Selling Building Partnerships 10th edition Castleberry Solutions Manual

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CHAPTER 2
ETHICAL AND LEGAL ISSUES IN SELLING

Outline of Chapter

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Teaching Suggestions

1. Begin by asking your students to read through the opening profile regarding Jessica Lehrer. Ask students about her motivation for working as a sales representative, especially since she is a mechanical engineer. Then ask them to define the term "representative". If students struggle, ask who Jessica represents when she carefully goes over a contract and points out the “bad” things to a customer? The definition that works best for this class is that a representative is ***someone who acts for someone else***. Why does someone act for someone else? Because they either can’t or won’t act for themselves. Then ask students "Who does the sales representative represent?" Answers include the company, the customer, self and family, industry, and profession. You can have other answers such as your university, society, and so forth. Then list the various elements of the company, such as manufacturing, management, customer service, accounts receivable, credit, and so forth. This leads into a great discussion on why customers need salespeople to act for them - due to imbalance of information and the customer’s need to rely on the salesperson to interpret the situation and recommend the right solution, as well as the need for the customer to represent his/her needs back to the company. You might ask when does a rep represent the customer – it is in the sales call when talking to the customer as well as when back at the company. Now go back to their responses about motivation – how can they relate their motivation for sales positions to this act of representation?

   This discussion can accomplish several things. First, you can discuss how salespeople represent the customer to the company and how important that responsibility is. The company depends on that form of representation to get crucial market information to decision makers, not to mention the impact on customer satisfaction and retention. Second, it helps set the stage for later discussions about partnering with internal partners (Chapter 16) and role conflict (Chapter 17). Most relevant to the immediate chapter, however, is that you can discuss how role conflict can tempt someone to act unethically. For example, pressure to achieve what management wants could cause a rep to sell something that the service department believes is inappropriate for a particular situation. Or, a customer could want immediate delivery that causes the rep to lie to shipping in order to get what she needs.

2. Add to this discussion the question of what makes a behavior unethical. For example, is asking questions unethical? Ask students: How can you tell what a customer’s needs are if you can’t ask questions? Then turn the tables a little. What about asking questions about the buyer's financial status and using that information to set the price? Assume, for example, that you sell franchises. You ask potential buyers for audited financial statements and tell them that you want to make sure they have the capital to invest in such a franchise. Then you also have them fill out a personality profile "to make sure they have the entrepreneur's profile." Then you use this information to set the price and to alter your presentation to fit their personality profile. Is this fair? Is it ethical? Why or why not? (By the way, this example came from a former student who encountered these practices at her former employer.) These questions make for a good discussion on what is fair.

3. Next, you could move the discussion toward the ethical conflicts confronting salespeople. Recall from Jessica Lehrer’s profile that she refuses to accept gifts – why would a buyer offer her gifts? Discussion Question 8 offers an excessive gift example from a buyer (and is a true story). Look at Discussion Question 9, as these are real situations as well. You could discuss how the goals of the salesperson, his or her company, and customers can all differ. This discussion could be made very interesting by having your students explore why salespeople seem to confront ethical dilemmas more than accountants, engineers, and production managers. Consider all the opportunities for deception, bribes, gifts, special treatment, etc. Talk about how easily even

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legitimate things like entertainment could lead to unethical behavior. It is also important for students to understand the

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concept of persuasion versus manipulation. The decision is ultimately the buyer's to make; manipulation takes away from that buyer's right to make an informed decision. This class, while students can learn tools that can help them engage in unethical behavior, is about helping students develop tools that will enable buyers to make informed decisions.

4. Ask students to identify the rationalizations people make about engaging in unethical behavior. Suggest that if they find themselves using some of these statements, it may be an indication that the behavior they are about to engage in may not be ethical.
5. This last discussion is a good lead-in to some questions one could ask oneself to help identify potentially unethical behaviors. We have found this exercise to be especially useful: Have your students write down a behavior they have personally experienced when interacting with a salesperson that they felt was potentially unethical. Discuss the behaviors and use the questions in as a useful check list to evaluate the behaviors.
6. We feel the best way to convey the principles of ethics to students is to have them confront situations, make choices, and justify them. Cases in the text provide opportunities for students to confront such issues and make for great class discussion.
7. After a discussion of all the ways one could run afoul of the law, you could suggest ways of avoiding legal problems by discussing guidelines to reduce the chances of violating laws. Here again, some examples help students to solidify these concepts in their minds. The more concrete you can make this, the better.
8. Sexual harassment is an important issue to discussion. Salespeople can encounter harassment in dealing with customers, their colleagues, and their supervisor. In this chapter, we focus more on sexual harassment arising from customer interactions. Issues concerning harassment from colleagues and supervisors are discussed more in chapter 16 on the relationship between the salesperson and his or her firm.
9. Finally, the issues of ethical and legal issues should be related back to developing long-term, partnering relationships with customer. You might ask the students how importance ethical and legal issues are in the different type of relationships.

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Suggested Answers to Questions and Problems

1. *There are certainly many ethical and legal issues in selling, as this chapter demonstrates. Do you think there are more ethical and legal issues in selling than other jobs, such as accounting, finance, retail store management, or the like? Which issues raised in the chapter likely to be present, no matter the job, and which are likely to be specific to sales jobs?*

   Interestingly, many of the bigger cases involving unethical behavior did not involve sales activities, though they may have involved customers. For example, making and selling faulty products in spite of awareness of the fault (Toyota's acceleration problem) is an example where customers were affected, but it was not salespeople at fault. Whether the sales profession is more unethical or not has never been empirically demonstrated; however, some issues, such as harassment, are issues in any job, not just sales. In addition, the principles that guide ethical decision-making are applicable in all fields. The nature and perhaps number of issues may be different, but the same sets of principles can guide an individual in resolving those issues.

2. *Do you think social media and the Internet has made salespeople more ethical? Why or why not?*

   One argument could be that the Internet makes all behavior so public that it adds a watchdog element to selling not present before. Another argument is that the Internet offers so much information on products and services that it is hard to lie about them. But some students will feel that human nature hasn't changed and unethical behavior has been untouched by the internet, especially as these tools are often used unethically and information isn't always accurate on the web.

3. *How has the evolution of selling influenced ethics in professional selling?*

   Because most transactional selling, where the goal is to get the sale and get on to the next one, has been moved to other channels such as the web, many less ethical versions of selling are no longer used. Further, with recognition of customer lifetime value, more emphasis is placed on the relationship and poor ethics has no place in a long-term relationship. Thus, while the evolution has worked to improve ethics, the improvement can also be attributed in part to greater information on the web and changes in sales channels.

4. *What's the difference between manipulation and persuasion? Give two examples of what would be considered manipulation and alternatives of acceptable persuasion. Then describe how your examples of manipulation might fall into the realm of illegal activity and under which law or laws.*

   The difference is the customer's ability or opportunity to make his or her own decision. Manipulation, by leaving out information or lying, takes informed choice away from the customer. While examples will vary, they will likely relate to things like failing to tell a customer that the product won't work in certain circumstances or something like that.

5. *Some professors believe that ethics cannot be taught. Do you agree? Why or why not?*

   Profs who believe ethics cannot be taught are really saying that they believe that they cannot make someone act appropriately. That is probably true. However, sometimes people engage in unethical behavior through ignorance rather than intent. They are deceived by the rationalizations

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that others may offer, for example. What can be taught is how to recognize unethical situations and how to respond.

What do you think Jim Keller's (in The Buyer's Seat 2.1) answer would be to this question? Why? Would his answer differ from that of someone who sells to consumers?

I've asked Jim this question and he believes that it can be taught; it's just that some people don't want to learn. He had one incident where he left a company rather than engage in unethical behavior. Given that he had one customer (FedEx) for most of his career, he might say that someone who sells to consumers is unlikely to have that same kind of relationship and may, therefore, be more easily led astray.

6. *Your customer asks you what you think of a competitor's product. You know from experience with other customers that it is very unreliable and breaks down frequently. Further, given this particular customer's needs, you expect that it would be an even bigger problem if the customer chose this product. How do you respond? Be specific as to what you would say.*

While answers will vary from student to student, they should have the elements of avoiding direct comparison regarding reliability. Customers do not appreciate it when a salesrep talks down the competition; however, telling another customer's story (and offering to provide contact information for verification) or providing a third-party review that supports your position (such as from Gartner) can make for a professional way to offer a comparison. The point can also be made by stressing the reliability of your product, and by asking how the other product will satisfy certain needs. By letting the customer respond to questions about how important those needs are, the customer can usually figure it out.

7. *Using the scenario from question 6, you have a product that competes directly against the competitor's product brought up by the customer and costs about the same—do you bring up the costs? Your product that serves the customer's needs best costs 20 percent more and you know that budget is an issue. What do you do? Again, write out exactly what you would say.*

Again, answers will vary but the best answer is one that demonstrates the value of reliability. In the next chapter, we will cover the multi-attribute matrix and total cost of ownership, so this question foreshadows material to come, which you can point out in class.

8. *One of our students shared the story of how his family was able to spend their vacation on a private Caribbean island – no exaggeration – as a guest of one of his father's clients. While that may be extreme, what might the ethical issues be with accepting a gift from a customer? How should you respond if offered a gift?*

This true scenario causes a number of issues. At some point, it is likely that the client will call this gift into accounting, wanting something back from the salesperson such as a lower price. Yet, friendships do form between salespeople and their customers – and within the context of friendship, it makes perfect sense.

9. *For each of the following situations, evaluate the salesperson's action and indicate what you think the appropriate action would be.*

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a. In an electronics store, salespeople are offered an extra $50 for each sale of HDTV models that are being closed out. The manufacturer is offering the spiff, and management is fully aware of it. Salespeople are encouraged to not mention either the spiff or that these are close-out models.

Offering incentives to the salespeople is not illegal and students may not consider it to be unethical. The unethical aspect of these spiffs is that the customers in the retail store do not know that the retail salespeople are being paid to promote close-out products without letting customers know that.

b. A customer asks if you can remove a safety feature because it slows down the operators of the equipment.

Clearly, if a salesperson says yes and someone gets hurt, the manufacturer of the equipment will be held liable for any injuries, as will the employer. We have observed salespeople say, no, don't do that because it voids the warranty. We think that is a rather weak response.

c. The custom of the trade is that competitive firms submit bids based on specifications provided by the buyer; then the buyer places an order with the firm offering the lowest bid. After a salesperson submits a bid, the purchasing agent calls him and indicates the bid is too high; the lowest bid so far is almost 8 percent lower than that. The buyer asks the salesperson to submit another bid at a price at least 10 percent lower.

Probably unethical – the practice is not only unethical but illegal if the situation is a government bid but for commercial bids, the practice would be considered unethical if the posted RFP said all bids would be open at a certain time and a decision made.

d. A few months after joining a company, you learn about a credit card that gives you a 20 percent cash refund on meals at certain restaurants. You get the card and start taking clients only to those restaurants offering the rebate, pocketing the rebate.

The practice is certainly legal and some might argue that it is no different from using a credit card that rewards users with miles or cash back (such as Discover). The amount, though, raises some serious questions. If the rebate was a cash discount, the company would benefit. Since it is a rebate, the company doesn't necessarily benefit except that the salesperson isn't buying a dinner that is obviously "on sale," as would be the case with a cash discount.

e. A customer gives a salesperson a suggestion for a new service. The salesperson does not turn in the idea to her company, even though the company's policy manual states that all customer ideas should be submitted with the monthly expense report. Instead, the salesperson quits her job and starts her own business using the customer's suggestion.

This is clearly unethical. It violates specific company policies.

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Suggested Answers to Case Problems

Case 2-1: Barton Hargrave

Questions

1. *How do you respond to the pricing issue if you can't actually prove Ruhter is lying until a customer tries them and then realizes it is more?*
   One way is to probe with customers to determine how much they are actually being charged or going to be charged – lay it out side by side. An indirect way is to focus on the total cost, that your prices are more like Southwest Airlines who charge one price for a ticket and include bags, not like these cheap airlines that charge for everything and end up costing a lot more.

2. *How do you respond to the question about leaving the business? What if a client asked about the lawsuit directly, saying, "I hear your company filed suit against Ruhter. Wasn't that a cheap shot at a competitor?"*
   The only way to handle the question is with a straight denial, then point out that some competitors may wish you were exiting the business but there's no truth to that rumor. In most situations like this, the company will tell you how to respond to queries about the lawsuit. Failing that, the best way would be to say something like, "Actually, defending yourself against a competitor who can be a little weak in the truth is one way to respond to a cheap shot."

Note: This scenario is based on a situation faced by one of our former students. The names and industry have been changed, but the situation is real.

Case 2-2: DuBois Polymers

Questions

1. *What should Josh do about the Boise situation? Should he try to find out if Boise plans to bid on Farley contract and if so, what their strategy is?*

   No, he shouldn't. Even if he knew their strategy, he shouldn't disclose that, it wouldn't be fair to Boise. Plus, there would be no reason for DuBois to trust her if she did, though to be honest, if Mitch himself isn't trustworthy (and he probably isn't) then he isn't trusting Betsy now.

2. *What should Josh do about the Mohawk account?*

   The temptation is to violate company policy by lying to her company about a trial. A more legitimate approach would be to give the trial amount directly to Mohawk as a legitimate trial, with the approval of the boss and as a courtesy to Marsha, or to seek approval for a somewhat lower price as a sales strategy. However, Marsha is pushing pretty hard for Josh to engage in some unethical behavior (such as divulging Boise's pricing strategy), and setting a precedent here is the first step down a slippery slope to further demands and potentially severe pressure to engage in further unethical behavior. The best choice is to stick to his guns and avoid giving anything to Marsha at present.

3. *Describe Josh's relationship with Marsha. Where should he go with this account in the future?*
   One would hope Josh had a partnership with the largest distributor, but it doesn't look that way. Or at least, it appears that this is probably not the account to have to rely on for a majority of one's sales. Josh would be better suited to build up other distributors so that when

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Marsha leaves him for someone who will give in to the demands, he is prepared to take the hit.

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End of Chapter Role Play Case

Copy a buyer sheet for each student in the class. There are three versions. After the role play, you may want to begin debriefing this by asking how they handled each situation. Start with Version A, but divide it into those who were asked to adjourn for margaritas and those who were asked to visit a strip club. Further, you can then discuss what might happen if a female salesperson was asked by a male buyer to attend a strip club (according to articles in the trade press, this does happen, and is more likely to happen in male-dominated industries). You can then ask how common each situation is. With Version C (which is based on a real article), why might a buyer consider this to be an ethical issue?

Chapter 2 role play Version A:

If the rep is of the opposite sex, respond to the request for the sale like this. "Well, it all sounds good, but I'm not quite convinced. Why don't we adjourn to this little place I know down the street and talk it over? They have the best margaritas in town." If the rep is of the same sex, respond to the request like this. "Well, it all sounds good, but I'm not quite convinced. Say, there's this place down the street, totally nude, and the dancers are really hot. Why don't we move this conversation over there?"

Chapter 2 role play Version B:

Respond like this. "Well, it all sounds good but I've got good people, they'll figure it out. And I have no money in the budget for this. I know you said that training is another 20% but if you'll throw in free training, I'll take it." If the rep says yes, then say, "Ok, I'll check with the CFO and see what we can do. But I'll warn you, she's a cheapskate and she'll probably want you to sweeten the deal."

Chapter 2 role play Version C:

Your response is: "I don't know. I read in Computing Magazine that people are unhappy with Gartner and that Gartner isn't acknowledging the problem. I'm not sure that is the type of company I want to do business with."

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EXERCISE 2-1 IDENTIFYING YOUR ETHICAL DECISION PROCESS

Below is a list of activities and behaviors that a salesperson may engage in. Under what conditions would the behavior be ethical or unethical? If the behavior is always ethical, write "Always ethical," or list any situational influences that determine if the behavior is ethical or unethical, or write "Always unethical."

1. Offering gifts directly to a purchasing agent, like sales promotion prizes and "purchase volume incentive bonuses."

2. Asking for preferential treatment from a buyer who is also a supplier.

3. Asking for preferential treatment from your banker when that banker is considering a purchase from you.

4. Exaggerating the seriousness of a problem in order to explain a delay in shipping.

5. Allowing for personalities—for example, liking one buyer more than others—to enter into the pricing negotiation.

6. Trying to go directly to departments that use your product, because the purchasing agents won't see you.

7. Seeking information about competitors from good customers.

8. Raising prices when you know you are the only supplier for a company.

9. Asking for information about other bids so you can adjust yours.

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10. Giving preferential treatment to a customer over another as compared to the usual treatment.

11. Writing off the cost of duplicating a proposal for a buyer as a travel expense because the company doesn't let you write off copying expenses.

12. Taking the afternoon off after making a big sale.

Go back to the previous page and review your responses. Were you able to identify situations which made a behavior ethical? Situations that made it unethical? If you used a lot of situations to explain when something might be ethical or unethical, then you may have a situational perspective on ethics. If the converse is true, then you may have a deterministic perspective. The idea is that some people like believe that the ethicality of an action can only be determined by understanding the situation (e.g. it's okay to steal to feed yourself). Others say that the situation does not determine ethicality, a higher code of conduct does (e.g. it is never okay to steal).

Now consider the constituents that were involved in each decision. Who would be hurt by the action? Go back and add that to each situation. Consider the impact on the buyer, the seller, their companies, and society in general. What you have just done is taken another approach to determining the ethicality of an action: the consistency approach. This approach looks at who is hurt and who is benefited. If benefits outweigh the hurts, then the action is ethical. The difficulty, of course, is deterring the value of the benefits and the costs of the hurts. One version of this considers who will find out about the action. Only if someone else (who can punish the salesperson) finds out about the act is it considered ethical. From a societal perspective, that approach is not very helpful!

Which approach describes you the best? Can you think of any ethical dilemmas you might have faced? Did you use one of these approaches in resolving your conflict?

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Now consider the following scenarios and rate the salesperson's behavior:

1. The customer signs the order but fails to initial one of the little boxes, the one that determines how long the rental agreement is for. Your don't notice until you get back to the office, 45 minutes away. You know that the customer wanted a 24 month lease so you just initial it and turn it in.

_____ Illegal
_____ Unethical or immoral
_____ Ethical but inappropriate
_____ No problem

Reason:

2. You convince a physician who has just opened a new practice to purchase an unusually large amount of supplies, informing him that he will get an excellent discount.

_____ Illegal
_____ Unethical or immoral
_____ Ethical but inappropriate
_____ No problem

Reason:

3. You have a customer awaiting a shipment that is due to arrive tomorrow. If the customer knew it, though, they could wait until next week when the product goes on sale and save a bundle.

_____ Illegal
_____ Unethical or immoral
_____ Ethical but inappropriate
_____ No problem

Reason:

4. An employee (of the opposite sex) of the buyer's company, but not the buyer, asks you out as you are leaving the plant after making a sales call

_____ Illegal
_____ Unethical or immoral
_____ Ethical but inappropriate
_____ No problem

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Reason:

5. The buyer offers to take you out to dinner to say thank you for all your support for their company.

_____ Illegal
_____ Unethical or immoral
_____ Ethical but inappropriate
_____ No problem

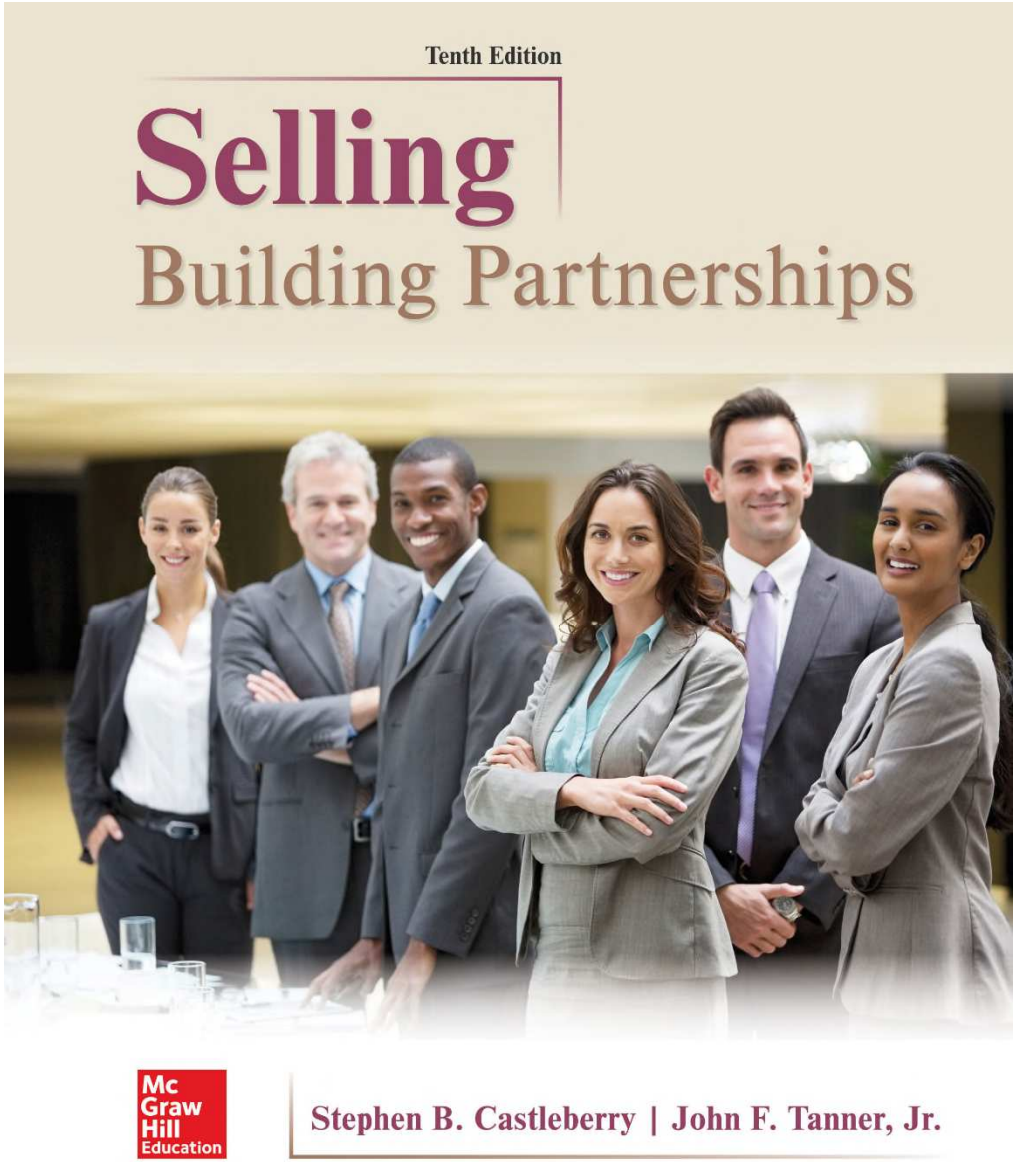
Reason:

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Chapter 2

Ethical and Legal Issues in Selling



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Learning Objectives

- Why do salespeople need to develop their own codes of ethics?
- Which ethical responsibilities do salespeople have toward themselves, their firms, and their customers?
- Do ethics get in the way of being a successful salesperson?
- What guidelines should salespeople consider when confronting situations involving an ethical issue?
- Which laws apply to personal selling?

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Ethics

Principles governing the behavior of an individual or a group

- Establish appropriate behavior indicating what is right and wrong

Perspectives regarding ethics can vary from:

- Country to country
- Industry to industry

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Exhibit 2.1: The Evolution of Personal Selling

	Production	Sales	Marketing	Partnering
Time period	Before 1930	1930 to 1960	1960 to 1990	After 1990
Objective	Making sales	Making sales	Satisfying customer needs	Building relationships
Orientation	Short-term seller needs	Short-term seller needs	Short-term customer needs	Long-term customer and seller needs
Role of salesperson	Provider	Persuader	Problem solver	Value creator
Activities of salespeople	Taking orders, delivering goods	Aggressively convincing buyers to buy products	Matching available offerings to buyer needs	Creating new alternatives, matching buyer needs with seller capabilities

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Ethical Selling

Unethical behavior hinders the relationship between buyers and sellers

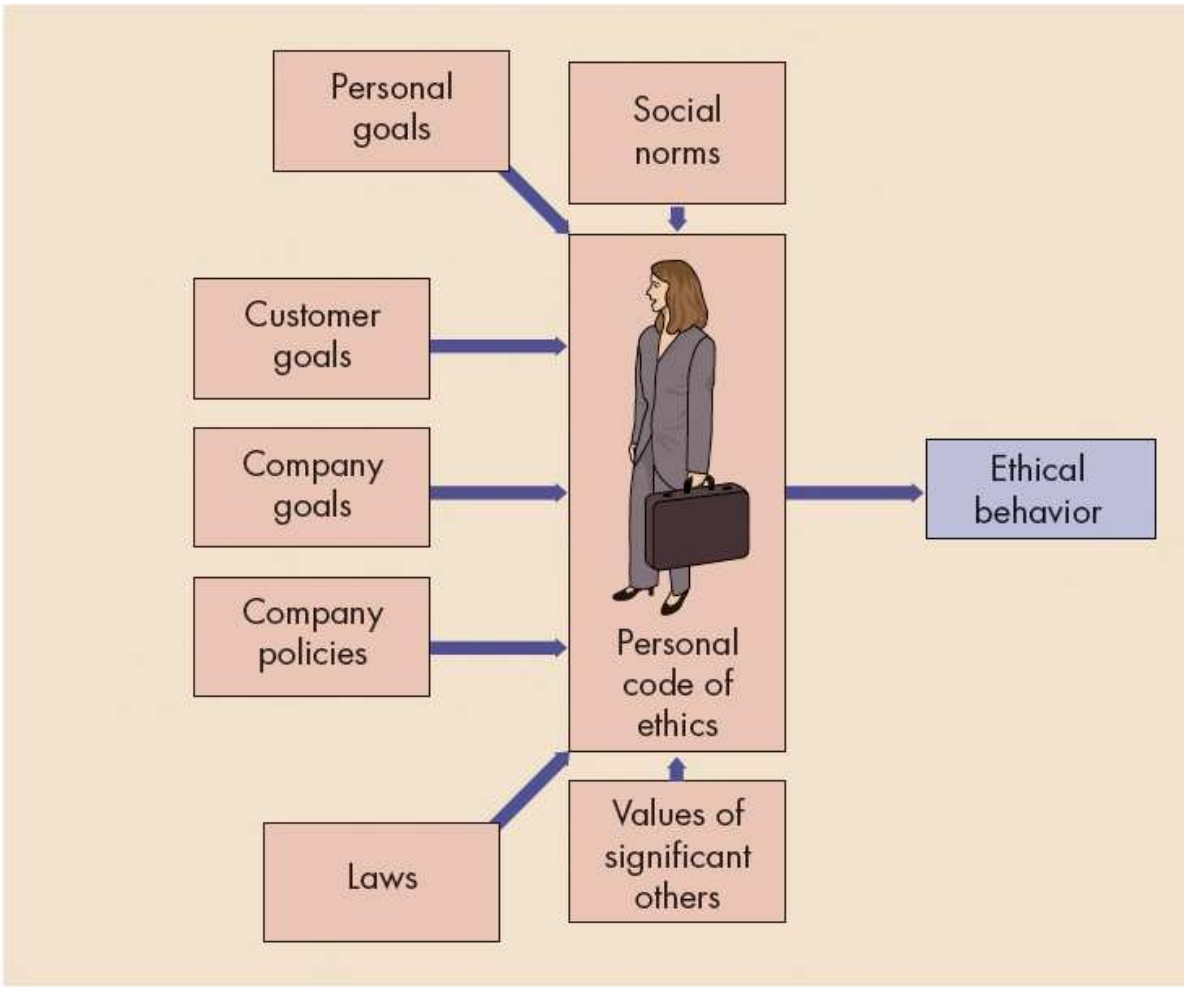
- Ethical principles become increasingly important as firms move toward longer-term relationships

Basic principle: Customer remains free to make a choice

- **Manipulation**: Eliminating or reducing a buyer's choice unfairly
  - Unethical in nature
- **Persuasion**: Influencing the buyer's decision, but the decision still remains the buyer's

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Exhibit 2.2: Factors Affecting Ethical Behavior of Salespeople



Jump to Exhibit 2.2: Factors Affecting Ethical Behavior of Salespeople, Appendix

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Checklist for Making Ethical Decisions, 1

If the answer to the following questions is yes, the behavior or activity is probably unethical

- Would I be embarrassed if a customer found out about this behavior?
- Would my supervisor disapprove of this behavior?
- Would most salespeople feel that this behavior is unusual?
- Am I about to do this because I think I can get away with it?
- Would I be upset if a salesperson did this to me?

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Checklist for Making Ethical Decisions, 2

- Would my family or friends think less of me if I told them about engaging in this sales activity?
- Am I concerned about the possible consequences of this behavior?
- Would I be upset if this behavior or activity were publicized in social media?
- Would society be worse off if everyone engaged in this behavior or activity?

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Common Areas of Ethical Concern, 1

Using **deception**

- Telling half-truths
- Withholding important information
  - Manipulative and unethical

Offering bribes, gifts, and entertainment

- **Bribes**: Payments made to buyers to influence their purchase decisions
- **Kickbacks**: Payments made to buyers based on the amount of orders placed

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Common Areas of Ethical Concern, 2

Providing special treatment

- Upsets other customers who do not get the special attention
- Reduces salesperson's productivity

Divulging confidential information

- Gives the salesperson a reputation of being untrustworthy

Backdoor selling: Salespeople ignore the purchasing agent's policy and contact people directly involved in the purchasing decision

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What Buyers Hate about Salespeople, 1

- Exaggerating the benefits of products
- Passing the blame for something he or she did to someone else
- Lying about product availability
- Misrepresenting guarantees
- Lying about competition
- Pushing products that people do not need

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What Buyers Hate about Salespeople, 2

- Making oral promises that are not legally binding
- Not being interested in customer needs
- Answering questions even when he or she does not know the correct answer
- Selling hazardous products

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Relationships with the Salesperson's Company, 1

Problem areas

- Ethically handling expense accounts
  - Expense accounts: Cover legitimate expenses, such as for travel, accommodation, food, et cetera
- Reporting work time information and activities: Companies use customer relationship management, C R M, software to monitor work activities

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Relationships with the Salesperson's Company, 2

- Switching jobs:
  - Salesperson should:
    - Give ample notice and assist during the transition phase
    - Not say things in anger that may come back to haunt him or her later
    - Not take anything that belongs to the company

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Relationship with Colleagues, 1

Sexual harassment

- Unwelcome sexual advances or physical conduct
- Requests for sexual favors
- Jokes or graffiti
- Posting sexually explicit material on bulletin boards

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Relationship with Colleagues, 2

- To deal with harassment, a salesperson should:
  - Develop a large base of customers and prospects to minimize the importance of one customer
  - Tell the harasser that such behavior is offensive and must be stopped
  - Use the policies of the customer's firm and one's own firm to resolve problems

Taking advantage of other salespeople

- **Poaching**: Unethical practice of stealing potential customers from other salespeople
  - If the company has policies protecting customers or territories, such behavior can lead to immediate termination

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Relationships with Competitors

Making false claims about competitors' products or sabotaging their efforts is unethical and illegal

- Salespeople and their companies' reputations may be permanently damaged

Criticizing a competitor's products or policies is not advisable

- Customers may get offended

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Laws Affecting Salespeople in the United States, 1

Statutory law: Based on legislation passed either by state legislatures or by Congress

- **Uniform Commercial Code, U C C**: Legal guide to commercial practice in the United States
- Antitrust laws

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Laws Affecting Salespeople in the United States, 2

Administrative laws: Established by local, state, or federal regulatory agencies

- Federal Trade Commission develops administrative laws affecting salespeople
- Securities and Exchange Commission regulates stockbrokers
- Food and Drug Administration regulates pharmaceutical salespeople

Common law: Arises out of court decisions

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U C C Terms Related to Salespeople, 1

Agent: Person who acts in place of his or her company

Sale: Transfer of title to goods by the seller to the buyer for a consideration known as price

- Differs from **contract to sell**, which occurs when a salesperson makes an offer and receives an unqualified acceptance from the buyer

Invitation to negotiate: A sales presentation

Offer: Takes place when the salesperson quotes specific terms

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U C C Terms Related to Salespeople, 2

- **Orders**: Written offers that become contracts when they are signed by an authorized representative in the salesperson's company
- **Free on board, F O B, destination**: Seller has title until the goods are received at the destination
- **F O B factory**: Buyer has title when the goods leave the seller's facility

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U C C Terms Related to Salespeople, 3

Oral agreements are as binding as written agreements

When the salesperson and the customer agree on the terms of a contract, both firms must perform according to those terms in good faith

Warranty: Assurance by the seller that the products will perform as represented

- **Expressed warranty**: Oral or written statement by seller
- **Implied warranty**: Not actually stated but still an obligation defined by law

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Sales Puffery

- Exaggerated statements about the performance of products and services
- **False Claims Act**, or Lincoln Law: Encourages citizens to press claims against vendors who sell fraudulently to the United States government
- **Credulous person standard**: Canadian law that states that companies should pay damages if advertising and sales presentation statements could be misunderstood by a reasonable person

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Illegal Business Practices, 1

Business defamation

- Unfair or untrue statements to customers about a competitor, its products, or its salespeople

Reciprocity

- Special relationship in which two companies agree to buy products from each other

Tying agreement

- Buyer is required to purchase one product in order to get another product

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Illegal Business Practices, 2

Conspiracy

- An agreement between competitors before customers are contacted

Collusion

- Competitors working together while a customer is making a purchase decision

Salespeople illegally interfering with competitors

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Illegal Business Practices, 3

Resale price maintenance

- Minimum price below which distributors or retailers cannot resell their products

Spiff or push money

- Payments made by a producer to a reseller's salespeople to motivate them to sell the producer's products or services

Price discrimination

- Providing unjustified special prices, discounts, or services to some customers

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Consumer Protection

Privacy laws

- Limit the amount of information that a firm can obtain about a consumer
- Specify how that information can be used or shared

Federal Do-Not-Call Registry

- Limits the conditions under which anyone on the registry may be telephoned at home or on a cell phone

CAN-SPAM Act

- Intended to reduce deceptive e-mails and contains specifications that are allowable

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International Ethical and Legal Issues, 1

Lubrication: Paying small sums of money or gifts to low-ranking managers or government officials to do the job more rapidly in countries where these payments are not illegal

Subordination: Paying larger sums of money to higher-ranking officials to get them to do something that is illegal or to ignore an illegal act

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International Ethical and Legal Issues, 2

Resolving cultural differences

- Cultural relativism and ethical imperialism help resolve cultural differences
  - **Cultural relativism**: View that no culture's ethics are superior
  - **Ethical imperialism**: View that ethical standards in one's home country should be applied to one's behavior across the world
- Salespeople operating in foreign cultures should be given corporate support and guidance in handling cultural ethical differences

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The Foreign Corrupt Practices Act

- Makes it illegal for companies in the United States to pay bribes to foreign officials
- An amendment permits small lubrication payments when they are customary in a culture
- Violations result in fines for company managers, employees, and agents who knowingly participate in or authorize bribes

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APPENDIX

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Exhibit 2.2: Factors Affecting Ethical Behavior of Salespeople, Appendix

It has a large box at its center, which shows an image of a woman holding a briefcase. The label below the image reads personal code of ethics. Eight small rectangular boxes surround the large box. The small boxes are labeled social norms, personal goals, customer goals, company goals, company policies, laws, values of significant others, and ethical behavior. An arrow from the large box labeled personal code of ethics points toward the box labeled ethical behavior. Arrows from each of the other seven boxes point toward the large box labeled personal code of ethics.

Jump back to Exhibit 2.2: Factors Affecting Ethical Behavior of Salespeople

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