

# Business Ethics Tutorial

J. N. Hooker

*Tepper School of Business  
Carnegie Mellon University*

*May 2012*

## Session 6.

# Business Case Studies Part II

# Business case studies

- Super-size me
- The Bullard Houses
- Conoco's "green" oil strategy

# Super-size me

- This 2004 film examined health effects of McDonald's food.
  - Morgan Spurlock ate nothing but McDonalds for a month.
    - He gained 24 pounds.
    - Reported other negative health effects.
  - Film suggests that McDonalds menu & marketing contribute to U.S. obesity epidemic.



# Super-size me

- The issues
  - Is the McDonalds menu ethical?
  - Is its aggressive marketing to children ethical?
- Assumption
  - The ingredients, fat, and caloric content of the food are fully disclosed to customers.



# Super-size me

- Common arguments
  - Anti-McDonalds
    - McDonalds causes harm by selling unhealthy food.
    - McDonalds entices children with toys, etc., and gets them hooked on junk food.
  - Pro-McDonalds
    - McDonalds isn't responsible for what consenting adults choose to eat.
    - McDonalds offers salads.
    - Parents are responsible for their kids.

# Super-size me

- Issue 1. The McDonalds menu
- Utilitarian test
  - This is the key test.
  - The utility effect of the McDonalds menu is a question of fact, not ethics.
    - Questions of fact are resolved by research.
    - To pass the test, McDonalds must be rational in believing that its menu maximizes utility, including health effects.
    - This requires some research.

# Super-size me

- Utilitarian test
  - I will **assume** the menu could be adjusted to increase utility, at least marginally.
    - For example, by using less high-fructose corn syrup in the hamburger buns.
    - I am **not** assuming that McDonalds causes obesity.
    - I am **not** assuming McDonalds does more harm than good.
  - Then McDonalds fails the test.



(Rich Hein illustration)



# Super-size me

- Consenting adults
  - But customers **choose** to eat the unhealthy food.
    - McDonalds is not responsible for their choices.
  - The utilitarian test considers **all** consequences.
    - Including those mediated by the free choices of others.
    - Consider a pharmaceutical company that markets a miracle cancer cure.
      - Its effect is positive only if others freely choose to use it.
      - Similarly, the effect of McDonalds food is negative only if others freely choose to eat it.
      - In either case, the effects are part of the utilitarian calculation.

# Super-size me

- Consenting adults
  - This doesn't say McDonalds is “responsible” for the choices of others.
  - McDonalds passes the test even if some customers voluntarily destroy their health with Chicken McNuggets.
  - So long as overall utility is maximized.



# Super-size me

- Too much Puritanism?
  - It's OK for a mom-and-pop restaurant to tempt customers with luscious fudge brownies.
    - The pleasure of occasionally yielding to temptation outweighs the negative health effects.
  - But McDonalds is ubiquitous.
    - The temptation reduces total utility.
    - Success brings greater responsibility.



# Super-size me

- Issue 2. Marketing to children
  - Some rather aggressive techniques.
    - Not just toys in happy meals, play areas.
    - Marketing experts observe kids while nagging their parents.
    - The successful nagging techniques are demonstrated in ads.



# Super-size me

- Issue 2. Marketing to children
- Utilitarian test
  - We still have a problem here.
    - Parents are responsible for their kids, but McDonalds fails the utilitarian test for the same reason as before.



# Super-size me

- Autonomy
  - Is it OK to manipulate kids psychologically?
    - Suppose the ads persuade kids to eat broccoli or do their homework.
    - Kids don't have full autonomy in the first place.
    - Parents must “manipulate” kids to raise them...
    - With goal of developing autonomous (ethical) adults.
    - Advertising *could* frustrate this goal, but perhaps not in McDonalds case.

# Super-size me

- Generalization test
  - Sufficiently intrusive ads, if generalized, could undermine the family structure that makes the ads effective.
    - Kids are saturated with on-screen messages that are hard for parents to control.
    - Schools displace parental influence but must take commensurate responsibility.
    - Advertisers are unwilling and probably unable to take on this responsibility.

# Super-size me

- Conclusions
  - The McDonalds menu is unethical if an adjustment would at least marginally increase total utility.
    - Even though customers freely choose to eat what they eat.
    - Even though salads are on the menu.



# Super-size me

- Conclusions
  - Current marketing to children is unethical...
    - If it creates more overall harm than benefit for children, even though parents are responsible for what their children eat.
    - Or if it is sufficiently intrusive that, if it were general practice, would undermine the family structure on which it relies for effectiveness.

# The Bullard Houses

- Bullard Houses are neglected townhouses in the center city.
  - The Bullard Family will sell them to a developer.
    - Conrad Milton wants to include them in a high-rise hotel development.
    - The Bullard Family wants to preserve their original character (no further commercial development), and says so in negotiation.

# The Bullard Houses

- Bullard Houses are neglected townhouses in the center city.
  - Absentia is a blind trust negotiating on behalf of Conrad Milton.
    - It has instructions not to reveal the Milton's identity or development plans.



# The Bullard Houses

- The dilemma
  - Case 1. The Bullards specifically ask about the development plans.
    - How should Absentia respond?
  - Case 2. The Bullards don't specifically ask.
    - Is it OK for Absentia to say nothing about this?
  - The Bullards could insert a clause in the contract...
    - But they don't.

# The Bullard Houses

- Good faith sales negotiation
  - Each party should:
    - Tell the other exactly what will be conveyed.
    - Provide enough information about the items conveyed to allow the other party to assess their worth.
    - Avoid deceiving the other party.
  - However, both parties should:
    - Conceal information about what is acceptable to them.
    - The amount and nature of concealment depends on the context.
    - This is not deceptive, because both parties know it is going on.

# The Bullard Houses

- Case 1.
  - The Bullards ask about development plans.
  - One response:
    - No commercial development, no plans so far, we don't know.
    - These are out-and-out lies.
    - They deceive the other party. Unethical.
  - Another response:
    - We're not at liberty to say.
    - At least it's true.
    - Is it enough? See Case 2...

# The Bullard Houses

- Case 2: The Bullards don't specifically ask.
  - There is no obligation for Absentia to reveal what the property is worth to its client.
    - In particular, no obligation (imposed by the possibility of negotiation) to reveal development plans.
    - In fact, there is an obligation not to reveal much about this.
  - But is there deception?
    - Does Absentia's failure to speak up **cause** the Bullards to believe there are no commercial development plans?
    - Absentia must reasonably believe that it does not.

# The Bullard Houses

- Virtue ethics
  - Complex negotiations may require developing a personal relationship with the negotiators.
    - In this context, failure to reveal a crucial fact could be inauthentic.
    - This kind of betrayal is a breach of loyalty.



# The Bullard Houses

- Conclusions
  - If the Bullards ask about commercial development plans,
    - Absentia representatives must respond honestly, at least by divulging that they are not at liberty to say.
  - Absentia representatives must reveal the development plans...
    - If the Bullards would reasonably expect them to do so.
    - Or if failure to do so would betray a relationship developed with the Bullard negotiators.
    - Even though the Bullards have not asked for a nondevelopment clause in the contract.

# Conoco's "green" energy strategy

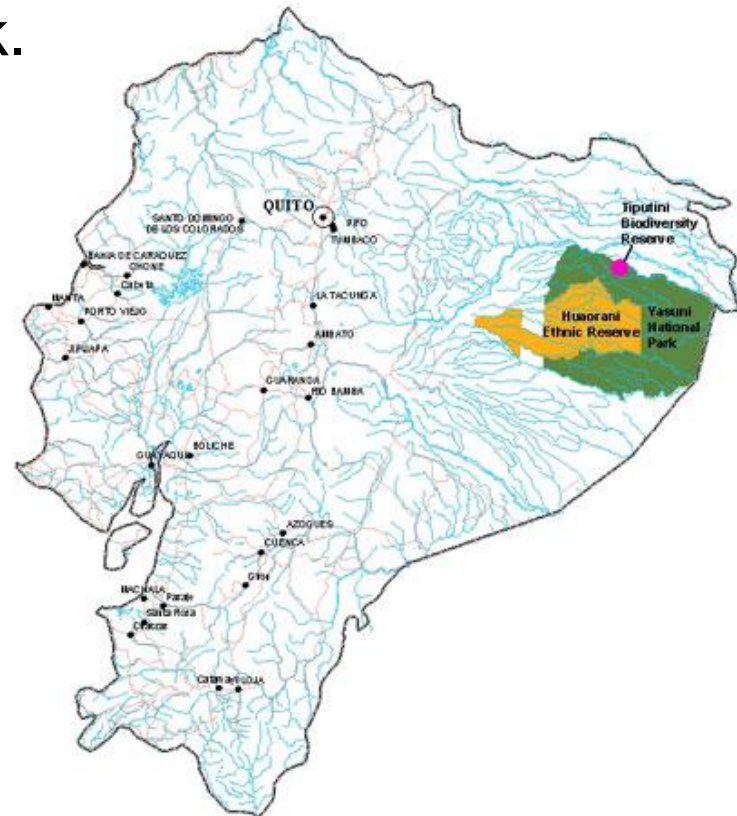
- Late 1980s: Conoco (now ConocoPhillips) began drilling in the Ecuadorian rain forest.
  - 35% of a consortium.
  - Petroecuador would receive 80% of profits, after recovery of investment costs.



PHOTO: CONOCOPHILLIPS COMPANY

# Conoco

- Conoco focused on Block 16
  - In Yasuni National Park.



# Conoco



San Rafael Falls,  
Yasuni National Park

# Conoco

- Environmental problems
  - Past drilling:
    - 17 million gallons of oil spilled.
    - 4 millions of hazardous waste dumped in rivers every day.
    - Toxic drilling mud buried.



# Conoco

- Environmental problems
  - Access roads allowed landless peasants to settle in the national park.
  - They cleared large areas of the forest.
  - Biodiversity threatened.



# Conoco

- Cultural issues
  - Home of Huaorani people
    - Little affected by outside contact.
    - Sierra Club spoke of “ethnocide.”



# Conoco

- Conoco's plan
  - Minimize environmental damage.
    - Increase investment 5-10%.
    - Could avoid greater cost if controls later imposed.





# Conoco

- Conoco's plan
  - Hazardous wastes
    - Collection and treatment
    - Reuse and safe deposit of drilling mud.



# Conoco

- Conoco's plan
  - Access
    - Guards posted.
    - Access by ferries rather than bridges.
    - Employees not permitted to trade with Huaorani or fish on their land.
  - Presented plan to environmental and other interest groups in 1990.

# Conoco

- Subsequent events
  - Sold Block 16 operations to Maxus Corporation.
    - Due to opposition from indigenous and environmental groups.
    - YPF (Argentina) bought out Maxus.



# Conoco

- Subsequent events.
  - ConocoPhillips back in Ecuador, 2006.
  - Bought Burlington Resources.
  - Drilling rights in 2 blocks.



# Conoco

- Subsequent events
  - Drilling on hold.
  - Due to local and international opposition.



# Conoco

- The issues
  - Environmental
    - What are a corporation's obligations to protect the environment?
    - Beyond that required by law.
  - Cultural
    - Is there an obligation to protect indigenous cultures?

# Conoco

- Government's role.
  - This is not the issue.
  - Even if government has responsibility, private business may also have responsibility.
  - Particularly if the government doesn't act.

# Conoco

- Utilitarian test
  - Simple in principle
    - Pollution is wrong if it does more harm than not polluting.
    - To others as well as to the corporation.
    - This is a question of fact, not ethics.



# Conoco

- Utilitarian test.
  - “If I don’t do it, someone else will.”
    - Conoco may be driven out by competition if it spends too much on pollution control.
    - Pollution to the extent necessary to stay in business passes utilitarian test (perhaps not other tests).
    - Apparently not much pollution is necessary to stay in business (5-10% cost of cleanup).
    - But let’s suppose significant pollution is necessary for Conoco to remain competitive.
    - Does it pass other tests?

# Conoco

- Generalization test.
  - Weak regulation
    - Conoco's practices would be illegal in its own country, and in most economically developed countries.
    - What does this prove?
  - It may prove ungeneralizability.
    - Without these laws, environmental decline would lead to economic decline.
    - Conoco relies on the world economy for profitability.
    - Goal of maintaining profitability would not be achieved if its pollution level were generalized.

# Conoco

- Ethnocide
  - 19<sup>th</sup> century U.S. view:
  - Indigenous people should be absorbed in Western culture

Carlisle Indian School, PA

First school of its kind in USA



# Conoco

- Ethnocide
  - Today's view
    - Indigenous cultures have intrinsic value.
    - Strong indigenous rights movement, particularly in Ecuador.
    - *U.N. Declaration on the Rights of Indigenous Peoples* (adopted 2007).

# Conoco

- Ethnocide
  - Agency
    - Homicide is wrong because it destroys agency.
    - But classical Western ethics regards only individuals as autonomous agents.
  - Communal cultures.
    - These regard community or family as the unit of human existence.
    - Disrupting its existence may be murder (ethnocide), even if individuals are unharmed.

# Conoco

- Virtue ethics
  - Professional mission
    - Conoco personnel may see themselves as making the world better by providing energy.
    - Excessive pollution is contrary to this mission.
  - Pollution necessary for competitiveness passes utilitarian test.
    - But it may fail virtue ethics test.
    - Not because people “feel bad” about it, but because of inconsistency.
    - Here, owners and executives may have different obligations.

# Conoco

- Conclusion
  - Conoco's level of pollution is unethical if...
    - It is illegal.
    - Or it is greater than that necessary to remain competitive in the region.
    - Or any profitability gain would be undermined if industries worldwide created a similar level of pollution.
    - Even granting that the government has a responsibility to control pollution.

# Conoco

- Conclusion
  - Destruction of an indigenous culture is unethical, even if the individuals in the culture benefit,...
  - If Western ethics is expanded to regard collectives as moral agents when it is culturally appropriate to do so.



# References

David Brooks, “Nice guys finish first,” *New York Times*, May 16, 2011.

Adam Smith, *Theory of Moral Sentiments*, 1759, last revision 1790.

Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, 1776, last revision 1789.

Mencius (Méng Zǐ), *The Mencius* (孟子), ca. 300 bce.

Lawrence Kohlberg, *The Philosophy of Moral Development: Moral Stages and the Idea of Justice*, Harper & Row, 1981.

J. C. Gibbs, *Moral Development and Reality: Beyond the Theories of Kohlberg and Hoffman*, Sage, 2003.

J. N. Hooker, *Business Ethics as Rational Choice*, Pearson Prentice-Hall, 2011 [conditions for rational choice and analyses of several cases appearing here]

# References

Immanuel Kant, *Foundations of the Metaphysics of Morals* (*Grundlagen zur Metaphysik der Sitten*), 1785.

Immanuel Kant, *Critique of Practical Reason* (*Kritik der praktischen Vernunft*), 1788.

Jeremy Bentham, *Introduction to Principles of Morals and Legislation*, 1789 [on utilitarianism]

Aristotle, *Nicomachean Ethics* (Ἠθικὰ Νικομάχεια), 4<sup>th</sup> c. bce.

John von Neumann and Oskar Morgenstern, *Theory of Games and Economic Behavior*, Princeton University Press, 1944 [on utility theory]

Peter C. Fishburn, *Utility Theory for Decision Making*, Krieger, 1970.

# References

Y. Moon and K. Herman, *Marketing Antidepressants: Prozac and Paxil*, Harvard Case 9-502-055, 2002.

Morgan Spurlock (director), *Super Size Me*, Kathbur Pictures, 2004.

Ron Karp, David Gold, and Mox Tan, *Bullard Houses*, Program on Negotiation, Harvard University, 2004.

Susan E. A. Hall and Malcolm S. Salter, *Block 16: Conoco's "Green" Oil Strategy*, Harvard Case 9-394-001, 1993.

Ethics resources: <http://web.tepper.cmu.edu/jnh>