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2

Ethics and Society

THE NEED FOR A SYSTEM OF ETHICS

When ABC's *PrimeTime Live* aired the results of an undercover investigation into charges that Food Lion, the nation's fastest-growing grocery chain, routinely sold rotting and infested food to an unsuspecting public, the network soon found itself confronted with a multimillion-dollar lawsuit and accusations of ethical misconduct. *PrimeTime Live* producers cited false references as a means to gain employment with Food Lion and then used cameras and other equipment concealed in their hair and bras to validate the charges. The broadcast was devastating to the grocery chain, resulting in the closing of eighty-four stores over the next two years and the termination of thousands of employees.¹ Food Lion did not contest the underlying truth of the report, but the jury, apparently reflecting the public's growing disaffection with such news-gathering conventions, found the network guilty of fraud and trespass and awarded Food Lion \$5.5 million in punitive damages, an amount that was significantly reduced first by the trial judge and again by an appellate court.²

Despite the popularity of such undercover investigative techniques, especially among television magazine shows, the precariousness of the network's ethical position is reflected in the mixed reviews within the journalistic community. Whereas some feared that the Food Lion

case would dampen the investigative ardor of future journalists,³ others questioned whether the ends always justify the means. *Washington Post* columnist Colman McCarthy, for example, condemned the practice of lying to get a story as "lazy journalism, not aggressive reporting."⁴ Dorothy Rabinowitz, a member of the *Wall Street Journal's* editorial board, was similarly unimpressed with the imperious attitude of some investigative reporters: "Many journalists continue to believe that they are involved in a calling so high as to entitle them to rights not given ordinary citizens."⁵

Society and Moral Anchors

As the Food Lion case illustrates, society is not always a gentle taskmaster when it comes to passing judgment on its moral agents. The standards against which society scrutinizes individual and institutional behavior are embedded in its code of moral conduct, its system of ethics. Thus, Rabinowitz's penetrating observation raises a profound question for the student of media ethics: Are media professionals bound by the same standards of moral conduct as the citizens they serve? If so, that is sufficient justification to explore the following question: Why does society really need a system of ethics? At least five reasons merit attention.

The Need for Social Stability. First, a system of ethics is necessary for social intercourse. Ethics is the foundation of our advanced civilization,

a cornerstone that provides some stability to society's moral expectations. If we are to enter into agreements with others, a necessity in a complex, interdependent society, we must be able to trust one another to keep those agreements, even if it is not in our self-interest to do so.⁶ Professional athletes who demand to renegotiate their contracts before they have expired may breed contempt and mistrust in the front office and the belief among the fans that they are placing self-interest over the interests of the team. While the public is accustomed to some puffery in advertising, they expect an uncorrupted flow of accurate information. When advertising executives fail in this expectation, public confidence is eroded. Likewise, the reading and viewing publics expect journalists to report the truth, even when there is no formal agreement to do so. When reporters fail in this expectation, their credibility is eroded. Suffice it to say that indiscretions by a few ethical miscreants can undermine the moral standing of an entire industry.

The Need for a Moral Hierarchy. Second, a system of ethics serves as a *moral gatekeeper* in apprising society of the relative importance of certain customs. It does this by alerting the public to (1) those norms that are important enough to be described as moral and (2) the "hierarchy of ethical norms" and their relative standing in the moral pecking order.

All cultures have many customs, but most do not concern ethical mores.⁷ For example, eating with utensils is customary in Western countries, but the failure to do so is not immoral. Standing for the national anthem before a sporting event is a common practice, but those who remain seated are not behaving unethically. There is a tendency to describe actions of which we disapprove as immoral, although most of our social indiscretions are merely transgressions of etiquette. A system of ethics identifies those customs and practices of which there is enough social disapproval to render them immoral.

However, even those values and principles that have the distinction of qualifying as moral norms are not all on an equal footing. From time to time in this book I will refer to certain ideas, such as the commitment to truth and proscriptions against stealing, as *fundamental* societal values. This distinction suggests that some are more important than others. Treating, for example, although not socially approved, is generally viewed less seriously than lying. This may explain why the journalistic practice of invading private property to get a story, though not applauded in all quarters, does not usually meet with the same degree of condemnation as the use of outright deception.

The Need to Promote a Dynamic Moral Ecology. Three, an ethical framework serves as a social conscience, challenging members of a community to examine the ethical dimensions of both public issues and private concerns and to aspire to elevate the quality of the moral ecology. However, the goal should not be the *ideal* society (which is impossible) but a *decent* society. What should be avoided are claims of infallibility. Ethics is not a science, and trial and error are inevitable. In a not-so-perfect society some compromise and balancing are required because not every claim deserves equal attention.⁸ A system of ethics provides an arena where ethical experimentation can occur, a process that is limited only by the admonition that moral progress should be the result, not moral retrenchment. Society must constantly seek moral progress, which involves a constant reevaluation of prevailing norms while not abandoning the civic community's most cherished moral precepts (such as justice and respect for others). This can sometimes be a painful process. The debate over stem cell research, for example, has publicly engaged the moral imaginations of ethicists, scientists, religious institutions, and the general public as they attempt to forge some ethical accommodation on this field of scientific inquiry. In the admittedly untidy process of establishing ethical

norms, *exactly what the benchmarks should be is subject to some negotiation; whether to have such ethical benchmarks is not*

The Need to Resolve Conflicts. Four, a system of ethics is an important social institution for resolving cases involving conflicting claims based on individual self-interest.⁹ For example, it might be in a student's own interest to copy from a classmate's term paper. It is in the classmate's best interest to keep her from doing so. Societal rules against plagiarism are brought to bear in evaluating the moral conduct inherent in this situation.

The Need to Clarify Values. Finally, a system of ethics also functions to clarify for society the competing values and principles inherent in emerging and novel moral dilemmas. Some of the issues confronting civilization today would challenge the imagination of even the most ardent philosopher. A case in point is the controversy over the cloning of humans, a scientific breakthrough with unimaginable ethical consequences. Ethicists have already begun passionately debating this issue in the hopes of clarifying competing moral values and affording some time for reasoned reflection before such scientific experimentation becomes commonplace.

An ethical system encourages the debate and airing of differences over competing moral principles. In so doing, it crystallizes society's attitudes about ethical dilemmas and often leads to adjudication (if not a satisfactory resolution) of disputes. This point is illustrated by readers' complaints surrounding a California newspaper's coverage of a controversial ballot issue several years ago. The proposition, designed to cut off government services to illegal aliens, was supported by a group known as Save Our State (SOS), whose supporters were subjected to charges of racism and threats by militant opponents. Because of those threats, SOS sought to keep its address secret. But the Orange County *Register* learned the address and used it as the lead sentence in a story about the organization.¹⁰ Furious readers, fearing that

bombers might be tempted to blow up the building, called the paper irresponsible. They believed the potential for harm, including possible loss of lives, outweighed any news value in revealing the organization's address. The *Register's* topic editor defended the lead because of SOS's penchant for secrecy. "The decision to use the address as the lead was done to quickly focus on what has become a center of controversy about this group—its secrecy." But the paper's ombudsman was not impressed. "Leading the story with the address while knowing the group wanted secrecy for safety reasons," he wrote, "was a sorry example of in-your-face, gotcha journalism, precisely the type that has pushed journalism to a low rung on the public opinion ladder."¹¹ Although there may have been no meeting of the minds between the *Register's* editors and their disgruntled readers, the ombudsman served as a forum through which to clarify the competing values and to foster a rational deliberation of the ethical concerns.¹²

In another case, the *Times-Union* in Jacksonville, Florida, published a page one article containing racist remarks by Chief Circuit Judge John E. Santora, Jr. Many readers were outraged, not at the remarks but at what they considered to be the newspaper's ill-considered judgment in printing them. Most callers said the *Times-Union* should not have published what the judge called "offhand remarks," and some accused the paper of fanning the flames of racial intolerance. The paper responded that the judge was interviewed twice and knew that he was being taped when he made the intemperate comments.¹³

Although the newspaper did apparently gain some public acceptance of the notion that it had done its job, the coverage precipitated a healthy debate about journalistic values and the role of the media as community activist. For example, the paper's ombudsman, Mike Clark, criticized the *Times-Union* for not doing more to combat racial injustice in Jacksonville. "We had an obligation to show our involvement in the community, not just to report the news,"

he said, Clark believed that more space should have been devoted to solutions.¹⁴ But John Seigenthaler, publisher emeritus of the Nashville *Tennessean*, in an interview for *Quill*, appeared to take issue with Clark when he said that exposing racism in the community is the duty of the paper—"I'm not sure you have to go beyond that."¹⁵

The Functions of the Media within the Ethical System

If a system of ethics provides moral cohesion for society's individual members and institutions, media practitioners are in particular need of one. Why? The mass media are among the most influential enterprises in a democratic society, standing at the crossroads between the citizens and their political, economic, and social institutions. In addition, they are instrumental in the transmission of cultural values. They set the agenda for which values are important and offer symbolic cues for standards of conduct, including ethical behavior. This process is conveyed through the three key functions that media practitioners play in American society: dissemination and interpretation of *information*, transmission of *persuasive* messages and production, and marketing of mass *entertainment*. Each of these functions brings with it an array of ethical expectations that are not necessarily the same. For example, should the standards for truth and accuracy be the same for advertising as for news? What values—entertainment or news—should govern the production of a docudrama? Under what conditions may public relations practitioners withhold information from the media and the public and still maintain their own credibility and the credibility of their clients or companies?

First, the media are the primary source of *information* in a democracy. Accurate and reliable information is the lifeblood of the democratic process. Perhaps the most obvious players in this information flow are journalists,

who gain access to the day's intelligence and attempt to provide accurate information for citizens to make informed and intelligent political decisions. But in a capitalistic society news media must also respect the demands of the marketplace, thereby satisfying the public's craving for the more sensational and tantalizing aspects of the human condition. This is exhibited in tabloid journalism's insatiable appetite for violent and sexually explicit content and its unremitting fascination with the private lives of social luminaries. The so-called mainstream media, however, are also the captive of marketplace forces and spend an increasing amount of time producing news content that has little to do with the democratic process.

Journalists are not the only media practitioners who perform the essential function of providing information in a capitalistic society. The economic messages of advertisers and the corporate image building of public relations practitioners also provide relevant and beneficial information to consumers and other constituencies. The role of economic information in a democratic society was captured in a Supreme Court opinion recognizing the constitutional status of advertising. Justice Blackmun wrote, "As to the particular consumer's interest in the free flow of commercial information, that interest may be as keen, if not keener by far, than his interest in the day's most urgent political debate."¹⁶ He continued with his defense of advertising as a worthy contributor to the capitalistic system:

Advertising, however tasteless and excessive it sometimes may seem, is nonetheless dissemination of information as to who is producing and selling what product, for what reason, and at what price. So long as we preserve a predominantly free enterprise economy, the allocation of our resources in large measure will be made through numerous private economic decisions. It is a matter of public interest that those decisions . . . be intelligent and well informed. To this end, the free flow of commercial information is indispensable.¹⁷

Regardless of the source of information, society has a right to expect a certain level of ethical behavior from its media institutions, and when this conduct is not forthcoming, a crisis of confidence occurs between these institutions and the public. At a minimum media audiences demand information unencumbered by deliberate falsehoods, regardless of whether the source is a journalist or an advertising agency. But beyond that threshold expectation, ethical practices can vary, depending on the media practitioner's role. We expect reporters, for example, to include all relevant facts in their stories, unless they have a compelling reason for omitting some salient piece of information. We also expect their accounts of newsworthy events to be balanced—that is, not to favor one set of values over another. But society does not expect advertisers, public relations practitioners, and entertainment producers and executives to approach their tasks with a commitment to symmetry. They are mass marketers of products, ideas, and images, and their clients and audiences are fully aware that communications from these sources are motivated as much by self-interest as the public interest.

The second major function of media practitioners is the transmission of *persuasive* communications. Actually, persuasion enjoys a noble legacy, tracing its lineage to the ancient Greeks. Like the use of rhetorical persuasion in ancient Greece, contemporary persuasion techniques are considered an art form, particularly when they are adroitly used to alter public perceptions, attitudes, and even buying habits. However, unlike our Greek forbears, today's practitioners often use more subtle and sometimes indiscernible techniques to manipulate audiences and public opinion. Perhaps the most visible examples are TV commercials, which often include visual cues that shrewdly and skillfully promote the values (some would say "superficial" values) of sex appeal, perpetual youth, and social conformity as essential to our psychological tranquility and self-esteem.

Editorials and news commentaries, advertising, and public relations are the most prevalent sources for such content, although entertainment fare sometimes wraps persuasive messages in a sugar-coated genre. American society has embraced both advertising and public relations as legitimate functions—after all, advertising is the economic mainstay of mass media in a capitalistic system—but they have increasingly become ethically controversial. Defenders of advertising and public relations derive their support from classical liberal marketplace theory that emphasizes the competition of competing voices and the supremacy of the autonomous and rational consumer. The most extreme form of this philosophy is "let the buyer beware," which in effect absolves purveyors of persuasive messages of any moral responsibility for the consequences of their actions. Critics respond that advertisers and public relations practitioners are the true potentates in the communications process and take advantage of the inability or unwillingness of passive consumers to identify and discriminate among this relentless barrage of manipulative communications.¹⁸ Thus, the public must be represented and protected by outside agencies, ranging all the way from government agencies such as the Federal Trade Commission to various consumer watchdog groups. Because practitioners and their critics hold such dissimilar perspectives, ethical conflict is inevitable. In a free society a reconciliation of these positions is unlikely. Perhaps the most that can be expected is to establish minimum standards of acceptable behavior (for example, prohibitions against the intentional transmission of false or deceptive information) and to apportion moral responsibility among the various players in the chain of communication, from the disseminators of persuasive messages to the ultimate gatekeepers in the process, the recipients.

The third function of media practitioners—the production and dissemination of mass *entertainment*—poses an ethical challenge perhaps because there is little agreement on what

its role in society should be. Unlike journalism, which is designed to scrutinize the political system and contribute to the democratic process, entertainment has no clear-cut rationale. Thus, the ethical question is whether the media have an obligation to elevate tastes and promote virtuous behavior or whether "giving the audience what it wants," even at the risk of reinforcing dysfunctional attitudes and behavior, is sufficient.

In a democracy media practitioners produce material that they believe meets a perceived need of the heterogeneous audience. And the finicky public expresses its approval or disapproval in the marketplace.¹⁹ In a pluralistic society with a diversity of artistic tastes, only an incurable optimist would argue that economic concerns and commercial motives do not matter. After all, one advantage of the mass production of entertainment is that a wide variety of content can be made available at little cost, thus providing enjoyment for consumers of all socioeconomic classes. On the other hand, critics complain that the inevitable consequence of such mass production is an appeal to the lowest common denominator of artistic tastes. They argue that commercialism should not be the only driving force in the production of popular entertainment and information and that producers of such material have a responsibility to contribute to an enrichment of cultural values. Thus, underlying any attempts at reconciling these two notions are two questions that must be confronted: Must all material produced for a mass audience have at least some modicum of social worth? Is it possible—or even morally desirable—to devise strategies that will meet the demands of a mass audience without resorting exclusively to fare that does nothing more than trivialize the human condition and then provide an escape from it?

Media practitioners, regardless of their societal function, are influential in that they touch the lives of all of us. Audience members, particularly those who are young and impressionable,

often take their ethical cues from media personalities. Thus they should serve as role models and should reinforce society's ethical expectations. When they fail in this responsibility, each ethical indiscretion further erodes society's confidence in the media.

REQUIREMENTS OF A SYSTEM OF ETHICS

If society's norms are to serve as moral guideposts, what criteria should be used in constructing a workable system of ethics? There may be some disagreement on this issue, but the following five criteria should form the foundation for any ethical system. These requirements pertain both to general societal principles and to codes of conduct reflecting the standards of professional organizations.²⁰

Shared Values

An ethical system must be constructed, first and foremost, on shared values. Although individuals and groups within society may apply these standards differently to specific situations, they should at least agree on common ethical norms. For example, the fact that some members of society choose to lie under some circumstances does not diminish society's fundamental commitment to the value of truth. In other words, deviations from the norm may be excused for substantial reasons, but exceptions to the rule do not automatically alter its value.

This commitment to shared, or common, values is often reflected in the codification of those norms. The Ten Commandments, for example, are part of the code of moral conduct underlying the Judeo-Christian heritage. Many media institutions have codified their ethical principles, and such codes can at least provide the journalistic novice with some idea of the dividing line between acceptable and unacceptable behavior.

Wisdom

Ethical standards should be based on reason and experience. They should seek to strike a balance between the rights and interests of autonomous individuals and their obligations to society. In short, ethical norms should be reasonable. It would be unreasonable, for example, to expect reporters to remove themselves entirely from involvement in community affairs because of potential conflicts of interest. In fact, wisdom suggests that community involvement can enrich journalists' understanding of the stories they cover.

Wisdom also demands breathing room for advertisers who use "puffery" in their commercial messages, as long as the ads are not deceptive. Hyperbole is the handmaiden of salesmanship, and the marketplace suffers little from the introduction of exaggerated commercial claims of enhanced sex appeal and social acceptance. A code based on wisdom promotes ethical behavior while avoiding excessive and unreasonable moral propriety. Application of this criterion to a system of ethics results in flexibility, which shuns the extremes of an intransigent code at the one end and moral anarchy at the other. In journalism, for example, the proper balance is considered to be somewhere between the sensational and the bland.

Of course, wisdom based on experience suggests that the solutions derived from a moral code should be appropriate to the problem. Ethical quandaries sometimes call for drastic remedies. An affirmative action program, which in some cases might appear to be extreme, is sometimes justified to correct past discrimination. A university that suddenly discovers pervasive cheating on its campus might, in a moment of moral indignation, impose harsh new penalties for academic violations of the student code of conduct.

The idea of moderation could also be applied to the controversy surrounding the responsibility of the advertising industry for the harmful consequences of alcohol consumption. Some conservatives favor an outright ban

on such ads, particularly on radio and TV. Libertarians counter that any legal product or service should be allowed to promote its wares in the mass media. A temperate position—that is, between the extremes of banning the ads and accepting the ads while apprising consumers of the dangers of alcohol abuse—is to require health warning disclaimers in all alcohol advertising.²¹

Justice

Justice has to do with people's relations with one another and is often important to the resolution of ethical disputes. Central to the idea of justice is the notion of fairness, in which all individuals are treated alike in terms of what they deserve. In other words, there should be no *double standards*, unless there are compelling and rational reasons for discrimination.

This principle has important implications for the media. Media practitioners may employ it to decide what guidelines should be applied to using deception, establishing and maintaining confidential relationships, and intruding on the privacy of others. For example, justice requires that journalists report the embarrassing behavior of others, both public and private figures, based on what they really deserve rather than for the purpose of titillating the morbid curiosity of the audience. Hollywood could also benefit from this idea of justice by using it to eliminate its dramatic renditions of racial and sexual stereotypes. And in all fairness, there has been substantial progress in this area.

Freedom

A system of ethics must be based on some freedom of choice. A society that does not allow such freedom is morally impoverished. Moral agents must have several alternatives available and must be able to exercise their powers of reason without coercion. In the biblical account, the first moral choice was made by Adam and

Eve when they ate the forbidden fruit and were expelled from paradise. Of course, most ethical judgments do not result in such dire consequences. But without freedom there can be no moral reasoning, because moral reasoning, as we will see in Chapter 3, involves choosing from among several alternatives and defending one's decision based on some rational principle. In short, freedom provides the opportunity to raise one's ethical awareness, a goal that any system of ethics should encourage.

Accountability

As autonomous individuals, we are all responsible for our moral deeds and misdeeds, and the legitimacy of any ethical system depends on its facility in holding its participants to some standard of accountability. Accountability may range all the way from informal sanctions, as when an offending moral agent is tried in the court of public opinion, to more formal punitive measures, such as disbarment proceedings against attorneys who violate their codes of ethics or reprimands or dismissals of reporters who violate their companies' policies. An ethics system that does not include accountability encourages freedom without responsibility and thus lacks the moral authority to encourage virtuous behavior.

THE SOCIAL COMPACT AND MORAL DUTIES

When individuals emerge from their primitive stages of moral development and enter society, they assume certain obligations. There is a cost, in other words, of membership in a civilized society that values moral virtue. The ethics system is not a smorgasbord from which one can pick and choose moral delicacies. Society imposes certain responsibilities on its constituents as a condition of membership. These responsibilities are known as *moral duties*. The idea of duty to others is important to moral reasoning

because it is a way of paying homage to the triumph of virtue over self-interests.

The Two Levels of Moral Duty

Although there are many kinds of moral duties, for the sake of simplicity they can be divided into two categories: *general* and *particularistic*. *General ethical obligations* are those that apply to all members of society. Some are primary (or fundamental) in that they take precedence over other principles and should be violated only when there is an overriding reason for doing so.²² Prohibitions against stealing, cheating, lying, and breaking promises are examples of fundamental duties. Others bind all of us, even though they do not occupy such a prominent position on the hierarchy of values as our primary general obligations. These secondary obligations, such as prohibitions against gambling and trespassing, have a weaker claim to moral permanence than our fundamental duties and are more likely to be violated or perhaps subordinated to competing interests. Charity bingo games and legalized state lotteries are two classic examples.

Of course, philosophers disagree greatly over the extent of our general obligations. Some believe, for example, that we have a moral duty to assist others in distress, to be a Good Samaritan. Others continue to ask, "Am I my brother's keeper?" and question whether such good deeds are really a general moral obligation. However, one could probably get agreement among philosophers and nonphilosophers alike that two general obligations underlie all others: to treat others with the respect and moral dignity to which they are entitled and to avoid intentionally causing harm to others.²³ You will notice that the latter duty is based on *intentional* harm, not *foreseeable* harm. For example, reporters know that scandalous revelations will harm others, but their *intent* is not to harm but to inform the public about matters of public interest. Even if their revelations are unwarranted, few journalists would embark on a story

with the underlying motive of causing personal injury.

Particularistic obligations are determined by membership within a specific group, profession, or occupation. Practicing Roman Catholics, for example, have a moral duty to refrain from using artificial birth control. Doctors have a duty to maintain a confidential relationship with their patients, and attorneys have a responsibility to mount a vigorous defense for their clients, even if they believe them to be guilty. These are moral obligations that do not bind the rest of us.

A duty is often imposed on media practitioners to avoid certain conflicts of interest because of their unusual role within society. The National Newspapers Publishers Association (NNPA), which represents some two hundred African American-owned newspapers with a readership of eleven million in the United States, apparently ignored this obligation in 1996 when several of its officers and members accepted an all-expense-paid tour of Nigeria at the invitation of that country's military dictatorship. The trip was underwritten by Nigeria's leadership as part of an aggressive media campaign to counter reports of political repression, human rights abuses, and the censorship of journalists. That campaign, according to an article in *The Nation* magazine, was furthered by a series of editorials in NNPA papers and by lucrative ads and advertorial inserts placed by lobbyists for Nigeria in those same papers.²⁴

Particularistic obligations for media practitioners, like those in other professions, are sometimes based on the more general societal obligations. Journalism's commitment to truth and fairness is a case in point. But occasionally the general and particularistic obligations collide, causing heated debate about which should prevail. Nowhere is this more apparent than in the love-hate relationship that sometimes exists between journalists and law enforcement agencies, which frequently pits journalists' commitment to independence against the obligations

of citizenship that are incumbent upon the rest of us.

This appeared to be the case in January 2001 when a young reporter in Phoenix, Arizona, found himself at the center of an ethical firestorm. A weekly alternative paper, the *Phoenix New Times*, published his interview with a man who claimed to be one of the arsonists who had destroyed mansions under construction on the outskirts of Phoenix. The interviewee described how and why they targeted the luxury homes. The article prompted a heated debate on media responsibility, with some critics denouncing the paper for conducting the interview without first alerting police.²⁵ *New Times* editor Jeremy Voas replied that his reporter arranged to meet the arsonist "because he and his editors believed the guy might say something of value" and that the story "would provide a glimpse inside the arsonist's psyche." Voas even speculated that the article might assist authorities in apprehending those responsible for the fires.²⁶ Fred Brown, capital bureau chief and political editor for the *Denver Post*, acknowledged the conflicting loyalties within the local journalistic community: "[I]t would have been totally unacceptable for the reporter to agree to an interview and then tell the police about it so they could lay a trap. Some local journalists, though, felt that would have been a good idea to get this maniac put away. But they were wrong. Betraying a source might be the worst thing a journalist can do."²⁷

Deciding among Moral Duties

The duties just explored orchestrate our relations with one another and with society. Our moral calculations affect other humans, regardless of whether we know these individuals or they are members of that amorphous mass known as the public. Thus, our ethical judgments must take into account all parties, including ourselves, to which we owe allegiance. Ralph Potter, of the Harvard Divinity School, has referred to these duties as "loyalties" in

constructing his own model for moral reasoning.²⁸ Lawyers, for example, have obligations to their clients, their professional colleagues, the judicial system, and society at large, as well as to their own sense of ethical conduct. Teachers have loyalties to students, parents, academic colleagues, school officials, and the community at large. Sometimes these loyalties conflict, increasing the tension in the moral reasoning process. Clifford Christians and his coauthors in *Media Ethics: Cases and Moral Reasoning* make this observation:

Many times, in the consideration of ethics, direct conflicts arise between the rights of one person or group and those of others. Policies and actions inevitably must favor some to the exclusion of others. Often our most agonizing dilemmas revolve around our primary obligation to a person or social group. Or, we ask ourselves, is my first loyalty to my company or to a particular client?²⁹

The moral agent's responsibility consists of giving each set of loyalties its share of attention before rendering an ethical determination. Thus, as media practitioners we must identify those parties that will be most affected by our actions, sometimes referred to as *stakeholders*. For the purposes of the cases in this book, six *stakeholders* to whom we are obligated must be examined.³⁰

1. Individual conscience
2. Objects of moral judgment
3. Financial supporters
4. The institution
5. Professional colleagues
6. Society

First, we should follow the adage "Let your conscience be your guide." Our conscience often tells us, if we are willing to listen, the difference between right and wrong. In other words, we should feel personally comfortable with our decision or at least be able to defend it with some moral principle. Being able to look ourselves in

the mirror without wincing from moral embarrassment is a sign of our virtue.

The *objects of moral judgment* are those individuals or groups most likely to be harmed or affected directly by our ethical decisions. For example, racial and ethnic minorities are the objects of moral judgment when films depicting them are based on stereotypes. Certain specialized audiences should also be taken into account, as when a sexually explicit program is aired during the time of the day when children are most likely to be watching or listening. A public official whose womanizing catches the fancy of the media would also be in harm's way, much to the delight of his political opponents. It may seem strange to suggest that a loyalty is owed to such unsavory topics of news coverage. But there is a duty to take into account the interests of others, even if we believe that the target of our action deserves punishment or public scorn.

Media practitioners also must be loyal to their *financial supporters*, who pay the bills and make it possible to compete in the marketplace. These include, among others, advertisers, clients, individual subscribers, and other benefactors. Of course, loyalty to financial supporters may clash with obligations to other interests. For example, in the news business there will always be tension between the lure of profits and the ethical mandate to operate in the public interest, but the industry must sometimes strive to find an accommodation between them. This is not to suggest, of course, that the media must compromise their contract with society to present objective news coverage because of objections and pressure from advertisers or stockholders. It is an article of faith in many news organizations that advertisers should exercise no influence over editorial or news content. Thus, these loyalties to financial supporters must be carefully weighed, and in some cases the moral duty to society must override other considerations.

Allegiance to one's own *institution* is a noble gesture under most circumstances, because

company loyalty is usually valued in corporate circles. Reporters often take pride in the news organizations for which they work and are concerned as much about their institutions' credibility as about their own. However, blind loyalty can work to the detriment of the company. For example, a public relations executive who recommends to management that the company "stone-wall" the press concerning the effects of an environmental disaster disservices the company as well as the public. It should be noted that loyalty to one's organization may also take into account the stockholders (if any), because they are interested in improving the financial well-being of the company as well as in protecting their investments. Of course, media executives tend to be more concerned about the duties owed to investors than those owed to lower-level employees.

A practitioner's allegiance to *professional colleagues* is often powerful and unflinching. When rendering a moral judgment, two questions are relevant: How will my actions reflect on my professional peers? Are my actions in keeping with the expectations of my colleagues? Suppose that a television news producer decides to air graphic death scenes from a satanic ritual. Public protests would suggest that this ill-advised decision might reflect poorly on all broadcast journalists. On the other hand, reporters often look to the expectations and practices of their colleagues for moral support to legitimize their actions. Protection of news sources is a case in point, and some reporters have gone to jail rather than breach these confidential relationships and risk the ostracism of their peers.

For media practitioners, obligation or loyalty to *society* translates into a sense of social responsibility. It goes without saying that ethical decisions cannot be made without factoring the public interest into the equation. Because our own sense of moral propriety—that is, our conscience—is based on societal norms, our obligations to ourselves and society are often in concert. This is not always the case, however,

as when reporters publish the contents of a stolen classified government document revealing American duplicity in foreign relations. In this case their consciences might override the concern for social prohibitions against stealing. However, if their motivations for releasing this information are related to self-interest (personal recognition, increased ratings, and the like), they have acted unethically.

Considerations of societal duties are more complex than they appear. In the real world society is not some monolithic entity but consists of many different groups, among which choices sometimes have to be made: news sources, public figures, minorities, senior citizens, children, people with disabilities. It is the balancing of these interests that presents a real challenge to media practitioners in the rough-and-tumble world of a diverse civilization.

THE NEXUS OF LAW AND ETHICS

Attorneys and judges tell us that laws are the cornerstones of our democratic civilization. *They are wrong.* It is the *moral respect* for the law that provides the foundation for our culture. Motorists do not refuse to run a red light just because there does not happen to be an officer of the law close at hand. They do so out of respect for legal authority (or perhaps fear of detection and punishment) and deference to the notion that limitations on individual liberty are sometimes necessary to bring order out of chaos in a complex society. Thus, there is what we might call a *nexus*, or connection, between the fields of law and ethics. But what is the scope of this relationship, and why should a media practitioner be concerned about this distinction?

We can begin by stating the obvious. Not all moral issues can be, or should be, legally codified. The law permits many immoralities that transgress against friends and enemies alike, such as the breaking of promises, uttering of unkind words, and certain forms of deception. In the course of our lives we often offend the

feelings of others, an act for which the law provides no restitution to the offended party. A high school student, for example, might break his date for the senior prom at the last minute, but the lady kept in waiting cannot resort to the courts for redress of her tearful ordeal. Even in a litigious society it would be undesirable to open the floodgates to such deep interference into individual relationships.

Nevertheless, legal obligations are based on moral ones. The criminal and civil statutes codify some of our most important moral obligations, for example, proscriptions against killing, stealing, raping, or maliciously defaming another's reputation. Most of these statutes involve punishing direct harm to others, but some laws are based on moral principles that are not concerned with the well-being of others. Laws regulating sexual behavior between consenting adults and prostitution fall into this category. The moral justification for such laws is not as widely shared within society, and thus compliance is less certain.³¹ Nevertheless, a fundamental distinction between our legal code and moral obligations is that legal violations involve prescribed penalties and ethical indiscretions do not.

But if the laws themselves are based on moral respect, are there circumstances when we are warranted in breaking a law? Does our ethical system provide for such waivers of our moral obligations?

Civil disobedience, in which citizens intentionally ignore laws that they feel are unjust, has received some moral respectability in recent years, particularly since the nonviolent civil rights demonstrations led by the Reverend Dr. Martin Luther King, Jr. in the 1960s. Most ethicists agree, however, that the legitimacy of civil disobedience depends on (1) the moral agent's true belief that the law is unjust, (2) nonviolence, and (3) the willingness of the protesters to face the consequences of their actions.³² In addition, some people justify civil disobedience only if the legal avenues of redress have been explored. For example, an environmental group, having exhausted all legal avenues

to prevent the disposal of nuclear wastes at a site within their community, might resort to acts of civil disobedience to bring its concerns to the public's attention. In such cases, even when the legal questions have been settled, the moral issues persist.

What if the legal remedies have not been exhausted? Are moral agents then justified in violating the law? Perhaps, but it would appear that their actions are on shakier ground. A just law might be violated in emergency situations or when a higher moral principle is involved. For example, we would not think a husband immoral for running red lights to get his pregnant wife to the hospital in time for the delivery of their baby. On a more serious level, media practitioners may occasionally feel obligated to violate a just law if they believe that they must do so because of a more significant moral obligation. Journalists, for example, might be justified in ignoring a State Department ban on travel to a particular country if they felt compelled to document human rights abuses. Of course, the reporters would have to face the legal consequences of their transgressions, but their actions would still have some moral force behind them.

The point is this: Journalists serve a unique function as representatives of the public and may feel that their obligations to the audience outweigh their legal duties. And there is some merit to this argument. However, if a law has any moral force behind it—if it is a "just" law—it can be overridden only by a more compelling moral obligation.

This dilemma is exemplified by a case involving the Cable News Network (CNN) and the prosecution of former Panamanian dictator Manuel Noriega. General Noriega, of course, had been taken into custody after a massive deployment of U.S. troops in Panama and was awaiting trial in Miami. During his incarceration someone obtained tape recordings of jail cell conversations between Noriega and his attorney and provided them to CNN. After CNN announced that it had the tapes, U.S. District Judge William Hoeweler granted the defense's

request for an injunction against the broadcast of the tapes,³³ an order upheld by the Eleventh Circuit Court of Appeals.³⁴ Although CNN did not broadcast conversations between Noriega and his attorney, they did use excerpts of calls to others. Judge Hoeweler, believing that the broadcast of the tapes was a violation of the attorney-client privilege and might be detrimental to Noriega's defense, eventually held CNN in contempt. In his opinion, which contained an exhaustive analysis of the competing claims of a free press and the general duty to respect judicial decrees, Judge Hoeweler appeared to be invoking the necessity for moral respect for the law when he observed: "The thin but bright line between anarchy and order . . . is the respect which litigants and the public have for the law and the orders issued by the courts. Defiance of court orders and, even more so, public display of such defiance cannot be justified or permitted."³⁵

Journalists who complain bitterly that they have the right to ignore laws and court orders they believe to be unconstitutional miss the point. Statutes and court orders are legal until overturned by a higher authority. And in the CNN case, even the appellate court upheld the order because of the violation of a confidential relationship recognized by law and the possible threat to Noriega's right to a fair trial as a result of the broadcast of the jailhouse conversations. Thus, most legal issues confronting reporters also have an ethical dimension, a fact that is sometimes overlooked by media practitioners.

This inescapable alliance between law and ethics is often manifest when journalists view legal restraints, such as trespass laws, as impediments to their ethical mandate to serve the public interest. This notion is typified by a case that arose out of a protest in 2000 at Camp Garcia, Puerto Rico, against U.S. Navy training and bombing exercises conducted at the camp. Ten reporters covering the protest were arrested for criminal trespass. In a federal district hearing the journalists argued that the arrests violated their constitutional rights because they had entered the restricted area to cover the

protest. However, the court rejected this argument on the grounds that journalists had no special right of access to the facility not available to the general public and that the First Amendment does not sanction the violation of law.

Thus, it is clear that most legal issues have moral dimensions as well, and we cannot necessarily settle ethical questions merely by resolving the legal ones. For example, the Supreme Court has held that journalists may report the names of rape victims obtained from public records or that were released through other governmental venues.³⁶ But these cases have not settled the ethical question of whether the names of rape victims *should* be published, even if they are a matter of public record. There are those who feel that the harm to the victims far outweighs the limited public good derived from release of this kind of information.

With some unusual exceptions, there is little that cannot be published under the First Amendment. However, the First Amendment says nothing about media responsibility. It is left to the consciences of practicing journalists to decide what is newsworthy. But constitutional freedoms are not just the point of departure for making ethical judgments. If irresponsible media come to be regarded as social parasites, these legal rights could be slowly eroded.

I conclude this section on the relationship between law and ethics as I began it, with the idea that it is the moral force of the law that provides the legitimacy for our legal codes. All parties have the same moral obligations to comply with the law. Thus, media practitioners are warranted in violating the law only if they can stand on some more important moral principle and are willing to endure the consequences of their disobedience.

INSTITUTIONAL AUTONOMY AND SOCIAL RESPONSIBILITY

"Institutions don't behave unethically; people do."³⁷ This statement from Chapter 1 would seem to suggest that any discussion of corporate

morality is out of place here. However, despite the fact that ethical judgments are rendered by individuals within the corporate hierarchy, the public often associates images of moral or immoral conduct with the institutions themselves. Some media celebrities attract attention because of their conduct, but the institutional decision makers (the moral agents) are usually invisible to society. Nevertheless, the public has come to expect corporate sensitivity to their moral obligations, that is, a corporate culture built upon social responsibility—a commitment to the public welfare that outweighs short-term self-interests.³⁸

In a case that still resonates within the industry as an example of social responsibility, Johnson & Johnson, a manufacturer of over-the-counter medications, confronted a public relations challenge when several people died from taking cyanide-laced Tylenol. The company took quick and decisive action by recalling and later repackaging the product.³⁹ Compare that with Exxon's public relations debacle when the company was accused of reacting too slowly to an environmental crisis precipitated by a massive oil spill from an Exxon oil tanker off the coast of Alaska. Despite Exxon's offer to pay for the cost of the cleanup, the company's image suffered.

The Libertarian View

The notion of corporate social responsibility is not without its controversial aspects. Although the "Let the buyer beware" philosophy that dominated until the early part of the twentieth century has been diminished by the efforts of consumer activists such as Ralph Nader, some still hold the libertarian view that "business is the business of business."⁴⁰ According to this view, a company is socially responsible if it provides employment and a stable financial base for the community. Within the libertarian framework, both individuals and corporations pursuing their own self-interests in a competitive marketplace will, in fact, contribute to the

public welfare.⁴¹ The only moral relationship is between management and stockholders; society should interfere in this arrangement only to prevent deception or fraud. In other words, the concept of the public interest is merely a by-product of corporate autonomy.

This libertarian philosophy is based on the notion of self-reliance and individual autonomy, free from governmental or societal restraints. Libertarianism is characterized by the notion of freedom without enforced responsibility, and it was within this kind of environment that the American press matured in the nineteenth century. Thus, the system nurtured a press that was free but that also resisted the development of strong ethical codes. This attitude is reflected in a comment years ago attributed to William Peter Hamilton of the *Wall Street Journal*: "A newspaper is a private enterprise owing nothing whatever to the public, which grants it no franchise. It is therefore affected with no public interest. It is emphatically the property of the owner, who is selling a manufactured product at his own risk."⁴² Libertarians have also resisted government regulation of advertising, believing that in a free market economy autonomous consumers should cultivate their own sense of wariness and skepticism concerning commercial appeals.

Nevertheless, the libertarian press did subscribe to some fundamental values, many of which are still featured prominently in contemporary industry codes. As newspapers slowly acquired a reverence for facts and a preference for "hard news" over opinion, such notions as objectivity, fairness, and balance became a part of the journalist's ethical lexicon. Perhaps of primary importance was *objectivity*, a term that journalists began using in the twentieth century to "express their commitment not only to impartiality but to reflecting the world as it is, without bias or distortion of any sort."⁴³

For most journalists objectivity is an article of faith, but there is also a recognition that absolute objectivity is an illusion. Thus, they have settled for a philosophically less demanding

definition that allows them to practice their profession without feeling as though they have sinned. According to this more realistic view of objectivity, reporters strive to keep their personal preferences and opinions out of news stories, to achieve balance in coverage, and to rely on credible and responsible news sources. According to this traditional view, the ethics of news writing is concerned with facts and impartiality in the presentation of those facts.⁴⁴

Nevertheless, libertarians are opposed to enforced responsibility, even when there is a danger that some unscrupulous media executives might infect the public arena with falsehoods and half-truths. According to the libertarian view, it is better to leave the remedy for such moral indiscretions to the marketplace and the consciences of individual media practitioners.

Social Responsibility

The idea of social responsibility has developed as a counterpoint to libertarianism. Although this theory continues to emphasize freedom, it holds that responsibility is necessarily a partner to freedom in institutional behavior. Codes of ethics are encouraged as a self-regulatory device to promote social responsibility. Some have taken issue with Friedman's traditional views and believe that conducting business is not a right but a privilege granted by society.⁴⁵ Because the pursuit of profits has not automatically contributed to the public good, society has placed increasing demands on corporations to contribute to the correction of social ills. Affirmative action programs and increased availability of affordable legal services for the poor are two examples.

There is little doubt that corporate responsibility in contemporary society includes emphasizing ethical behavior for both management and employees. Some companies have instituted ethics programs, both for legal and public relations reasons. Some have even devised codes of ethics for their personnel. But the formality of written codes and policies does not

ensure ethical conduct, as evidenced by the avalanche of scandals that has plagued corporate America at the dawn of the twenty-first century.

Social Responsibility in the Media. It is unclear when the notion of social responsibility first entered the consciousness of media practitioners, but five historical trends contributed to its emergence. First, the Industrial Revolution forever altered the American social landscape, fostering concentrations of capital and business ownership in fewer hands. Newspapers did not escape this reorganization of the free enterprise system, a trend that continues unabated.⁴⁶ Thus, with media control in fewer hands, some critics have questioned whether the libertarian intellectual ideal of a true competition of ideas continues to be a realistic expectation.

Second, despite this trend toward newspaper monopolies, an increasing number of media alternatives began to flood the marketplace in the form of magazines and radio. They placed pressure on newspapers to broaden their audience appeal. Thus, an economic imperative began to coexist with the media's journalistic mandate, and the idea of social responsibility became intertwined with commercial success.

Third, by the middle of the nineteenth century journalism had begun to attract people with strong educational backgrounds who established ethical standards for their industry and tried to live up to them.⁴⁷ In addition, a few publishers began to recognize that the freedom to publish carried with it a corresponding responsibility. Some, such as the legendary Joseph Pulitzer, even viewed a sense of social responsibility as the salvation of their profession from the ravages of the economic marketplace: "Nothing less than the highest ideals, the most scrupulous anxiety to do right, the most accurate knowledge of the problems it has to meet, and a sincere sense of moral responsibility will save journalism from a subservience to business interests, seeking selfish ends, antagonistic to public welfare."⁴⁸

This early recognition of media responsibility has been manifested in more recent years in the establishment of various institutes, sometimes funded by the media themselves, committed to enhancing the professionalism of practitioners. The Poynter Institute in St. Petersburg, Florida, which sponsors workshops on topics ranging from newswriting to ethics, is a prime example of this kind of continuing education for journalists and journalism educators.

Fourth, schools of journalism began to appear in the early part of the twentieth century, an idea also supported by Pulitzer, and they contributed to the sense of professionalism within the industry. The teaching of practical skills was supplemented with instruction in social responsibility, and a cadre of practitioners educated specifically in the discipline of journalism entered the marketplace. This rising sense of professionalism led to the development of a social conscience among media practitioners, a belief that responsibility should be a welcome companion to press freedom. This belief was formalized in 1923, when the American Society of Newspaper Editors (ASNE), at its first meeting adopted the "Canons of Journalism" as its journalistic standards. Although some state press associations had already adopted codes, this was the first national code of ethics advanced by any organization of journalists.⁴⁹ It also flunked its first test as an enforceable code.

One year after the formation of the ASNE code, F. G. Bonfils, publisher of the *Denver Post*, was accused of having accepted \$1 million in bribes for suppressing information from his reporters about wrongdoing in the Teapot Dome scandal. This scandal involved allegations that government oil reserves in the Teapot Dome field in Wyoming were being sold to private oil companies. Several members of the ASNE accused Bonfils of having violated the codified principles of the organization, including truthfulness, fair play, accuracy, and impartiality, and demanded that he be punished for these violations. The debate over code enforcement lasted for five years, but in 1929, under the threat of a

lawsuit from Bonfils, the newspaper editors voted for voluntary obedience rather than disciplinary action.⁵⁰

The ASNE code was soon followed in 1928 by the first written principles for the electronic media, when the fledgling National Association of Broadcasters (NAB) adopted the industry's first radio code dealing with programming, advertising, and news. Since these early efforts at codification of professional ideas, such diverse groups as the Radio-Television News Directors Association, the American Advertising Association, the Public Relations Society of America, and the Society of Professional Journalists have adopted similar statements of ethical standards.

Social responsibility was also an outgrowth of the laissez-faire attitude of government, according to which the excesses of big business were allowed to run rampant. After the turn of the twentieth century, however, and particularly during the 1930s, wide government intervention in the marketplace brought applause from a public weary of economic and social turmoil and a business environment hostile to the interests of consumers. Advertising, the primary financial support for the media, was brought under governmental scrutiny in 1938 when Congress provided the Federal Trade Commission with new powers to oversee deceptive and unfair advertising practices. There was a fear by some that the government might next turn its regulatory arsenal on the media themselves and force social accountability on institutions that were perceived as having abused their constitutionally granted freedom under the First Amendment. The fact that the newly emerging radio medium had been brought under government regulation in 1927 did little to dispel this fear.

Finally, the idea of media social responsibility was given credence after World War II through the work of the so-called Hutchins Commission on Freedom of the Press. In 1942 Robert W. Hutchins, chancellor of the University of Chicago, was commissioned to study the future prospects of press freedom. Funding was

initially provided by Henry R. Luce, of Time, Inc., and later by the Encyclopaedia Britannica. Hutchins appointed a panel of thirteen, including several distinguished educators, to carry out this ambitious assignment, and in 1947 the panel issued a report, "A Free and Responsible Press," which contained a well-reasoned and comprehensive analysis of the need for a socially responsible press.

Although the expression "social responsibility" was never mentioned in its report, the commission identified five obligations of the media in contemporary society.⁵¹ Some of them are applicable primarily to journalism, but others are just as relevant to advertising and entertainment.

The first requirement, according to the commission, is to provide a "truthful, comprehensive, and intelligent account of the day's events in a context that gives them meaning." The press must not only be accurate; it must also clearly distinguish between fact and opinion. But facts by themselves are insufficient. The news media must also report the "truth about the facts" by putting stories into perspective and evaluating for the reader the credibility of conflicting sources. Interpretive reporting must extend beyond the pure facts and provide the relevant background surrounding the facts.

This was the issue when a reporter for a local newspaper covered a press conference in which the mayor accused a city councilman of distorting facts about the effects of certain pesticides on birds indigenous to the area and of being on the payroll of a local pesticide manufacturer. When contacted about the accusations, the councilman refused to comment except to say the mayor's accusations were "utter nonsense" and "politically motivated." The reporter's story included both the charges and the councilman's denial.⁵² The paper's editor thought the story was fair and balanced, but the councilman was outraged. In a letter to the editor he denied lying about the effects of pesticides or being on the payroll of any pesticide company. "The story may have been fair,

balanced, and accurate," he wrote, "but it was not truthful."⁵³ The reporter should have held the story, in the councilman's view, until she had independently investigated the charges.

The commission's second recommendation is that the press serve as "a forum for the exchange of comment and criticism." This is an essential function in a system increasingly dominated by media giants. The press is urged to provide a platform for views that are contrary to its own while not abdicating its traditional right of advocacy.

A third requirement is that the press project "a representative picture of the constituent groups in society." In other words, racial, social, and cultural groups should be depicted accurately, without resorting to stereotypes. Social responsibility demands an affirmative role for the media in building positive images, both in their informational and entertainment content. Although some progress has been made in this area, stereotyping is still a common charge against the media.

The media should also, according to the commission, be responsible for "the presentation and clarification of the goals and values of society." They should transmit the cultural heritage, thereby reinforcing traditional values and virtues.

Journalism professor Ted Smith has rendered a strong indictment accusing the press of failing to live up to this obligation. Smith begins his critique by observing that the media, having ravaged most of the nation's established institutions, began a period of self-examination in the early 1980s. Several news organizations, he recalls, produced stories acknowledging the public's lack of confidence in the media. But after an initial flurry of stories on the subject of media credibility and ethics, he laments, the sense of urgency passed, and the self-scrutiny appeared to have no discernible impact on reporting practices. Although he attributes this renewal of self-assurance by the media to their perceptions that there is no "real crisis of credibility," he challenges this assertion and attempts

to document the steady erosion of media believability since the early 1970s. This development represents a popular reaction against the mass media, which have come to view all traditional cultural values with some skepticism and have presented the public with a constant barrage of negative news coverage.

In comparing the media's skepticism with the critical dialogues of Socrates, Smith issues the following warning:

Some journalists may be flattered by the thought that they are perpetuating the illustrious tradition of Socrates. They would do better to remember his fate: He was tried, convicted and executed for subverting religion and for corrupting the youth of his city.⁵⁴

He accuses elite journalists of orchestrating "a relentless critique of all cultural affirmations as embodied in American policies, leaders and institutions."⁵⁵ Like Socrates, journalists have often reported from a vantage point outside the culture, rather than as a part of it. This stance has led, he says, to a collapse of confidence in the media by the society of which they are supposedly a part. Although we must await historical confirmation of Smith's dire prediction that the press may suffer the same fate as Socrates, recent polls showing a continuing decline of media credibility suggest that there may be a cause for concern.

The final requirement of the Hutchins Commission is that the press should provide "full access to the day's intelligence." This notion is reflected in the media's championing of the public's right to know, although this so-called right has yet to find expression in the Supreme Court's interpretation of the Constitution. From a philosophical standpoint the right to know is predicated on the notion that the media are the representatives of the public, a fourth branch of government (along with the executive, legislative, and judicial) with responsibility for informing the citizenry about governmental activities. The increase in the number and scope of laws regarding public

records and open meetings, at both the state and federal levels, is the manifestation of this right of access to government information. In recent years, however, the media have used the right to know to justify journalistic forays that extend beyond governmental activities into the private lives of individuals. This intrusion is sometimes viewed by an already skeptical public as social responsibility run amok, a sacrifice of personal autonomy for the sake of public curiosity.

Political Pressure and Social Responsibility. Politicians are often accused of being captives of special interests, but media enterprises are similarly vulnerable to pressures exerted by media watchdog groups or other citizen organizations. Some groups castigate the media for their crass commercialism and intellectual impoverishment of the nation's culture. Others accuse the media of moral insensitivity because of their preoccupation with sex and violence. Still others have a more overt political agenda, attempting to coerce the media through public pressure or even government regulation to conform to a more conservative or political agenda, depending upon the particular orientation of the pressure group. Is a decision to alter or even abandon objectionable content in response to such pressure merely a business decision or are there also ethical dimensions to such conduct?

This was the question provoked by the CBS network's controversial decision in the fall of 2003 to cancel the miniseries *The Reagans*, which had been scheduled to air during ratings sweeps. Based upon some leaked fragments of the script in advance of the planned broadcast, conservatives, including the former president's son, accused the network of distorting the legacy of Ronald Reagan. Brent Boll, founder of the conservative Media Research Center, described the film as "a left-wing smear of one of the nation's most beloved presidents." CBS executives themselves expressed misgivings about the accuracy of some of the character portrayals.

Author Neal Gabler, in considering the broader implications of the brouhaha, denounced CBS's decision as unhealthy for democracy. "CBS, in pulling this film, did incredible harm, much more harm than they could ever have done in making the film," Gabler lamented. "What they've told us now is that a very small group of people have censorship power over the broadcast networks." For its part, the network denied bowing to political pressure, noting that its decision to cancel the movie was "based solely on our reaction to seeing the final film, not the controversy that erupted around a draft of the script."⁵⁶ CBS subsequently sold the program to the cable network Showtime, where the audiences are smaller and advertiser support less critical.

Media practitioners, of course, serve a broad spectrum of societal interests and cannot be impervious to their concerns and threats. They are particularly susceptible when the threats assume economic dimensions, as in the case of advertiser boycotts. But this raises a troubling question: Why should we be concerned with government censorship if private interests can exercise such formidable veto power over media content? In a democratic, market-driven society citizen organizations and more narrowly focused pressure groups certainly have a right to register their objections to or approval of media fare. But to the extent that these activities seriously diminish the diversity of content and compromise the independence of media enterprises, ethical concerns are implicated. While media practitioners cannot or should not ignore these critics, they must ultimately ask themselves to what extent their responsibility to society at large transcends the interests of individual groups, who may not represent a significant cross section of their constituents.

Promoting Social Responsibility from Within. In addition to organized efforts by public interest groups to promote their own views of social responsibility, there are also individual voices within the media that serve as society's

"in-house" critics. For example, PBS film critic Michael Medved, Howard Kurtz, the respected media reporter for the *Washington Post*,⁵⁷ and the *Chicago Tribune's* Larry Wolters are among the most visible and perhaps influential media reviewers. As Professor Peter Orlik has noted, in commenting on the role of electronic media critics, such authorities

usually are in a much better position to propose change than are members of the public. That is because consumers seldom have the contacts and never have the time to acquire in-depth comprehension of radio/television workings for themselves. Consequently, it is the critic who must provide this knowledge for listeners and viewers.⁵⁸

Although the real impact of critics, both individuals and public interest groups, is sometimes difficult to assess, they do serve as one more pressure point to remind media managers of their moral responsibility to the society that has given them sustenance. In addition, various segments of the public, which may be individually impotent in influencing media decision makers and gatekeepers, can at least feel they have an advocate in the information and entertainment marketplace. And although readers and viewers may not always agree with the critics, they at least share a mutual interest in not allowing the performance of media institutions to go unchallenged.

A Threat and an Obligation. It is clear, from the preceding discussion, that the idea of social responsibility has become a part of the U.S. corporate landscape. But can media institutions maintain their autonomous status, which is essential in a democratic society, while at the same time fulfilling their mandate of social responsibility? Some traditionalists argue that such concepts as *duty*, *accountability*, and *obligation* are incompatible with the independence and freedom necessary for dynamic and vibrant media institutions. They believe that social responsibility is a euphemism for "lowest common denominator," which will result in

bland, noncontroversial content. According to this view, the media are captives of public opinion and have thus abdicated their role as social and political gadflies.

This argument is rather dubious. As noted earlier in this section, the media have been criticized precisely because they are such gadflies, constantly casting aspersions on society's cultural values. They have continued to function as autonomous institutions, despite some loss of public confidence. Nevertheless, fundamental changes within the American economic system have forced consideration of a more expansive vision of social responsibility for all institutions to the top of the public's agenda. As corporations grow larger, more visible, and more powerful, consumers are increasingly aware of these companies' impact on their daily lives. Society is interested as much in whether General Motors makes safe and fuel-efficient automobiles as in the financial contributions it makes to the economic system.

As we inaugurate the twenty-first century, moreover, the media have witnessed some profound changes in their economic structures. The bottom line has become the ultimate barometer of success, and such terms as *merger*, *acquisition*, and *leveraged buyout* have become a part of the corporate lexicon. As *Newsweek* observed several years ago: "For the American news media, accustomed to thinking of themselves as a Fourth Estate, it has been something of a shock to be treated as Wall Street darlings instead."⁵⁹

The media are among our most visible institutions, entering daily into the homes of millions of people. And because the bigness virus has also infected the media, it is only natural that consumers place increasing demands on an institution that plays such a pivotal role in the formation of public opinion. In other words, there is an expectation—a moral obligation, if you will—that the media will operate in the public interest. Thus, the concept of social responsibility has ethical implications when viewed in terms of moral duty.

THE CHALLENGES OF THE INFORMATION AGE

Convergence: New Media and Old Media

Although a thorough discussion of new technology and the information superhighway is beyond the scope of this text, a consideration of some of the ethical issues surrounding the application of this technology will be included in subsequent chapters. At this point suffice it to say that the convergence of communications media and sophisticated technology has revolutionized the world in which we live. Society's lexicon is now fraught with such fashionable terms as *Internet*, *cyberspace*, *digitalization*, *e-mail*, and *information superhighway*. The implications of this astonishing cultural reformation are both magnificent and terrifying, posing challenges to policy makers, sociologists, and philosophers alike.

Convergence is the latest conversation piece in the lexicon of techno-speak. Its meaning is multifaceted but needless to say it is revolutionizing the way we communicate. For example, cell phones can now double as Internet terminals, your computer can become your TV, wireless technology will soon become the delivery system of choice for your phone service, and Internet access is now available through your local cable company. And the list goes on.

The high-tech revolution is proceeding at incredible speed, but we should not approach this technological reformation with a sense of panic, fearful that the unregulated domain of the World Wide Web will stimulate cultural chaos or completely reconfigure the media industries. The cyberspace phenomenon is at once futuristic and tradition-bound. For example, online journalism is different from the coverage provided in conventional media and yet embraces them all:

It offers the depth of a newspaper (or, with hypertext links and electronic archives, even more depth). It offers the attitude and focus of a

smart-mouthed magazine. It offers the immediacy and interaction of talk radio (with the added interaction of chat rooms, forums, and e-mail). It offers the visual impact of television. This seemingly chaotic medium is exploding with messages.⁶⁰

The transition from traditional modes of communication, such as print and broadcast, to machine-to-machine distribution of information has spawned a growth industry in gathering and disseminating information. This has precipitated an explosion in the number of information consumers, as evidenced in the proliferation of online services, some of which are supplied by the news media themselves, in which consumers can select useful information from an endless array of menus and data banks. This in turn has increased the number of links (that is, potential moral agents) in the communication chain of data creation and distribution.

The Ethics of Cyberspace: Old Wine in New Bottles

At the outset, we should tone down the rhetoric emanating from some ethicists and futurists concerning the ethical challenges of cyberspace and other new media. There is no doubt that the new technologies will introduce novel approaches to unethical behavior, but the issues themselves are of ancient vintage. One of the most glaring concerns, of course, is the ease with which private information can be collected and shared via the Internet. But the underlying "value" here is still privacy. The use of the Web to pirate copyrighted music or movies, instead of using traditional dubbing techniques, does not alter the fact that the unethical conduct involves theft of intellectual property. And the use of digital technology to alter a news photo still involves questions of honesty and truth. An apt metaphor for this reality is "old wine in new bottles," although the unregulated venue of cyberspace does in fact make it more difficult to combat moral corruption.

Thus, the ethical concerns evolving out of this technological revolution confronting media practitioners of the twenty-first century are significant, and some of these are explored in subsequent chapters. In fact, we are already witnessing the tip of the iceberg, as media professionals and data collectors and distributors confront the moral intricacies of the information age. For example, as just noted, privacy has always raised troublesome ethical issues for media practitioners, but privacy assumes a renewed sense of urgency in the age of interactive media. Two-way media, e-mail, computer database access, and home shopping networks are all mechanisms that facilitate the information-gathering process about individuals. Because information is considered an asset with economic value, it is often processed and sold to mass marketers. In addition, computer-generated information might provide valuable information or tips for news stories, particularly as they relate to public figures or other high-profile newsworthy persons. For example, during the 1993 winter Olympics, several reporters were accused of unethical conduct for reading American figure skater Tonya Harding's e-mail. Harding attracted intense media scrutiny while she was under investigation for allegedly participating in a plot to disable her U.S. rival, Nancy Kerrigan. Reporters obtained her e-mail password using a camera and then gained access to her electronic communications. The journalists claimed they didn't read her messages; they just wanted to see whether it was possible to get into her e-mail.⁶¹ If that's true, then one wonders what public interest was served by this unwelcome intrusion into Harding's private messages.

Individual access to computer bulletin boards and the Internet has also created a concern, both legally and ethically, about the use of cyberspace for the unregulated spread of pornography, electronic shouting matches (known as "flaming"), and the uncontrollable theft of intellectual property. Unlike traditional modes of communication, the global Internet is a loosely

organized information system (or "web") of thousands of voluntarily interconnected computer networks, reaching more than 100 countries and serving over 25 million individual users. Cyberspace differs from conventional media distribution systems in that there is no central control or "ownership." Consumers now have access directly to the channels of distribution and thus have become major players in not only the mass consumption of information but also the creation and distribution of information.

However, this could be a mixed blessing. On the one hand, the communication system is now one of pure democracy. We can all become direct participants in the energizing force for the democratic process—the cultivation and dissemination of knowledge. On the other hand, ethicists must now ponder whether such an "infomocracy" is antithetical to the creation of a virtuous society. For example, news organizations have traditionally been the primary gatekeepers in the information flow process in our democracy. Under such a system, the public can usually be confident of a fairly high level of reliability and "quality" of information because of the elaborate system of rigorous scrutiny by professional journalists and editors. But with unrestricted access to the Internet and other computer-generated data sources, both for individual communicators and recipients, there is a danger that the overall quality of the information generated will diminish and along with it the quality of democratic discourse. The concerns range from just inaccurate information to the use of the Internet by extremist groups, such as terrorists, for propaganda purposes and to mobilize public opinion. One commentator, writing in the *American Journalism Review*, has posed this troublesome question: "Now that we can be our own editors and choose to read only the issues that engage us, who will participate in public debate?"⁶²

Some of the most troublesome ethical dilemmas have resulted from the integration of computers and digital technology. *Digitalization* is a process by which pictures, sound, and

text are converted electronically and stored as digits, which can later be decoded and reconstructed as the original product or an altered form of the original product. And because a "reconstructed" production is a perfect copy of the original, any transformation of the original content is impossible to detect. Simple alterations, such as the *St. Louis Post-Dispatch's* decision several years ago to remove a Diet Coke can from a Pulitzer Prize winner, can be accomplished with only a few keystrokes using technology widely available in today's newsrooms. A new technology called "subtraction," for example, can be used to alter photos seamlessly. The cliché, "the camera never lies," has always been somewhat of a fallacy, but digital technology can be a seductive device in the hands of either overzealous or unethical media practitioners. One should not underestimate the potential for ethical mischief that the computer revolution has made possible. Consider this scenario described in a recent issue of *American Journalism Review*: A foreign power with which the United States is engaged militarily creates totally phony footage of American soldiers being tortured or shot in order to undermine the nation's will to fight.⁶³ An extreme example, perhaps, but one that should not be casually dismissed. Some of the ethical dimensions of digitalization and content alteration will be explored in Chapter 4.

The democratizing effect of cyberspace has piqued the interest of all Internet surfers in the ethical concerns of going online. The subject of "media ethics" is no longer the exclusive preserve of those who make their living collecting, editing, and distributing information to a mass audience. As Tim Atseff, chair of the Ethics Committee of the Associated Press Managing Editors, has noted: "What used to be discussed in newsrooms and at annual meetings is now daily discourse on the Internet and related discussion groups and forums. Something happens and instantaneously someone, for better or for worse, has an opinion about its ethical application."⁶⁴

Ethicists are only now beginning to examine, in a systematic way, the ethical dimensions of our newly created technological universe. The danger is that the technology itself will become the scapegoat for an increase in unseemly behavior of both media practitioners and others in the communications chain, when in fact it can only facilitate unethical conduct or perhaps offer a tempting excuse for such deportment. We might be impressed by the potential of the new media but should not be awed by their technological charisma. Such blind loyalty could lead to technological slavery. If indeed the "high-tech" revolution does lead to an increase in moral mayhem, it will be the result of unvirtuous moral agents and not the ethically passive tools of their trade. Thus, it is important to remember that traditional ethical values and principles (for example, respect for persons, fairness, justice, honesty, and so forth) transcend the innovations of the information age and any strategies to harness the new technologies from an ethical perspective must place the individual at the center of the moral universe.

Unfortunately, with the accelerating tempo of technology and information transfer, quiet reflection is a luxury we cannot afford. Under such pressures it may be tempting to abdicate all responsibility to lawyers and policy makers. Of course, some legal regulation is inevitable and undoubtedly necessary. But a free and democratic society functions best when it leaves the resolution of its ethical quandaries to the reasoned judgment of its citizens rather than the regulatory authority of the government.

THE MEDIA AS SOCIALLY RESPONSIBLE INSTITUTIONS

Institutions, like individuals, must learn to be socially responsible. But there is no reason to believe that, in so doing, they must sacrifice their corporate autonomy. Institutional autonomy, like individual autonomy, consists of freedom of

choice, but there is a price to be paid for making decisions that do not at least take into account the interests of others. Of course, this realization sometimes necessitates changing corporate attitudes.

For the media, attitudes of social responsibility can be acquired through a two-step process. The first step is to promote a positive corporate image and to improve the chances of gaining public respect. This can be done through an aggressive campaign of external communications and consideration of the impact on society of any ethical decisions made by media managers and employees. Although this step is based in part on self-interest—the idea that social responsibility is good for business—it creates a set of corporate values on which a more altruistic notion of responsibility can be built.

The second step is community involvement. This is accomplished by encouraging employees to participate in civic affairs and providing corporate financial support for community projects. It can also involve a high-level commitment to the resolution of social problems, even though it may not be economically advantageous to do so. Major newspapers, for example, might consider greater coverage of low-income and minority neighborhoods. Cable systems might increase their penetration in poor neighborhoods, thus enriching the program diversity for the lower rungs of society. Corporations (or their foundations) might endow libraries in the inner city to provide Internet access to those who are currently disenfranchised from the information society. Of course, these actions would necessitate restructuring the management philosophy of the communications industry. They are egalitarian ideas that may be hard for some corporate executives to swallow, especially when they have to confront the critical inquiries of stockholders, advertisers, or clients.

In addition to the involvement of some institutions in the communities of which they are a part, there are other visible signs that the media have at least recognized that freedom

and responsibility can easily coexist on the same moral ground. The media have acknowledged that some self-regulation is essential because failure to regulate will result in further erosion of confidence and perhaps even public demands for governmental intervention. This recognition of social responsibility as a moral duty has been reflected in three self-regulatory mechanisms: codes of conduct, media ombudsmen (sometimes referred to as "readers' representatives"), and news councils.

Codes of Conduct

Although most media practitioners agree that ethical norms are important in their fields, formal codes of conduct are still controversial. Proponents of such codes argue that a written statement of principles is the only way to avoid leaving moral judgments to individual interpretations and that if ethical values are important enough to espouse publicly, they should be codified. Besides, codes provide employees with a written notice of what is expected of them.⁶⁵

Oponents of such codes view them as a form of self-censorship, a retreat from the independence and autonomy necessary for a free and robust mass communication enterprise. In addition, the critics argue, such codes must, of necessity, be general and vague and thus are incapable of confronting the fine nuances of the ethical skirmishes that occur under specific circumstances.⁶⁶ In the field of journalism philosophy, such luminaries as John Merrill and S. Jack Odell have dismissed codes as meaningful tools for ensuring accountability:

The problem with such codes and creeds, however, is that they are not even sufficient in what they do—develop a consensus in thought and action; reason: the rhetorical devices of the codes of ethics and the creeds are so nebulous, fuzzy, ambiguous, contradictory, or heavy-handed that the few journalists who do read them are perplexed, confused, bewildered, angered, and scared off. Journalists, of all people, should use the language skillfully, directly, and effectively, and in many instances they do. But when it

comes to codes and creeds they seem to retreat into a kind of bureaucratized, or sociological jargon that bemoans the mind and frustrates any attempt to extract substantial meaning from the writing.⁶⁷

There is also a fear, sometimes justified, that formal codes of conduct will be used against the media in legal battles as evidence that employees have behaved negligently in violating their own standards of ethical deportment. Finally, opponents contend that codes are nothing more than statements of ideals and are conveniently ignored in the competitive environment of the marketplace.

Nevertheless, codes are viewed as a serious attempt to at least recognize the fundamental values and principles for which media organizations stand. They serve the dual purposes of establishing the common ground on which members of a profession stand and serving a public relations function of letting the public know the organization is serious about ethics.⁶⁸ These codes are of two kinds: professional and institutional.

Professional Codes. All of the major professional media organizations, representing a broad constituency have developed formal codes. For example, the Society of Professional Journalists (SPJ) has adopted standards for such things as truth, accuracy, conflicts of interests, and fairness.

There has been a recurring debate over whether the SPJ code should be enforced within the journalistic community, thereby ensuring adherence to the code's ideals. However, even the SPJ has resisted this idea, in part because they are afraid that attempts at making journalism a profession might encourage legislatures to license them, thus setting up a First Amendment confrontation. In 1985 its directors voted against enforcing the code on individual members because of a concern that such a stance would interfere with First Amendment freedoms. There was also a fear of litigation resulting from punitive action taken against

some recalcitrant SPJ member for having violated the code.⁶⁹

The American Society of Newspaper Editors, the Associated Press Managing Editors, and the Radio-Television News Directors Association have also adopted codes. The Advertising Code of American Business (developed by the American Advertising Federation and the Association of Better Business Bureaus International) sets forth the advertising industry's views on such things as truth in advertising, good taste and public decency, disparagement of competitors' products, price claims, and the use of testimonials. Likewise, the Public Relations Society of America (PRSA) has adopted a Code of Professional Standards to guide its members through the moral thicket of corporate responsibility. Hollywood has also mobilized its collective conscience in the form of the Motion Picture Association of America's rating system.

Codes of conduct, of course, are a prominent feature of the moral landscape for other professions. Lawyers, doctors, nurses, and psychologists all belong to professions with enforceable codes of ethics. The lack of enforceability, however, distinguishes media codes from those adhered to by other professional practitioners. Although the PRSA can expel a member for violation of its code under some circumstances,⁷⁰ it has no legal authority to prohibit an expelled member from continuing to practice public relations. In fact, the lack of an enforceable ethical code is cited by some as evidence of the media's lack of professional standing.

Institutional Codes. In addition to these professional codes, many media institutions have their own policies regarding the conduct of employees. These codes are often comprehensive and deal with such diverse matters as the acceptance of gifts and other gratuities from outside sources, conflicts of interests, the use of offensive or indecent material, the publication of rape victims' names, the staging of news events, the use of deceptive news-gathering techniques, and the identification of news sources.

There are usually similar policies regarding advertising content, particularly in matters of decency and taste. Many of the issues covered by these codes will be dealt with in the hypothetical cases in Part 2.

Although these codes often reflect an organization's commitment to certain standards of conduct, they are sometimes criticized for failing to provide guidance for the myriad ethical dilemmas that confront media practitioners under the pressure of time deadlines. Nevertheless, such codes are helpful in socializing new employees to the ethical values of the organization and can also be used as a neutral standard to which both sides can appeal in an ethical dispute.⁷¹ In addition, unlike professional codes, which are just voluntary statements of principles, industry codes are usually enforceable, sometimes resulting in either warnings or dismissal of ethically recalcitrant employees.⁷²

Unfortunately, in the heat of battle and under deadline pressures some organizations ignore their own standards. Such was apparently the case when Jane Pauley, coanchor of *Dateline NBC*, opened a segment on the murder of James Jordan, father of basketball superstar Michael Jordan. In the segment she referred to criminal records of the two suspects charged in the murder and then introduced correspondent Brian Ross, who also dealt with the records and did so in the framework of "young criminals" moving through the justice system. This violated the NBC standards book, which cautioned against using criminal records on the air.⁷³

Of course, institutional policies are not self-effectuating and depend on the diligence and good faith of management personnel to oversee their adherence. Each violation, particularly if ignored by media executives, erodes the integrity of the published ethical guidelines.

The Ombudsman System

Perhaps the most visible example of a commitment to self-criticism is the presence, in some media organizations, of an ombudsman, hired

to investigate questionable journalistic conduct and to recommend action. Proponents of the ombudsman system argue that ombudsmen can most effectively "funnel" reader complaints, reduce the likelihood of libel complaints, help cement a paper's relationship with its readers, serve as a liaison with the public, and elevate the ethical awareness of the staff. Opponents insist that ombudsmen are expensive luxuries and that the money could be better spent on reporters and editors, that they are little more than window dressing and a public relations ploy, and that they create a bureaucratic layer between the audience and those who should be addressing the public's concerns, namely editors and reporters.⁷⁴

The ombudsman idea originated in Sweden, where a government official with that title represents the public in its dealings with the bureaucracy, and ombudsmen have become a feature of the self-regulatory apparatus in other countries. Sometimes, they respond to complaints from irate citizens or the subjects of news coverage; at other times, they act on their own initiative.

A case in point is the controversy that engulfed the *Philadelphia Inquirer* when it published a photo of an African American man killed by police following a shooting incident at a high school championship basketball game on the University of Pennsylvania campus. The picture, which was prominently displayed on page one, prompted accusations from angry readers, many of them African American, who said the paper would not have run a similar picture of a white victim. Others vilified the paper for being insensitive and resorting to sensationalism. The *Inquirer* defended its decision on the grounds the picture conveyed a shocking but important story. But despite the paper's confidence in its ethical posture, the editors were not insensitive to their readers' concerns, and the *Inquirer's* two ombudsmen reached out to readers, publicly acknowledging the debate over the gruesome photo and letting them vent their anger.⁷⁵

The first newspapers to use an ombudsman in this country were Kentucky's *Louisville Times* and the Louisville *Courier-Journal* in 1967. However, the number of daily newspapers utilizing ombudsmen has never been impressive. Just a handful of the more than 1,400 dailies (only 40 were listed as members of the Organization of News Ombudsmen in 2003) employ ombudsmen, but ombudsmen occupy influential positions at some of the nation's largest metropolitan papers, including the *Washington Post*, *Minneapolis Star-Tribune*, *Chicago Tribune*, and *Boston Globe*.⁷⁶ At some newspapers the ombudsman's role has been expanded to include enhancing the papers' connection with their readers and improving the quality of news coverage before it happens rather than as an "after-the-fact critic in a public column."⁷⁷

Ombudsmen do not base their advice on fixed codes; they are more interested in improving the social conscience of the institution than in adhering to a general and sometimes vague formal policy. Effective ombudsmen must be viewed both by management and the public as representatives of the community and should have access to space in the newspaper or airtime on the station to disagree with decisions by institutional personnel. Ombudsmen should also have seniority or some stature within the industry.⁷⁸

Although ombudsmen are considered representatives of the public, they should also be even-handed in their handling of complaints. They must be fair to both readers and their newspapers and editors. One problem has been the public's perception of ombudsmen, who are sometimes viewed as a cosmetic response to reader criticism. Thus, an Organization of News Ombudsmen has been established to promote the positive role of these readers' representatives. Ombudsmen can provide an avenue for constructive criticism and a platform for a reasonable dialogue with the faceless institutional gatekeepers. The presence of ombudsmen can be an effective tool of corporate management to demonstrate to a skeptical

public that they are serious about the idea of social responsibility. Unfortunately, staff members often resent ombudsmen and perceive them as in-house "snitches," not unlike the way in which members of some police departments view their internal affairs units with disdain.

As to the future of ombudsmen as a self-regulatory device, there is both good news and bad news. The bad news is that several papers, apparently believing that too much self-criticism is destructive of corporate self-esteem, have fired or reassigned their ombudsmen for their brutal candor in assessing the ethical indiscretions of their employers.⁷⁹ The good news is that the electronic media, increasingly liberated from decades of government regulation that made self-policing largely redundant, have renewed their efforts at self-criticism and accountability in the form of audience feedback programs, on-air critics, and even ombudsmen.⁸⁰

News Councils

News councils, arguably the most democratic of regulatory devices, are another breed of "watchdog" designed to foster a dialogue between the media and their various publics. These councils, which are usually composed of a cross section of the community and the media, are designed to investigate complaints against the media, investigate the charges, and then publish their findings. However, although such bodies are common in Europe, news councils have become virtually an ethical anachronism in this country.

In the 1950s and 1960s local councils sprang up in the United States, in large and small communities alike. The largest of these—the Minnesota Press Council—was statewide and remains the only visible force of its kind in investigating cases of alleged ethical wrongdoing. This grassroots movement provided the impetus for a national review panel, and in 1973 the National News Council came into existence. It was initially funded by the prestigious Twentieth

Century Fund and the Markle Foundation. Logically, the financial supporters should have been news organizations themselves, but the council was met with a predictable outpouring of disdain and even anger from print and broadcast journalists alike. Some felt that press freedom itself was being jeopardized, which in hindsight was a rather dramatic overreaction.

In 1984 the council died from neglect, a victim of media antagonism and dereliction. Richard S. Salant, a former head of CBS News and the council's president when it folded, noted that opposition to it was a reflection of the deep-seated hostility of the American media to any outside body looking over its shoulder and the belief that each news organization was capable of solving its own problems.⁸¹ An editorial comment from the *New York Daily News* was typical: "We don't care how much the Fund prates its virtuous intentions. This is a sneak attempt at press regulation, a bid for a role as unofficial news censor."⁸² The publisher of the *New York Times*, Arthur Ochs Sulzberger, called the idea "simply regulation in another form."⁸³ However, not all members of the media were as pessimistic. For example, the *Washington Post's* publisher, Katherine Graham, observed, "If properly handled, it won't do any harm and might do some good."⁸⁴

The council's detractors may have felt that a little social responsibility is good for the soul but that an overdose of anything can be terminal. Considering the hostile environment in which they are now operating, the media may have lost a valuable ally in their fight to be perceived as institutions of social responsibility. However, as the news media's credibility continues to tumble, some journalistic stalwarts are publicly resurrecting the idea of a news council. *60 Minutes'* senior correspondent Mike Wallace, for example, writing in the *Quill*, the magazine of the Society of Professional Journalists, lamented the fact that "there's a good deal less admiration in the public perception of us and our profession" and urged the industry again to consider a national news council.⁸⁵

"What I'm suggesting is... [r]easonable, qualified people sitting down and considering whether or not they perceive a given piece of reporting warrants holding it up to public scrutiny as flawed, as dishonest," observes Wallace. "And if it is, then let the public know about it."⁸⁶

SUMMARY

A system of ethics is a cornerstone of any civilization. It is essential for (1) building trust and cooperation among individuals in society, (2) serving as a *moral gatekeeper* in appraising society of the relative importance of certain moral values, (3) acting as a moral arbitrator in resolving conflicting claims based on individual self-interests, (4) improving society's moral ecology, and (5) clarifying for society the competing values and principles inherent in emerging and novel moral dilemmas.

Five criteria are the basis of any system of ethics. First, an ethical system must have *shared values*. Before ethical judgments can be made, society must reach agreement on its standards of moral conduct. Second, these standards should be based on reason and experience, that is to say, *wisdom*. Third, a system of ethics should seek *justice*. There should be no double standard of treatment, unless there is an overriding and morally defensible reason to discriminate. Fourth, an ethical system should be based on *freedom of choice*. Moral agents must be free to render ethical judgments without coercion. Only in this way will the individual's ethical level of consciousness be raised. Finally, there must be some means of *accountability*, either formal or informal. An ethics system that does not include accountability encourages freedom without responsibility and thus lacks the moral authority to encourage virtuous behavior.

Society imposes moral duties on individuals as a condition of membership in that society. These duties are of two kinds. *General obligations*

are those that apply to all members of society. *Particularistic obligations* are determined by membership within a specific group, profession, or occupation. A real moral dilemma can occur when a conflict arises between our general and particularistic duties, as when a reporter refuses to divulge the name of a confidential source to a court of law.

In fulfilling these moral duties, we must take into account all parties, including ourselves, who may be touched by our ethical decisions. For media practitioners these include the individual's conscience, the objects of moral judgment, financial supporters, the institution, professional colleagues, and society at large.

There is obviously a connection between law and ethics, inasmuch as many of our felony statutes—for example, those involving murder and theft—are based on the moral precepts of civilization. However, not all moral issues are legally codified. But because compliance with the law in a democratic society depends on moral respect for its legal institutions, violation of the law can be justified only by some higher moral principle. Even then lawbreakers must be willing to accept the consequences of their actions.

Individuals are the primary moral agents within society. They are the ones who make ethical judgments within the institutional hierarchy. Nevertheless, the public often associates ethical or unethical behavior with the institutions themselves, especially when corporate executives are invisible to a skeptical populace. Thus, we often speak of social responsibility when referring to a company's image.

Some political and economic conservatives believe that the concept of the public interest is merely a by-product of corporate autonomy. According to this view, social responsibility consists primarily of serving the stockholders or other investors. Others have taken issue with this view and believe that conducting business is not a right but a privilege granted by society.

Because the media are now a big business feasting at the trough of Wall Street, the public has demanded accountability, just as it has from

the rest of corporate America. This pressure for social responsibility, which has manifested itself through both mechanisms of self-regulation and external criticism, began around the turn of the twentieth century and has continued unabated.

The arrival of the information age has precipitated a new round of ethical soul-searching and may challenge traditional concepts of social responsibility. Such unethical conduct as invasion of privacy, theft of intellectual property, and deception using digitalization are among the concerns of ethicists as the convergence of communications media and sophisticated technology continues unabated.

There is no reason to believe that institutional autonomy and social responsibility cannot coexist in the media, but this goal necessitates the restructuring of corporate attitudes. This attitude realignment should begin, first, by convincing corporate executives that social responsibility is good for business and that little autonomy has to be surrendered in the process.

Second, media institutions should be—and many already are—actively involved in the communities of which they are a part. Other promising signs indicate that the media have recognized that freedom and responsibility are not mutually exclusive. This recognition of social responsibility is reflected in two self-regulatory mechanisms: codes of conduct, both professional and institutional, and ombudsmen. News councils, perhaps the most democratic of self-regulatory devices, have all but disappeared from this country's ethical arsenal.

Predictably, all of these measures have met with some resistance from those who view social responsibility as a euphemism for censorship. But each, in its own way, has served to awaken the media to their obligations to the society from which they draw economic sustenance.

Notes

1. Dorothy Rabinowitz, "ABC's Food Lion Mission," *Wall Street Journal*, February 11, 1997, p. A-22.
2. On appeal, the Fourth Circuit Court of Appeals overturned some of the claims against ABC but allowed

the trespass charge to stand. See *Food Lion Inc. v. Capital Cities/ABC, Inc.*, 27 Med. L. Rpt. 2409 (4th Cir. 1999).

3. For example, see Kyle Niederpruem, "Food Lion Case May Punish Future Journalists," *Quill*, May 1997, p. 47; Russ W. Baker, "Truth, Lies, and Videotape," *Columbia Journalism Review*, July/August 1993, pp. 25-28.
4. Philip Seib and Kathy Fitzpatrick, *Journalism Ethics* (Fort Worth, TX: Harcourt Brace, 1997), p. 93, citing Coleman McCarthy, "Getting the Truth Untruthfully," *Washington Post*, December 22, 1992, p. D21.
5. Rabinowitz, "ABC's Food Lion Mission."
6. Jeffrey Olen, *Ethics in Journalism* (Upper Saddle River, NJ: Prentice-Hall, 1988), p. 3.
7. See John Hartland-Swann, "The Moral and the Non-Moral," in Tom L. Beauchamp, *Philosophical Ethics: An Introduction to Moral Philosophy* (New York: McGraw-Hill, 1982), pp. 7-10.
8. This point is discussed in greater detail in Edward Tivnan, *The Moral Imagination: Confronting the Ethical Issues of the Day* (New York: Simon & Schuster, 1995), pp. 263-265.
9. Olen, *Ethics in Journalism*, p. 3.
10. Richard P. Cunningham, "Public Cries Foul on Both Coasts When Papers Lift Secrecy," *Quill*, April 1995, p. 12.
11. *Ibid.*
12. Richard P. Cunningham, "Judge's Racist Comments Rip Scab Off City Readers," *Quill*, June 1992, p. 10.
13. *Ibid.*
14. Quoted in *ibid.*, p. 11.
15. *Virginia Pharmacy Board v. Virginia Consumer Council*, 1 Med. L. Rpt. 1930, 1935 (1976).
17. *Ibid.*, p. 1936.
18. For a more thorough examination of this controversy, see Clifford G. Christians, Mark Packler, Kim B. Rotzoll, and Kathy Brittain McKee, *Media Ethics: Cases and Moral Reasoning*, 6th ed. (New York: Addison Wesley Longman, 2001), pp. 127-132.
19. For a discussion of the relationship between "popular" culture and "high" culture, see Lee Thayer (ed.), *Ethics, Morality and the Media* (New York: Hastings House, 1980), pp. 19-22.
20. These criteria are based, in part, on the writings of ancient Greek and contemporary philosophers as well as some recommended by the ethics scholar John Merrill.
21. Such an approach is not unusual in cases involving harmful products, such as the warning labels now required on cigarette packages and tobacco advertising. See Olen, *Ethics in Journalism*, pp. 2-3. One author refers to these as *prima facie* duties in Beauchamp, *Philosophical Ethics*, pp. 188-190.

23. See Norman E. Bowie, *Making Ethical Decisions* (New York: McGraw-Hill, 1985), p. 100.
24. "Darts & Laurels," *Columbia Journalism Review*, September/October 1996, p. 23.
25. "Paper Sparks Debate by Interviewing 'Aronson,'" *Quill*, April 2001, p. 41.
26. Fred Brown, "Crossing the Police Line," *Quill*, March 2001, p. 30.
27. Ibid.
28. See Ralph Porter, "The Logic of Moral Argument," in Paul Davis (ed.), *Toward a Discipline of Social Ethics* (Boston: Boston University Press, 1972), pp. 93-114.
29. Christians, Fackler, Rotzoll, and McKee, *Media Ethics*, pp. 21-22.
30. Some of these categories are derived from those developed by Christians, Fackler, Rotzoll, and McKee in *Media Ethics*, pp. 22-23.
31. See Olsen, *Ethics in Journalism*, p. 33.
32. Ibid., p. 34.
33. 18 Med. L. Rpt. 1346 (S.D. Fla. 1990).
34. 18 Med. L. Rpt. 1352 (11th Cir. 1990).
35. *United States v. Cable News Network*, 23 Med. L. Rpt. 1033, 1045-1046 (S.D. Fla. 1994).
36. For example, see *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469 (1975); *The Florida Star v. B.J.F.*, 109 S. Ct. 2603 (1989).
37. Not all ethicists agree with this view. Some believe that corporate morality exists apart from the ethical behavior of individual members. See Peter A. French, "Corporate Moral Agency," in Joan C. Callahan (ed.), *Ethical Issues in Professional Life* (New York: Oxford University Press, 1988), pp. 265-269.
38. For an insightful discussion and comparison of these two cases, see Philip Seb and Kathy Fitzpatrick, *Public Relations Ethics* (Fort Worth, TX: Harcourt Brace, 1995), pp. 101-111.
39. This case is discussed in James A. Laska and Michael S. Pritchard, *Communication Ethics: Methods of Analysis*, 2d ed. (Belmont, CA: Wadsworth, 1994), p. 48.
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41. See Milton Friedman, "Social Responsibility and Compensatory Justice," in Callahan, *Ethical Issues*, pp. 349-350.
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58. Peter B. Orlik, *Electronic Media Criticism* (Boston: Focal Press, 1994), p. 19.
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60. Jack Lule, "The Power and Pitfalls of Journalism in the Hypercontext Era," *Chronicle of Higher Education*, August 7, 1998, p. B7.
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70. Under the 2000 revision of the code, the PRSA Board of Directors "retains the right to bar from membership or expel from the Society any individual who has been or is sanctioned by a government agency or convicted in a court of law of an action that is in violation of this Code."
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