tr>
<td>Contribute to GDP growth and aggregate employment</td>
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Table 11.2 touches on a few of the arguments in favour of advertising. Marketing as a discipline grew out the inability of microeconomics, hampered by its assumption of economic rationality, to help understand why some markets cleared, and others did not (Hackley, 2009a). Marketing drew on a wide range of social science and humanities disciplines, including sociology, anthropology, psychology, history and literature, to try to understand consumer heterogeneity. That is, it sought to understand why consumers buy stuff, because the economists’ explanation, that we are all seeking to maximise our utility, is clearly, lamentably inadequate (if any economists are reading this, we mean no offence – your discipline, like ours, will be really good, one day). Marketing theorists such as Wroe Alderson (Tadajewski, 2009) sought to develop a multi-disciplinary behavioural science that helped policy makers to make markets more efficient. Advertising is clearly a major feature of this discipline for its ability to expand demand and force the re-alignment of resource allocation around consumer preferences. Marketing and advertising effectively reduce unit costs of production by increasing demand and making possible economies of scale, increasing profit margins and incentivising investment. Advertising makes consumers aware of product and service offers, therefore enabling competition and incentivising efficiency and innovation. Of course, the notion of ‘incentivising’ rests on an assumption that people act in a self-interested manner. The credibility of this assumption perhaps rests on one’s view of human nature.

SNAPSHOT 11.2

Advertising regulation – TV ads for drugs
Advertising regulation differs in different countries depending on local laws. In the USA, for example, direct to consumer (DTC) advertising of controlled prescription-only drugs is permitted, when it is not allowed in many other countries, such as the UK. US TV DTC

(Continued)
The expression ‘public trust in marketing’ might have brought a smile to some readers’ lips but the role of trust in economic growth should not be underestimated. At a basic level, we need to believe that if we pay for something, we will receive the product we saw in the advertisement. Electronic payment systems require a good deal of trust too, to facilitate the electronic commerce that businesses such as Amazon and many others depend upon. It helps too if we can feel pretty confident that the things an advertisement says about a product or service are substantially true. Trust, in this sense, is a fundamental requirement of commercial communication and a very underestimated component of business practice (Harris et al., 2014). The element of trust only becomes apparent when one experiences an economy with very low levels of trust, and the extent to which lack of trust inhibits trade becomes starkly apparent. Advertising is no exception to this rule, and in spite of its poor public image, much of it does not tell literal untruths because it would not be in the long-term interests of any advertisers to do so. In the age of social media, bad faith on the part of advertisers is rapidly exposed.
ADVERTISING’SIDEOLOGICALFRAME

In order to understand our reactions to advertising it is important to appreciate that it has always been a contested area. Two hundred years ago there was public concern at advertising’s presence as a form of ‘social pollution’ in London streets (Hackley and Kitchen, 1999; McFall, 2004). Even in the USA, advertising was not always welcomed with enthusiasm. In particular, early advertising was associated with the large corporations. The activities of these corporations were met with great suspicion, even open hostility, in the USA at the turn of the century. These corporations needed some help to create the public acceptance of mass marketing and mass retailing that they required. It was to advertising agencies that they turned for that help.

Historian Roland Marchand (1985, 1998) has described how the rise of big business in the USA was facilitated by advertising and communication. At the turn of the twentieth century, there were many mergers and acquisitions in US business. As a result there were fewer, bigger corporations. Many Americans regretted the demise of the local high street store and the rise of vast, ‘soulless’ corporations. As corporations grew, many feared that they posed a threat to American values and institutions such as the church, the family and the local community. Serious questions were asked at presidential level about the activities of these leviathans and their influence over American cultural life. The entrepreneurs who created great corporations such as AT&T, GM, GE, Ford Motors and US Steel were acutely aware of the need to legitimise their activities and manufacture a ‘soul’ for the new corporatism. Over the following decades a profound transformation took place in the public image of corporations.

From being perceived as potential threats to American values, the giant corporations became the very epitome of those values and a legitimate part of American life. Marchand (1998: 2) points out that this new legitimacy flew in the face of classical economic theory that held that the nature of competitive businesses is that they cannot rise above self-interest or the dictates of the market. As these companies attained extraordinary size and power it became clear that they were no mere slaves to market forces but exercised considerable monopolistic power. Not only did they have to persuade the public of their right to play a part in American life, they also had to create an identity to soften their soulless image. The corporations addressed this pressing problem partly through welfare capitalism and patriarchal initiatives to improve the workforce through education and training. Many corporate PR and advertising campaigns personalised communications to give a human face to the faceless corporation. Anthropomorphism in marketing is by no means confined to corporate communications, but is a mainstay of brand strategy (Brown and Ponsonby-McCabe, 2013).

Big corporations also used other visual signifiers to legitimise their enterprise, such as grand architecture to impress their status and power on the skyline, like the neo-Gothic spectacle of the Woolworth building in New York City and the massive factories of manufacturers such as the Jell-O company and Pillsbury’s. Retail emporiums quickly took up the challenge to inspire consumers with the imaginative
and evocative use of physical space, for example with John Wanamaker’s store in Philadelphia, now occupied by Macy’s. Paris has possibly the world’s first purpose-built department store, Le Bon Marché, and the stunning La Samaritaine, a blend of art nouveau and art deco, the largest department store in Paris and home of the LVMH luxury goods brand. These cathedrals of consumption invited their guests to trade up in social class, by entering the stores, buying the goods and acquiring the symbolic cultural capital to display in their living room, or on their arm. Architecture became a PR tool as the images were reproduced in posters and on company literature. The semiotic force of architecture helped bring lifestyle consumption to the masses. In a sense, the spaces of retail buildings and headquarters were invested with ideology (discussion in Hackley, 2013a). Sociologists have long understood that spaces are not neutral but can be seen as ideologies that inform the way people think and feel.

Corporate advertising, corporate architecture (that often featured in the advertising) and public relations, then, played a significant part in creating a soul for corporate America. Their advertising agencies produced a stream of imagery and copy on postcards, posters, in magazines and press editorial and, later, on radio portraying the corporations in terms of such values as integrity, service to the community, localism, tradition and moral uprightness. This corporate advertising also served a more pragmatic purpose in helping to produce an internal sense of corporate identity (and a sense of collective purpose) for thousands of employees.

In legitimising capitalist corporatism and selling consumption to citizens as a lifestyle, advertising was central to the development of the marketing ideal of consumer orientation. Advertising and branding have a distinctly ideological character and this can be viewed critically or turned to their advantage (Williamson, 1978; Elliott and Ritson, 1997; Holt, 2002; Holt and Cameron, 2010). To adapt Bernays’s (1928) notorious phrase, Western consumers’ complicity in and consent to a society based on consumption was manufactured by intermediaries working on behalf of big corporations. As consumers we are taught, through advertising, that branded goods and services reflect our discernment, meet our requirements and express our social identity. Through responses (or non-responses) to advertising, consumers play a part in the market mechanism and cast a vote in favour of our own personal consumer vision. Consumers’ collective sense of self-interest is fired by the drama of consumption played out in advertising. Clearly, in affluent economies most categories of consumer need are not fundamental and absolute, but derivative and relative. Consumer goods are not created by advertising, but the symbolic social status attributed to the ownership and display of goods is (Leiss et al., 1997). Advertising teaches us that the social status of brand attributes is scarce and carries a premium cost. In this important historical sense, advertising has been central to the development of the idea of consumer marketing. The consumer orientation preached by marketing management textbooks can be seen as a continuation of the ideology promoted by the early American corporations. In spite of the practical limits to consumer orientation in large manufacturing organisations, marketing texts nevertheless deploy the rhetoric of consumer orientation to promote a sense of connection between you, the
little consumer, and your personal friend, the big corporation. The rise of brands as foci for consumer attention and trust rather than the corporations is merely a continuation of the activity described by Marchand (1998).

The rhetorical force and apparent popularity of marketing rhetoric (‘satisfying consumer needs’, being ‘customer-focused’ and ‘market-oriented’ to serve the ‘sovereign consumer’) might reflect a continuing need for capitalist corporatism to re-assert its legitimacy amidst a contemporary crisis of confidence in the activities and motives of global business corporations, or it could merely be a reflection of the continuous tension between capitalism and society (Hackley, 2003g). Advertising’s success in setting the preconditions for a consumer society has been striking even while organised resistance to global capitalism is evident in the form of sporadic but numerous consumer protests and boycotts (see, for example, Klein, 2000). Capitalism seems to be highly creative in re-inventing itself, although there are many claims today that in an age of neo-liberal economics it has finally exhausted its potential (e.g. Streeck, 2016).

ADVERTISING’S COLLECTIVE EFFECT

On a wider scale, it can be argued that advertising and other forms of promotional communication collectively create the cultural preconditions that lead to consumers’ acceptance of marketing and the consumer society (Wernick, 1991; Leiss et al., 2005; Davis, 2013). Of course, marketing communications managers and brand managers are interested only in the efficacy of advertising for their particular brands. However, in order to fully understand advertising’s specific effects it is necessary to also appreciate its collective influence. It is a form of communication that, as consumers, we have to learn how to read. There is a level of cultural understanding that is a precondition for interpreting ads. Once we are acculturated to reading advertising texts, experiencing new forms of advertising modifies our understanding of subsequent ads. Advertising and promotion within promotional culture constitute a self-generating system of signs that frames our experience as consumers and places our sense of social identity and economic relations within a consumption-based sign system. By being exposed to different kinds of advertising text over time, consumers are educated to understand advertising in all its complexity and variety, which masks the fact that at one level all advertising promotes the same thing – consumption. The ethical status of advertising and promotion has to be understood in the context of its broader ideological frame. In the end, all advertising is selling one thing only – happiness, through consumption.

ETHICS AND CONTROVERSY OVER ADVERTISING

Interest in the ethics of advertising is not new. For example, letters to London magazine Punch expressing disquiet over advertising date back over 200 years (McFall, 2004). Controversy over the quantity of advertising, over its styles of representation and over the ways in which it seems to wield its influence, is not confined to the post-war era. Advertising has, though, grown in volume and now reaches us on many
new media technologies that extend ever further into our lives. We now have interactive technology in the home that can listen to us and buy stuff for us on demand, and this technology also seems to listen to our conversations and direct ads to our social media newsfeeds. Social media platforms are essentially advertising companies that deliver users, and our habits, attitudes and history, to advertisers. There may be controversy and disquiet over particular ads, but a bigger issue is the ethical status of the entire marketing system that is sustained by digital technology.

Amidst the astonishing technological developments in consumer culture, the subjectivity of ethical judgements means that questions about ethics in advertising are clouded in a fog of contrasting but passionately held opinions. Particular ads or campaigns occasionally become topics of controversy: that is, they attract widely diverging opinions that are expressed in public forums such as online chat and social media platforms, print newspapers’ letter pages and editorials, TV news media, and even in political debates. Of course, not all controversy over advertising is based on questions about ethics. But many disagreements emerge from differing ethical standpoints. Often, the media stories are given their narrative hook by strongly held opinions about whether an ad or campaign should or should not be permitted, broaching issues of free speech and censorship in regulation. In many cases, the brands are grateful for this coverage since, even though it is critical, it publicises the brand to a far greater extent than the advertisement alone could have done. There are even compilation articles in the trade media of the top ten most controversial ad campaigns, in which ads that were regarded as especially offensive gain additional media coverage. Much of the social media conversation is conducted in a state of high dudgeon, and outrage itself has become a driver of publicity that some brands are all too happy to exploit.

SNAPSHOT 11.3

Strategic controversy – or ‘purposeful polysemy’ in Benetton advertising in the 1980s–90s

Puntoni et al. (2010) use the term ‘purposeful polysemy’ to refer to advertising that is deliberately left open to a number of different possible interpretations. By no means do all polysemic ads generate offence, but some have exploited this polysemy to lead to debates that fire up the media and gain valuable exposure for the brand. There are no better examples of this than Benetton’s campaigns in the 1980s and 1990s, which elevated the brand from a regional knitwear producer virtually unheard of outside Italy to one of the world’s most recognised global brands in a few short years. The story began with the brand’s appointment of photographer Oliviero Toscani, one of Italy’s top photographers, who was given control over Benetton’s advertising by Luciano Benetton in the early 1980s. He decided to change the focus of Benetton advertising from product to lifestyle. From 1984, the creative executions increasingly carried Toscani’s personal agenda of social...
In some cases, controversy over advertising is nothing more than a marketing technique that leverages extended publicity. As Snapshot 11.3 discusses, brands with a youthful and edgy positioning know that if they can succeed in antagonising groups other than their own target market there are likely to be useful side effects, such as free editorial publicity and a stronger brand identity. The letters pages of national newspapers, weblogs, comment threads and social media comments can act as forums for strongly held feelings about advertising campaigns that are perceived as being offensive, dishonest or irresponsible. If there seems to be a rising tide of popular opinion complaining about an ad, editorial comment starts to appear in the form of feature articles and opinion pieces in the press and on ‘magazine’ TV shows.Pretty soon, the brand is all over the media, earning sales and brand presence because
of all the free publicity, and delighting its market segment if they like the idea that their brand is edgy. These campaigns exploit the provisional status of advertising as a ‘parasitic’ communication form that continually challenges discourse conventions of what advertising ought to look like.

Of course, there are risks too, and some deliberately ‘edgy’ advertisements result in a negative market reaction for the brand. The way the campaign will be received by different groups has to be finely judged, and the tone of the ad needs to fit with the brand values. In this chapter’s case study below, the ads for Cadillac and American Apparel, for example, seem to have been well judged in this respect, in spite of, or rather because of, the irate negative reactions they received on social media. Scottish beer brand Brew Dog gained many column inches of media with its controversial campaigns, including the launch of the ‘world’s first transgender beer’ in 2015. Nike has also created a number of well-judged but highly controversial campaigns – for example, its 2018 campaign starring former NFL star Colin Kaepernick generated a media firestorm of reaction, but it still resonated with the #BlackLivesMatter movement some three years later when a wave of protests occurred following the killing of George Floyd.

It should also be remembered that controversy over advertising cuts both ways, and can sometimes be used as a platform by the complainant to gain publicity for their interests. For example, complaints about ads based around ethnicity and national identity can mask sentiments that may be racist in their motivation, thus gaining a platform for their views. This was a suspicion with a proportion of the complaints about Benetton ads (see Snapshot 11.3). A later example could be the Coca-Cola TV ad shown during the 2014 American Super Bowl that generated complaints because it was ‘too multi-racial’ and not ‘American’ enough. As it turned out, the Coca-Cola ad was deemed to be one of the more successful Super Bowl ads that year, although company profit growth was slow in 2014 and Coke has since shifted its focus from TV towards content and digital advertising.

Advertising is vulnerable to public disapproval because it is a soft target. Advertising is highly visible and it is easier to draw simplistic cause and effect relationships between advertising and social ills than to look at the more complex underlying socio-economic issues. To some extent, the considerable media coverage of advertising in the form of magazine articles and talk on chat shows, dedicated websites and compilation TV shows, reflects advertising’s status as a part of the media complex. It is unsurprising that advertising is often discussed in the editorial content of the popular press and TV shows, given the symbiotic relationship between advertising and other media such as the press, movies and TV entertainment. This profile gives advertising media oxygen that allows both brands and lobby groups to breathe the intoxicating vapours of publicity.

ADVERTISING ETHICALLY PROBLEMATIC PRODUCTS

Some controversies over advertising relate to the nature of the product rather than just to the advertising. Advertising for alcohol, drugs, guns and cigarettes tends to
attract close critical scrutiny because of the intrinsically difficult ethical problems
surrounding the marketing of those products. For example, an American gun com-
pany used an image of Michelangelo’s ‘David’ holding an Armalite sniper rifle in
one advertisement, much to the annoyance of the Italian government. As well as
guns, drugs can be controversial in advertising (see Snapshot 11.2). In the UK, for
example, DTC advertising of pharmaceutical prescription-only drugs is not allowed
at all, though in the USA and some other countries it is common. On TV in the USA,
prescription drugs are sometimes advertised alongside ads for lawyers who will sue
the drug companies for you when the drugs go wrong. In the UK, TV advertising for
cigarettes has been banned since the 1960s as evidence of the damage of cigarette
smoking to health mounted, but it is allowed in many other countries, while (as we
note above) TV advertising for marijuana can be seen in some American states. The
World Health Organization (WHO) has called for a worldwide ban on all cigarette
advertising.

The WHO argues that where partial bans on cigarette advertising have been insti-
tuted, the benefits in terms of lower smoking rates and reduced lung cancers and
other diseases are significant. The problem for health authorities is that cigarette
companies simply shift resources to different media when necessary. So, for example,
when cigarette advertising was banned on UK TV, cigarette manufacturers shifted
resources to sports sponsorship and OOH advertising. Advertising bans in general
have a poor record of reducing harm in the medium term, unless accompanied by
other legal measures. For example, the 2010 Ofcom ban on advertising foods that are
high in fat, salt and sugar (HFSS) during TV programmes made for children on UK
TV has, to date, had no discernible impact on rising childhood obesity rates. On the
other side of the debate, pro-smoking campaigners argue that tobacco companies are
promoting a legal activity that mature individuals have the right to indulge in without
interference from the state.

ADVERTISING ALCOHOL AND CIGARETTES

In many countries, alcohol advertising is a source of ethical sensitivity. In most
predominantly Muslim countries it is forbidden, as is alcohol consumption, while
in many other countries there are limits placed on the type and extent of alcohol
promotion. Alcohol advertising has become an area of considerable controversy in
the UK because of links with increases in alcohol-related diseases such as cirrhosis
of the liver and heart disease, mental health problems and connected social harm
such as violence, crime and social disorder. The World Health Organization made
alcohol advertising control a key priority in its anti-alcohol campaigns (WHO, 1988,
in Nelson and Young, 2001). The BMA (British Medical Association) has called for a
ban on all alcohol advertising. The sexualisation of alcohol advertising and its role
in constructions of gender have been linked with increased alcohol consumption
among young people and the promotion of a ‘binge’ drinking mentality (Szmigin et
al., 2008; Hackley et al., 2013). Repeated UK government advertising campaigns that
warn of the harms of excessive alcohol consumption seem to have little effect on rising
rates of alcohol-related health and social harms in the UK. In fact, for some people,
anti-drinking ads could have the opposite of the intended effect, since they reinforce the anti-official, rebellious resonance of getting drunk (Hackley et al., 2013, 2015).

Cigarette smoking is in decline in developed countries but remains a huge public health problem around the world. Advertisements for cigarette brands have been some of the most iconic in the history of advertising, with examples like the Marlboro Man and the Virginia Slims ‘You’ve Come a Long Way Baby’ campaigns. Cigarette advertising, in fact, changed the historical view of femininity and promoted cigarette smoking as a normal social practice of the liberated and independent woman since it helped to break down the cultural taboo of female smoking in post-First World War America (Williamson, 1978), also boosted by the legendary guile of Sigmund Freud’s nephew and the inventor of the discipline of public relations, Edward Bernays. Alcohol advertising is seen to be playing a similar role in locating alcohol brands as discursive resources for the construction of female (and male) social identity (Lemle and Mishkind, 1989; Young, 1995; Griffin et al., 2009, 2012). Young people are often thought to be particularly vulnerable to marketing that associates drinking alcohol with social and sexual success (Calfee and Scherage, 1994). The extent of official disapproval reached such a pitch that the Advertising Standards Authority and the Broadcast Committee of Advertising Practice (BCAP) were forced to re-write the code of practice on alcohol advertising in 2006, to try to ensure that it did not link alcohol with social or sexual success or overtly promote drinking to young people (Szmigin et al., 2011). TV campaigns such as those for rum, vodka and other drinks have attracted complaints that their scenes of wild partying so glamorise alcohol consumption that they may implicitly promote high-risk sexual behaviour in both sexes. The ASA responded to the increased sensitivity around alcohol advertising by banning a number of ads and insisting that the codes of practice are strictly adhered to. The alcohol industry has representation on the ASA committee and lobbies in favour of the industry. The Portman Group is an alcohol industry funded body that manages the alcohol industry responses to public policy concern around alcohol advertising and marketing. In 2020 it came under fire from its own members for ruling against them over issues of alcohol packaging that it felt carried appeal to under 18s, something that is forbidden under the ASA code of practice for alcohol advertising and packaging.

Gender and Alcohol

The representation of gender in UK alcohol TV advertising has turned full circle over the last 30 years. In the 1980s, ads for Hofmeister lager featured a man in a bear suit who was the centre of an admiring crowd of young men and women. The ads featuring the lager drinker as a cool, streetwise and charismatic male character allowed females only to be the grateful objects of male attention. These ads, created by legendary advertising man John Webster (see Snapshot 11.4), replaced those that portrayed females only as domestic drudges. In later campaigns for Archer’s, Lambrini and other alcoholic drinks targeted at females, it was female drinkers who were portrayed as independent, quick-witted and rebellious, while the men in the ads were mere accessories. Such advertising would have been unthinkable in 1960s Britain. One might argue that these ads represent a step forward in gender representation,
placing women on an equal footing with men, at least when it comes to drinking. Others would take a different view, since gender remains something to be constructed, and women still have to negotiate complex norms and expectations around alcohol consumption. Heavy drinking is merely a different scenario for women, and not necessarily an equalising one (Griffin et al., 2012).

The UK Hofmeister beer ads were a turning point in alcohol advertising, not only because they contributed to a major shift in UK beer drinking habits from dark to light beer. They also used imagery attractive to children (a fluffy bear character) to advertise adult products. The bear in the ads was a character that children enjoyed and understood. Previously, a man dressed in a hairy bear suit would only have been seen at a children's entertainment aimed at pre-schoolers. The ads took a cultural sign that denoted kids' entertainment and placed it in an adult context in connection with an adult pastime, beer consumption. While the product was not targeted at children, the advertising had become very attractive and memorable to children. Advertising agencies know very well that advertising for adult products and services that is visually or thematically appealing to children can be extremely useful in getting a brand name into a household, hence many financial services products are advertised on kids’ channels on UK TV.

**SNAPSHOT 11.4**

**UK alcohol advertising**

UK alcohol advertising has been accused of succumbing to infantilism when it portrays scenes that are appealing to children and/or adolescents. This was not always the case. A London agency formerly called DDB London held the Courage beers account for some 25 years. When the account moved elsewhere, the agency produced a compilation video that is a revealing document of social history. The tape runs from the 1970s ads with elderly northern English men enacting scenes of conspiratorial male congeniality in ads for John Smith's Yorkshire Bitter. In these ads, stereotypes abound, with men portrayed as big children whose main aim in life is to escape the ‘nagging’ wife so that they can get together with other men to drink beer and giggle. In the 1980s the trend turns to light beers drunk by younger ‘Jack the lad’ heroes in watershed advertising moments such as John Webster’s Hofmeister bear ads. Webster created many iconic campaigns of that time and was particularly fond of dressing actors up in bear suits – he also created the Sugar Puffs Honey Monster character. Subsequent campaigns for Australian lager brands Foster’s and Castlemaine XXXX featured post-apocalyptic scenes reminiscent of the *Mad Max* movie genre, self-deprecation and ironic humour. The adolescent appeal of alcohol branding intensified throughout the 1990s and beyond. The young British drinkers who were weaned on to alcopops in the 1980s (Measham, 2004) were the first generation who were toddlers when alcohol advertising on TV started to use imagery that was visually appealing to pre-school children (Hackley et al., 2015).
INTERNATIONAL ADVERTISING REGULATION

It is to be expected that attitudes towards advertising vary in different countries, reflecting differing public standards of propriety and levels of tolerance. Consequently, approaches to advertising regulation differ widely around the globe. In some countries, there are systems of industry regulation that overlap with legal constraints. As a result, advertising regulations have the force of law and marketing and advertising professionals might even be subject to imprisonment for their involvement with campaigns that are judged to transgress the regulations. In others countries, advertising is part of a censored broadcasting communication system that is directly overseen by state agencies that have to approve every promotional communication. There are widely differing standards applied to advertising around the world as regards, for example, the veracity and level of proof required for claims about brand performance or quality, the timings and placing of advertising on broadcast and print media, and the portrayals of consumption and language used in advertising content.

SNAPSHOT 11.5

Variability in international advertising codes of practice

Advertising regulation can seem highly inconsistent and even quirky when looked at from a cross-national perspective. At various times, the following regulations have been in force:

- Advertising for marijuana, cigarettes and prescription drugs is legal in some American states.
- In some countries of Europe, alcohol advertising is heavily restricted.
- In Sweden, TV advertising for toys targeted at under 12s is banned.
- Tobacco advertising on TV is banned throughout the European Union (EU).
- In Argentina, all advertising was banned on subscription cable TV channels in January 2004.
- In Austria and Finland the use of children in ads is heavily restricted. Italy banned the use of children in advertising in 2003.
- In many predominantly Muslim nations, women in advertising must be fully clothed and wearing headscarves, and advertising of non-halal food or drink products is not allowed.
- Hungary prohibited the ‘use of erotic and sexual elements in advertising for purposes not justified by the object and substance of advertising’, and no advertisement ‘may be such as to reduce the reputation of the advertising profession or undermine public confidence in the advertising activity’.
- In the UK, alcohol advertisements cannot use actors who appear to be under the age of 18 and they cannot show people drinking quickly: they must sip their drinks.
Regulations such as those in Snapshot 11.5 do tend to change as different lobbies win attention for a particular cause, or as media or social conditions change. Some of the above regulations may no longer be in force, but new ones emerge. Other issues are governed not by regulation but by conventional practice. For example, UK television advertising tends to be quite conservative as regards nudity or sexual references when compared to advertising in some other European countries such as Sweden, Denmark, France and Germany, but the UK is quite liberal in this respect when compared to advertising on American television.

Advertising regulation is sometimes covered by general rules of thumb as well as by specific codes of practice for particular product categories. For example, the UK Advertising Standards Authority (ASA), an independent, industry-funded body responsible to the government communications regulator Ofcom, applies a rule that advertising must be ‘Legal, Decent, Honest and Truthful’, while the Hungarian code of advertising ethics uses the principles ‘Lawful, fair and true’. In Australia, the Advertising Standards Bureau has a remit to ‘ensure that the general standards of advertising are in line with community values’. In the US the American Association of Advertising Agencies (AAAA) applies its own code of practice that seeks to be a ‘constructive force in business’ by not producing advertising that makes false claims, is deceptive or offensive.

UK ADVERTISING REGULATION – THE ADVERTISING STANDARDS AUTHORITY

Advertising and media agencies and the sellers of advertising space in the UK agree voluntarily to be bound by the rulings of the Advertising Standards Authority (ASA), even though there is no legal requirement for them to do so. The ASA administers the codes of advertising practice that are written by the Committee of Advertising Practice (the CAP). The ASA is part of Ofcom, the UK media regulator. Its remit covers press and print advertising, email and SMS text message advertising, broadcast advertising, and also internet advertising where this originates from an identifiable UK-based source, and this includes websites as well as social media and search advertisements. The ASA rulings may not have the force of law but they do offer a quicker, more flexible and more efficient regulatory system than the law could provide. If the ASA decides an ad is to be banned because they investigated a complaint against the ad and found that it breached the relevant code of practice, it will be promptly withdrawn.
Complaints can often be dealt with informally, where the ASA asks the advertiser to amend or qualify a claim. Quite a few of the cases the ASA deals with receive just one complaint, which leads to the suspicion that competitors are sometimes more active than genuine consumers in complaining about ads.

The codes of practice concern many details of advertising content in every sector and over every advertising medium. As a broad principle, advertising must be careful about claims regarding the efficacy of products or services, offers of prizes or guarantees. Advertisements cannot make factual claims that they cannot support with evidence. For example, one famous pet food ad strapline claimed that ‘8 out of 10 owners said their cats prefer Whiskas’, and British Airways (BA) ads used the strapline ‘The World’s Favourite Airline’ for many years. After intervention by the ASA the Whiskas line was qualified to those owners ‘who expressed a preference’. If the manufacturer is to continue using that line they must be prepared to set up an experiment that representatives from the ASA can watch to verify the claim. The BA claim was mere hyperbole and after some years the ASA eventually ordered the ads to stop making the claim. Ads can also be complained about if they are seen as offensive, and the taking of offence often results in the most complained about ads. However, giving offence isn’t expressly against the codes of practice, and the ASA may not see this as a reason to ban the ad. For example, the most complained about ad in the UK in 2019 was a TV spot for GoCompare that, some 300 complainants alleged, trivialised car crashes. The complaints were not upheld by the ASA.

Reading ASA judgements, which are published on their website, offers a useful insight into how the voluntary regulatory system works. The complaints also reflect current public tastes and trends. What was acceptable in advertising in the 1950 or 1960 may not be considered acceptable today, and of course the reverse would also be true – some advertising today would seem excessively coarse or sexualised to a 1960s audience. For example, in the 1950s and 1960s there were many ads that, today, seem egregiously sexist, but back then they were seen to be attempts at humour. In 2019, the ASA brought into force new rules banning gender stereotyping in advertisements. This was the first time that the regulator had exercised its power to interpret ads rather than simply taking a legalistic literal view of their meaning, and some advertisers have found the adjustment difficult as some ads were banned that they thought were within the rules. Advertising regulation is a fraught business as regulators have to mediate between the interested parties, the public, advertisers, their competitors and various other stakeholders, and there will inevitably be differences of interpretation.

Advertising to children has become an increasingly problematic issue with many debates around the world as to what the correct regulatory approach should be. Children are increasingly treated by marketers as autonomous consumers with their own discretionary purchasing power independent of their parents (Bassiouni and Hackley, 2016). The ASA code of practice today forbids alcohol ads that use imagery attractive to children and young people under 18 (the legal age at which young people...
can drink alcohol in the UK), but much alcohol advertising seems to be designed to do exactly that. As noted above, the use of imagery in adult advertising that a short time ago one would only associate with children’s shows has become commonplace. Many ads on UK TV use animated cartoon characters but are ostensibly directed at adults to sell, for example, branded chocolate, tea and gas central heating. This is no accident – childish advertising might appeal to the child in the adult, but it also conscripts children into brand consciousness.

The trend towards infantilism in advertising reflects the increasing awareness of brand marketers that children are very important to advertisers of adult products. Children enjoy advertising, they remember it and they discuss it. The attention of a child brings a brand into the household and it then becomes a brand that is considered in household buying decisions (Bassiouni et al., 2019). Not only do children influence the household budget, they also learn about and become conscious of brands at a very early age. Widespread access to video games, the internet and mobile phones has enabled many children to become more active consumers, taking part as agents in their own consumption as well as being agitators ‘pestering’ parents to buy toys and games (Bassiouni and Hackley, 2014). Research has suggested that children under the age of ten are often unaware that when they are watching TV advertising what they are watching is in fact an offer to buy, but access to the internet might be changing the age at which children become commercially aware.

Some industry groups lobby to uphold the freedom of advertisers to target children with advertising while maintaining a standard of ethics and social responsibility in such advertising. For example, in the USA, the Children’s Advertising Review Unit25 fulfils this function. Other groups try to publicise the potentially damaging effects to children of advertising. For example, there are concerns about the effects of advertising for fast food on growing rates of child (and adult) obesity in the UK and USA, and increasingly in other countries too. There is evidence that where fast-food outlets have become established in Asian countries, obesity among children is becoming an issue there as well. In the UK, advertising for foods high in fat, salt and sugar (HFSS) was banned during programming watched by a majority of under-16s. This seems to date to have had a sharp negative effect on commercial television advertising revenues, but not on rates of childhood obesity which continue to rise.

Clearly, the existence of codes of practice and voluntary regulatory regimes does not reassure everyone that the brand marketing and advertising industries are exercising proper social responsibility. Debates about advertising’s influence on social issues are invariably clouded in supposition, since there is no proven and direct causal link between advertising and behaviour. Yet, while textbooks have regarded this lack of a causal theory of advertising as a problem, the industry itself has managed very well. In this book there are examples of advertising campaigns for which compelling circumstantial evidence has been gathered showing that they did indeed influence consumer thought and behaviour. Even if this point is accepted, the idea of stricter advertising regulation jars with the freedom of choice that advertising represents. Certain individuals and groups have always been quite favourably disposed towards lifestyles that might be regarded by some as unwise
ADVERTISING AND PROMOTION

or unhealthy. Advertising presents a smorgasbord of options and consumers have the right to exercise their choices as they see fit. Then again, the ability of consumers, and especially children, to exercise truly individual choice may be sharply circumscribed where there is an acutely asymmetrical power between consumers and brand marketing corporations. For all the marketing textbook rhetoric about consumer sovereignty, consumers clearly do not have multi-million dollar budgets to spread their point of view all over the media.

APPLIED ETHICS AND ADVERTISING REGULATION

Advertising regulation is a political process in that it acts under the influence of complex interests. The values that influence advertising regulation are not always based on those of ethical good but on a trade-off between the competing interests of consumer lobbies and other interest groups, the rights of citizens not to be gratuitously offended or deceived by commercial communication. Regulators exist as much to protect advertisers from the wrath of the public as to protect the public from the excesses of advertisers. Nevertheless, there is an implicit ethical dimension to advertising codes of practice. However obscured advertising regulation may be beneath complex webs of interest, its rationale at some level is to make life better or more acceptable in some way than it would otherwise be without regulation, and this coheres with the Platonic ethical notion of universal ‘justice’.

If we are to analyse the role of ethics in advertising regulation we need to have some ethical concepts to work with. Ethics is broadly concerned with asking questions about the best or most correct way to live, but using terms such as ‘better’ carries implicit value judgements that complicate ethical debates. The study of ethics entails thinking about which particular acts, thoughts or practices are consistent with living a life of virtue according to given standards. For many followers of formal religious systems, living the good life means living in accordance with particular moral precepts and codes of behaviour that have been set down by religious authorities. The major world religions all place great importance on these codes and compliance is considered compulsory. Observation of the codes is therefore a matter invested with both individual and collective significance. But secular ethical systems deny the need for prescribed codes of behaviour or belief and aver that reason and experience, not religious authority, are an appropriate basis for all moral decisions. Humanism, for example, denies the need for either the fixed codes of morality or the eschatology (doctrine of last things) and moral judgement of formal religions.

ETHICAL CONCEPTS FOR JUDGING ADVERTISEMENTS: DEONTOLOGY, CONSEQUENTIALISM AND VIRTUE ETHICS

It can be useful to apply Western ethical concepts to advertising not because they offer solutions to debates and arguments over advertising but because they can clarify the ethical issues that are involved. Without some theoretical concepts, it is impossible to move beyond the subjective views of individuals that particular ads are OK, or are not OK. Deontology, consequentialism and virtue ethics offer us three such useful concepts.
Deontology

The ethical status of an act may be judged according to whether it is regarded as ethically good or bad according to a fixed standard. This often applies to religious systems. For example, if an ad promotes condoms, alcohol, beef or pork, such ads might be deemed unethical by Catholics, Muslims, Hindus and Jews respectively, for whom consumption of these items runs counter to religious teaching. Deontological judgements, then, rely on moral values that are seen as given and absolute. Clearly, deontological judgements on the ethical status of advertisements have limited use where there is a wide divergence of views on what is intrinsically good or bad. One could argue that most or all world religions would agree that communication ought to be truthful and just, and not coarse or vulgar, and hence there may be cases where an advertisement might be judged unethical on deontological grounds by most religious and secular moral systems. The problems arise when different moral systems apply different standards. A key point about deontological ethics for advertising is that it is the act in itself, in this case, the advertisement, that may be deemed ethical or unethical. There is no need to consider the motive or the consequences, or perhaps even the context. Hence, arguments that ‘it is just advertising’ or ‘people don’t have to look at ads that offend them’ would be no defence. If the ad is wrong, it is wrong. On the other hand, being offended by an ad in itself would also be irrelevant unless the ad also contravened a given moral code.

Consequentialism

Consequentialist approaches judge the consequences of an act and not the act in itself. Good or bad in this case may be concerned with positive or negative social effects. For example, an ad promoting the use of condoms to prevent the transmission of sexual diseases might be unethical on deontological grounds to someone who feels that the public depiction of sexual relations in any context is indecent and therefore wrong. However, if the consequences of the ad were that fewer people became infected with sexually transmitted diseases then the consequences of the ad might be judged to be good, at least from the public health point of view. A consequentialist approach seems to be taken by the UK regulator in allowing public service and charities ads that would not be appropriate if the motive was commercial. Some ads shown in UK TV have been quite upsetting, such as depictions of car crashes to encourage people to drive more carefully or to wear seatbelts, and depictions of child cruelty to encourage viewers to donate money to child protection charities. Shocking people (‘shockvertising’) can draw attention but has a poor record of success on a commercial level. There is no proof that it is more successful for promoting charities or public safety, but it seems to be more justifiable as a tactic to attract attention in those contexts.

Utilitarianism, the doctrine that acts should be judged on the criterion of the greatest good for the greatest number, is a consequentialist doctrine. Advertising that has socially good or benign consequences would be deemed permissible when judged according to a consequentialist ethical approach. Of course, we still have the
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problem that both deontological and consequentialist approaches entail value judgements about what is a bad act in itself or what is a good or a bad consequence for the individual or for society. Moreover, some people would argue that advertising as a whole promotes wealth generation and that poverty is the greatest evil for humanity to conquer, therefore all advertising is good on consequentialist grounds. However, most would take issue with giving advertising a free pass on ethics. While it may be good for wealth generation, there are questions to be asked about what prices we are prepared to pay and what compromises we are prepared to consider in order to generate that wealth.

Virtue ethics

Virtue ethics considers the motive of the author of an act. As a general ethical principle, people should be considered as ends not as means. If they are being considered merely as means (to make money) then the ethical status of an act such as an advertisement could be regarded as negative and wrong. On the other hand, if an act such as an advertisement is well intentioned, then it might be regarded as ethically satisfactory even if it contravened fixed moral standards and resulted in negative consequences for some. Aristotle’s ‘golden mean’ is sometimes regarded as an axiom of virtue ethics since he regarded ethical behaviour as relative to personal circumstances. For example, one might consider a coffee brand’s offer to give more money to coffee growers as a well-intentioned act that helped consumers feel morally better about drinking the coffee, even if it might not make a huge difference to the coffee growers.

These three concepts help us to identify what we feel is unethical about an ad, if we feel that an ad is wrong in some way. It is useful to be able to state clearly why an ad is ethically satisfactory, or not. Unfortunately, many intractable questions remain. Take the example of TV advertising for marijuana, discussed earlier in this chapter. In whose interests should the ethical status of marijuana advertising be judged? Sales of marijuana earn taxes in the US states where it is legal, and much good can be done with those tax revenues since they can be invested in schools, roads and infrastructure. Marijuana or cannabis advertising could, then, be judged ethically appropriate. It would probably also be supported by consumers who feel that the drug has major health and pain control benefits for people with certain medical conditions. On the other hand, promoting the drug might encourage younger people to try it, and research has suggested that maturing brains can be damaged by marijuana use. Of course, the same can be said of alcohol and cigarettes, and although legal, both are indeed the cause of massive social harm for young and also old people. Will legal marijuana use be the cause of as much social harm as alcohol in 20 years’ time?

There is, then, a moral compromise to be reached in advertising, as in life in general, between doing what is right, and doing what is best. The kinds of reasoning applied in judgements about advertising combine moral, social and economic arguments. Which will hold sway depends very much on the way that advertising has been constructed, the creative execution. As Chapter 2 pointed out, what is implied but not explicitly stated in advertising can be powerfully suggestive. The implicit dimension
Since 1930, Irish stout beer brand Guinness has been associated with striking and abstract creative advertising. The image here is the end frame of a 2005 ad, The Rhythm of Life, which revived the brand’s slogan ‘Good Things Come to Those Who Wait’, https://www.youtube.com/watch?v=LHIAQuyktGg.

Image courtesy of the Advertising Archives.
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of advertising is often the key area for ethical argument. For example, alcohol ads in the UK may not explicitly encourage young people to drink excessively, and they may not explicitly suggest that young people will be more socially successful and confident if they do drink, but do these ads imply these things? Advertising regulation often focuses on the explicit, but there is invariably a process of interpretation. Here we get to the nuance and complexity of advertising communication. For an ethical judgement to be made about an ad, a judgement first has to be agreed upon about what the ad means. This ambiguity is the area that advertising often exploits.

Advertising is ostensibly a persuasive text that links images of health, happiness and success with consumption of marketed brands. Images of social reality are normally confined to news media or government-sponsored campaigns. Oliviero Toscani’s Benetton advertising (discussed in Snapshot 11.3) created a new form of cultural communication, but one that generated discomfort. Advertising as a whole is a powerfully ideological form of communication (Elliott and Ritson, 1997). It assimilates signs and symbols into a text that promotes consumption above all else. Toscani’s work simultaneously revealed and undermined advertising’s ideological character and this created a frisson of unease that, perhaps, showed the profound cultural significance of advertising. The tacit agreements and interpretive consensus that surround the public face of advertising were fractured. Ethical judgements applied to advertising were seen in themselves to be based on highly provisional and culturally sensitive notions of value.

CHAPTER SUMMARY

This chapter has explored advertising ethics and discussed its considerable capacity for generating intense controversy. The chapter discussed some regulatory approaches taken in different countries and offered many examples of advertising that has caused offence and generated complaints. Three concepts from Western moral philosophy were offered as principles to apply to advertising in order to clarify the often subjective reasons behind judgements as to the ethical status of particular advertisements.

REVIEW QUESTIONS

1. How is advertising regulated in the UK? Illustrate how it is applied with examples from the ASA website.

2. Discuss the ethical status, as you see it, of three specific print or TV ads. What ethical concepts might you employ to bring some intellectual clarity to the debate? In your view, do these concepts bring clarity to the debate?

3. Using the ASA website, print off five recent adjudications on ads for which you can obtain printed copies. Ask a group of your peers for their views on the ethical status of each of these ads. Discuss the views expressed and compare them with the ASA adjudications. What do the various opinions reveal about the people who hold them?
4. Is advertising ethical? How can ethical principles be applied fairly with integrity in a diverse, market-driven society? Use practical examples and theoretical concepts to discuss your response to this question.

5. Examine the arguments for and against advertising regulation. What might be the result if advertising were not subject to any regulation at all?

**CASE STUDY**

**Controversial and banned ads**

As we saw above in Snapshot 11.3, controversial and ‘banned’ ads are a topic of interest not only for what they tell us about the limits of public and official toleration of advertising, but also because of how they are sometimes used to strategic effect by brands. The archetype for the type of campaign that used strategic polysemy (Puntoni et al., 2010) was set by Benetton in the 1980s and 1990s (see Snapshot 11.3 above), which used photography more typically seen in news and documentary broadcasting. In effect, the campaign challenged the discourse conventions of advertising and confused a lot of people, while giving the brand huge worldwide media presence. Benetton was followed in its controversial advertising campaigns by FCUK, CK and many other fashion, fragrance and style brands. Sexualised advertising is common in such sectors, as is the strategic use of giving offence.

Gambling brand Paddy Power has been a regular customer of the ASA over the years with numerous advertisements being placed under scrutiny and sometimes banned. In 2015, an ad making a reference to Oscar Pistorius, the former athlete jailed in South Africa for murder, received more than 5000 complaints, and it was duly banned.26 The brand has enjoyed rising success year after year27 in spite of, or perhaps because of, its frequently banned and complained about ads. As we saw in Snapshot 11.3, Italian knitwear brand Benetton set the standard for this kind of strategy back in the 1990s, but Benetton did align their brand strongly with social injustice which meant that most of their ads had support as well as opposition. In contrast, Paddy Power aligns its brand with the kind of humour that might be well received in betting circles. Giving offence can work well in generating PR provided the target market is not being offended. Being seen as ‘edgy’ can give a brand stronger positioning, as fashion brands CK, FCUK and A&F have demonstrated at various times. Cultural theorist and brand commentator Grant McCracken (1990: 2005) noted that an ad for Cadillac that generated much critical comment for its American exceptionalism was a good ad, in the sense that being controversial can be a stronger positioning than trying to be inoffensive to everyone and consequently lacking a strong identity. In another example, US clothing brand American Apparel has a record of highly sensual advertising, which, in March 2014, featured a semi-naked employee who originates from Bangladesh, with the strapline ‘Made in Bangladesh’. The ad was a side-swipe at other clothing brands

(Continued)
that outsource their manufacturing to South Asia. American Apparel make their clothes in Los Angeles. The ad made the news media globally, generating huge additional publicity. However, it is wise to keep a sense of perspective – many ads that earn major mass media and social media publicity for being complained about generate a mere few hundred complaints, suggesting that it doesn’t take very much work from an advertising creative team to leverage millions of pounds’ worth of free PR. In 2015, one of the most complained about ads in the UK was a street poster for a protein company picturing a slim woman wearing a bikini with the strapline, ‘Are you beach body ready?’. The ad became a negative icon for gender and body stereotyping and received enormous critical publicity, and a petition was launched to have it banned that generated scores of thousands of signatures, but initially the ASA only received 380 complaints about it. The company was so delighted at the response, they subsequently released the same campaign in the USA. After some months of deliberation, the UK regulator decided that the ad did not, after all, breach its code of practice, and the company returned to its theme in 2017 with a similar series of ads in the London Tube.

**Case questions**

1. What are the risks and opportunities of creating a controversial advertising campaign, and how might the risks be assessed and mitigated?

2. How are the discourse conventions of advertising being challenged by digital media?

3. Can the giving of offence for commercial gain ever be justified?

4. What do controversial ad campaigns tell us about culture?

5. Search ‘controversial and banned ads’ and try to find three examples that could be judged as unsuccessful and ultimately damaging to the brand. In what ways were these campaigns misjudged?

**USEFUL JOURNAL ARTICLES**

(These Sage articles can be accessed on the companion website.)


**FURTHER READING**


**NOTES**

1 George Floyd was a black American man who was killed by police in Minneapolis on 25 May 2020, sparking anti-racism protests.


3 www.autocar.co.uk/car-news/new-cars/dieselgate-uk-volkswagen-owners-win-ruling-over-emissions-scandal

4 www.focus2move.com/world-car-group-ranking-2018/

5 www.focus2move.com/world-cars-brand-ranking/

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7 If we have to clarify, this is an example of British irony: we are well aware that many of those august institutions are into advertising and marketing up to their eyeballs.

8 www.popularmechanics.com/cars/a6700/top-automotive-engineering-failures-ford-pinto-fuel-tanks/

9 www.sustainweb.org/news/sep12_real_bread_allinson/

10 http://royalhollowaymarketing.blogspot.com/2012/09/should-advertising-be-banned-for-what.html


14 https://geneticliteracyproject.org/2020/02/19/examining-our-history-of-advertising-for-oxycontin-and-other-opioids-have-we-learned-enough-about-the-dangers-of-addiction/

15 www.vogue.co.uk/gallery/benettons-best-advertising-campaigns?image=5d547e46c6ae340088a7338


18 https://yourstory.com/2014/08/torches-of-freedom

19 www.thedrinksbusiness.com/2020/03/portman-group-under-fire-after-upholding-complaints-against-beers/

20 The first author spent some time in the agency and was given archive materials when researching his PhD in the 1990s, long before the agency changed under several mergers to re-emerge as Adamandeveddb London.

21 www.asa.org.uk/

22 www.asa.org.uk/codes-and-rulings/rulings.html#informally-resolved


24 www.campaignlive.co.uk/article/second-wave-ads-banned-gender-stereotyping/1670026

25 https://bbbprograms.org/programs/all-programs/caru
