

When it comes to product safety, the exact nature of business's moral responsibilities is difficult to specify because much depends on the particular product or service being provided. But attending to the following points would go a long way in helping business behave morally with respect to consumer safety:

1. **Business should give safety the priority warranted by the product.** This injunction is important because businesses often base safety considerations strictly on cost. If the margin of safety can be increased without significantly insulting budgetary considerations, fine; if not, then safety questions are shelved.

Cost cannot be ignored, of course, but neither can two other factors. One is the seriousness of the injury the product can cause. A police officer may seldom have to rely on a bulletproof vest, but the potential harm from a defective one is obvious. Yet Second Chance Body Armor suppressed evidence of a defect in its product because company executives feared that it would hurt plans for an initial stock offering.³⁶ The second factor to consider is the frequency of occurrence. Is a design flaw on a lawn mower, for example, likely to result in one customer out of a thousand—or one out of two million—cutting off a finger? The higher a product scores on either the seriousness or the frequency test (or both), the greater is the priority that needs to be placed on safety issues.

2. **Business should abandon the misconception that accidents occur exclusively as a result of product misuse and that it is thereby absolved of all responsibility.**

At one time such a belief may have been valid, but in using today's highly sophisticated products, even people who follow product instructions explicitly sometimes still suffer injuries. In any case, the point is that the company shares responsibility for product safety with the consumer. Rather than insisting that consumers' abuse of products leads to most accidents and injuries, firms would probably accomplish more by carefully pointing out how their products can be used safely.

A Pennsylvania court has endorsed this perspective. It awarded \$11.3 million in damages to a twenty-year-old Philadelphia woman who was shot in the head when a handgun owned by her neighbor accidentally went off. The court determined that the shop that had sold the weapon should pay 30 percent of the damages because it had provided the buyer with no demonstration or written instructions for safe use of the gun.³⁷

Both manufacturers and retailers have an obligation to try to anticipate and minimize the ways their products can cause harm, whether or not those products are misused. For example, in a classic case a four-year-old girl was seriously injured when she stood on an oven door to peek into a pot on top of the stove and her weight caused the stove to tip over. A manufacturer can reasonably foresee that a cook might place a heavy roasting pan on the oven door. If doing so caused the stove to tip over, a court would almost certainly find the stove's design defective. But should the manufacturer have foreseen the use of the door not as a shelf but as a step stool? The courts ruled that it should have.

In the case of guns, manufacturers could make them safer with safety locks or design changes that would make them difficult for children to operate. They could also crack down on distributors and dealers who repeatedly sell weapons that end up in the hands of criminals (the police give gun makers the serial numbers of any of their guns used in crimes). Instead, the manufacturers contend that they have no responsibility to prevent illegal trafficking in their guns. "It's not for us to enforce the law," says the president of Browning, the gun manufacturer.³⁸

- 3. Business must monitor the manufacturing process itself.** This holds true as well for large companies that outsource all or part of a product's production to independent contractors. Frequently firms' failure to control key variables during the manufacturing process results in product defects. Companies should periodically review working conditions and the competence of key personnel. At the design stage of the process, they need to predict ways the product might fail and the consequences of such failure. For production, companies ordinarily can select materials that have been pretested or certified as flawless. If a company fails to do this, then we must question its commitment to safety. Similar questions arise when companies do not make use of available research about product safety. To answer some questions a company may have to generate its own research. However, independent research groups ensure impartial and disinterested analysis and are usually more reliable than in-house studies.

Testing should be rigorous and simulate the toughest conditions. Tests shouldn't assume that the product will be used in exactly the way the manufacturer intends it to be used. Even established products should be tested. Neither a trouble-free history nor governmental approval of a product guarantees that it is free of defects.³⁹

When a product moves into production, it is often changed in various ways. These changes should be documented and referred to some appropriate party, such as a safety engineer, for analysis. The firm must be scrupulous about coordinating department activities so manufacturing specifications are not changed without determining any potential dangers related to these changes.

- 4. When a product is ready to be marketed, companies should have their product safety staff review their market strategy and advertising for potential safety problems.** This step is necessary because both product positioning and advertising influence how a product is used, which in turn affects the likelihood of safety problems. For example, all-terrain vehicles (ATVs) are marketed in a way that appeals to young people, who have comparatively little driving experience and a propensity to take risks. Yet ATVs result in more injuries per vehicle than cars do, and they cause more deaths and injuries than snowmobiles or personal watercraft. Every year, around 40,000 children are injured, and 100 killed, riding ATVs.⁴⁰ Or consider the feeder auger manufacturer whose promotional brochure stated that "even a child can do your feeding." The brochure had a photograph of the auger with its safety cover removed to show the auger's inner workings. When a young boy was injured while using the feeder auger with the safety cover removed, a jury found the promotional brochure misleading with respect to operating conditions and product safety.⁴¹
- 5. When a product reaches the marketplace, firms should make available to consumers written information about the product's performance.** This information should include operating instructions, the product's safety features, conditions that will cause the product to fail, a complete list of the ways the product can be used, and a cautionary list of the ways it should not be used. Warnings must be specific. But no matter how specific they are, warnings are of little value if a consumer cannot read them. St. Joseph Aspirin for Children is marketed in Spanish-speaking areas and is advertised in Spanish-language media. But you have to know English to read the crucial warning: "Children and teenagers should not use this medicine for chicken pox or flu symptoms before a doctor is consulted about Reye's Syndrome, a rare but serious illness reported to be associated with aspirin." Because his mother spoke only Spanish and couldn't read the label on the St. Joseph's box,

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SUMMARY

To increase product safety, companies need to (1) give safety the priority necessitated by the product, (2) abandon the misconception that accidents are solely the result of consumer misuse, (3) monitor closely the manufacturing process, (4) review the safety implications of their marketing and advertising strategies, (5) provide consumers with full information about product performance, and (6) promptly investigate consumer complaints. Some successful companies already put a premium on safety.

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Although some businesses fail to take safety seriously enough, others respond quickly to suspected hazards.

little Jorge Ramirez of Modesto, California, contracted Reye’s Syndrome. Today, he is blind, quadriplegic, and mentally impaired.⁴²

6. Companies should investigate consumer complaints and do so quickly. Federal law requires that manufacturers report all claims of potentially hazardous defects within twenty-four hours, even if it is unclear whether a recall is warranted. However, in at least three major cases, Mattel took months to gather information on reports of potentially hazardous problems with certain of its toys, collecting scores of consumer complaints in the meantime, before disclosing the problems to the CPSC. Despite having been fined twice for “knowingly” withholding information regarding safety defects that “created an unreasonable risk of serious injury or death,” the company contends that it is right for it to proceed at its own pace regardless of what the law says.⁴³

It is important for business to acknowledge and discharge its various product-safety responsibilities. But even if firms attend seriously to the above considerations, they cannot guarantee an absolutely safe product. Some products are inherently hazardous, and some safety problems may be unforeseeable. Morally speaking, however, no one’s asking for an accident- and injury-proof product, only that manufacturers do everything reasonable to approach that ideal.

Cigarette fires illustrate the shortcomings of the tobacco industry in this respect. According to government figures, cigarettes are the number one cause of home fire deaths, killing about a 1,000 Americans a year.⁴⁴ Research has long shown that small design changes in cigarettes would make them less likely to ignite furniture and bedding—not to mention forest fires. After years of opposition from the tobacco industry, all fifty states have now imposed a fire-resistance standard for cigarettes.

The tire industry offers another example. On a Montana road, the tread on the left rear tire of Joseph Cartus’s classic sports car separated, causing the car to flip and leaving his girlfriend disfigured and with brain damage. The tire had only 4,000 miles on it, but it was eleven years old, and as the NHTSA has now documented, even pristine tires deteriorate with age and become prone to sudden failure. “The age issue is the tire industry’s dirty little secret,” says one safety expert. Tire makers are reluctant to address the age problem because it would create havoc with their distribution systems. New tires often sit around for two years or more before being sold, and if they had “use by” dates on them, consumers would do what they do when buying milk or meat, namely, refuse to buy anything other than the freshest item.⁴⁵

Unfortunately, there are numerous other examples of companies and entire industries that play fast and loose with safety, resisting product improvements and dodging responsibility for consumer injury. But many companies do respond quickly to perceived or suspected hazards. Consider two examples of successful companies that place a premium on product safety.⁴⁶

JCPenney and Burning Radios

Back in the early 1960s, a few of the radios sold by JCPenney were reported to have caught fire in customers’ homes. JCPenney tested the radios and discovered a defective resistor in a few of them—less than 1 percent. Nonetheless, JCPenney informed the manufacturer, withdrew the entire line of radios, ran national ads informing the public of the danger, and offered immediate refunds. “This was before the Consumer Product Safety Commission even existed,” said JCPenney vice chairman Robert Gill. “I guess some people might have thought we were crazy, and said that liability insurance was

specifically designed to take care of such problems. But we felt we just could not sell that kind of product.”

Johnson Wax and Fluorocarbons

In the mid-1970s, environmentalists became seriously alarmed at the possibility that fluorocarbons released from aerosol cans were depleting the earth’s thin and fragile ozone layer. The media rapidly picked up the story, but nearly all manufacturers of aerosol cans denounced the scientific findings and stood by their products. The exception was Johnson Wax. The company acknowledged that the scientific questions were difficult to resolve, but it took seriously consumer concern about ozone depletion. Years before the FDA ban, Johnson Wax withdrew all its fluorocarbon products worldwide. “We picked up a lot of flak from other manufacturers,” recalled company chairman Samuel Johnson, “and we lost business in some areas, but I don’t have any question we were right. . . . Our belief is that as long as you can make do without a potentially hazardous material, why not do without it?”

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OTHER AREAS OF BUSINESS RESPONSIBILITY

Consumers are naturally concerned about product safety. No one wants to be injured by the products he or she uses. But safety is far from the only interest of consumers. The past forty years have seen a general increase in consumer awareness and an ever stronger consumer advocacy movement. One critical consumer issue has been advertising and its possible abuse, which is discussed in subsequent sections of this chapter. Three other areas of business responsibility—product quality, pricing, and labeling and packaging—are equally important and are taken equally seriously by the consumer movement.

PRODUCT QUALITY

The demand for high-quality products is closely related to a number of themes mentioned in the discussion of safety. Most people would agree that business bears a general responsibility to ensure that the quality of a product measures up to the claims made about it and to reasonable consumer expectations. They would undoubtedly see this responsibility as deriving primarily from the consumer’s basic right to get what he or she pays for.

Although high product quality can also be in a company’s interest, sometimes business shirks this responsibility. For example, in 1973 new car bumpers had to withstand a 5-mile-per-hour collision with no damage. Ten years later, the auto industry succeeded in getting this quality standard lowered: The speed was cut in half, and damage to the bumpers themselves was no longer taken into account. Or consider the bottled-water industry. Most people who buy bottled water do so because they believe that it is purer and safer than tap water. Not so, reports the Natural Resources Defense Council, which tested 103 brands and found that one-third of them, including some of the best-known brands, contained contaminants that exceeded state or federal standards. These results do not mean that bottled water is dangerous, but they do suggest that consumers are not getting the product quality they’re paying for.⁴⁷

One way that business assumes responsibilities to consumers for product quality and reliability is through *warranties*, which are obligations to purchasers that sellers assume. Broadly speaking, there are two kinds of warranties: express and implied.

Express warranties are the claims that sellers explicitly state—for example, that a product is “shrinkproof” or will require no maintenance for two years. The moral concern, of course, is whether a product lives up to its billing. Express warranties include assertions about the product’s character, assurances of product durability, and any statements about the product on warranty cards, labels, wrappers, and packages or in the advertising of the product. Many companies offer detailed warranties that are very specific about what defects they cover. Few go as far as L. L. Bean does with its “100% guarantee,” which allows customers to return any purchase at any time for a full refund if it proves unsatisfactory.

Implied warranties include the claim, implicit in any sale, that a product is fit for its ordinary, intended use. The law calls this the implied warranty of **merchantability**. It’s not a promise that the product will be perfect; rather, it’s a guarantee that it will be of passable quality or suitable for the ordinary purpose for which it is used. Implied warranties can also be more specific—for example, when the seller knows that a buyer has a particular purpose in mind and is relying on the seller’s superior skill or judgment to furnish goods adequate for that purpose.

The concept of an implied warranty is relevant to the case of Kodak’s instant cameras. When Polaroid won a patent violation judgment against Kodak, Kodak was forced not only to stop selling its instant cameras but also to compensate previous purchasers, who could no longer obtain film for their cameras. Those purchasers had relied on the implicit claim that Kodak would not suddenly make its products obsolete.⁴⁸

With or without warranties, however, consumers today are more militant than ever in their insistence on product quality and on getting exactly what they paid for. For example, when Ira Gore learned that his new car had been damaged and repainted before he took delivery, he sued BMW for having reduced his car’s value by \$4,000 and sought punitive damages based on the fact that BMW had sold 983 such “refinished” cars over a ten-year period. An Alabama jury agreed with Gore. It viewed the practice as consumer fraud and awarded him \$4 million in punitive damages—not bad recompense for an injury to his car that it had cost BMW only \$601.78 to fix. The Alabama Supreme Court subsequently cut the award in half, and later the U.S. Supreme Court ordered Alabama to lower it still further, holding that \$2 million is “grossly excessive” punishment for the minor economic injury Gore had suffered.⁴⁹ Although the Court’s precedent-setting ruling cheered many corporations, it left no doubt that punitive damages are appropriate in product-quality cases like this. The only question is whether they are excessive.

PRICING

Have you ever wondered why a product sells at three for \$10.00 or is priced at \$6.99 rather than simply \$7.00? Or why a product that retails for \$9.80 on Monday is selling for \$11.10 on Friday? The answer may have little to do with the conventional determinants of product price such as overhead, operating expenses, and the costs of materials and labor. More and more frequently, purely psychological factors enter into the price-setting equation.

For example, why would a retailer price T-shirts at \$9.88 instead of \$9.99? “When people see \$9.99, they say, ‘That’s \$10,’” explains the general sales manager of one company. “But \$9.88 isn’t \$10. It’s just psychological.”⁵⁰ In fact, two-thirds of items on retail shelves have prices ending in nine because they appear lower to consumers than do prices in round numbers. On the other hand, that appearance of cheapness can sometimes backfire, which is why an upscale restaurant will sell its almond-crusted sea bass for \$18, not \$17.89. Strangely, the tendency to see round numbers as higher than fractional numbers sometimes holds even when the round number is actually less. For example, in one study where subjects were asked to make fast decisions about numbers, they judged \$510,000 to

be slightly higher than \$511,534 and \$400,000 as considerably higher than \$401,298—a result that seems to be born out in subsequent studies of real-estate transactions.⁵¹

For many consumers, higher prices mean better products, so manufacturers arbitrarily raise the price of a product to give the impression of superior quality or exclusivity. But as often as not, the price is higher than the product's extra quality. For example, a few years ago Proctor-Silex's most expensive fabric iron sold for \$54.95, a price \$5 higher than the company's next most expensive model. However, its wholesale price was only \$2.78 more, and the extra cost of producing the top model was less than \$1.⁵²

Manufacturers trade on human psychology when they sell similar or even substantially identical products at different prices. For example, Williams-Sonoma once offered a fancy breadmaker for \$279. When it introduced a \$429 model, it flopped, but sales of the less expensive model doubled. Why? Because in comparison, the \$279 model looked like a good deal. Sometimes, however, the effect works the other way.⁵³ Heublein once raised the price of its Popov brand vodka about 10 percent. Why the price increase? Heublein sales representatives believed that consumers wanted a variety of vodka prices to choose from. Apparently they were right: Even though Popov lost 1 percent of its market share, it increased its profits by 30 percent. Applying its theory further, Heublein offers vodka-drinkers an even more expensive vodka: Smirnoff. Yet, analysts insist that there is no qualitative difference among vodkas made in the United States.⁵⁴ In this case, the use of psychological pricing is closely related to the problem of pricing branded products higher than generic products that are otherwise indistinguishable. Consumers pay more assuming that the brand name or the higher price implies a better product.

Manipulative Pricing

Sometimes consumers are misled by prices that obscure a product's true cost, for example, with “three-for-two” offers or when airlines omit the taxes and other fees that make apparently cheap tickets much more expensive or that advertise one-way fares that are available only with the purchase of a round-trip ticket. Other times, hidden charges and surcharges, such as online booking charges and other stealth fees, can boost the consumer's actual cost significantly above the announced price: for example, charges for mounting and balancing when you buy tires; multiple taxes and services fees on cell-phone plans; “visitor” taxes and collision insurance on rental cars; “convenience” charges, processing fees, and shipping charges on concert tickets; and activation fees, monthly fees, inactivity fees, ATM withdrawal fees, and inquiry balance fees on prepaid debit cards. In addition, manufacturers often disguise price increases by reducing the quality or the quantity of the product—downsizing a “pound” of coffee to 13 ounces, for example, or shrinking a candy bar but not its price.

Promotional pricing can also be manipulative. Discount cards and “card specials” lure consumers into grocery stores such as Dominick's, Kroger, and Safeway, where customers often pay more for their food overall than they would at rival stores.⁵⁵ Sale-priced items have ballooned from 8 percent of U.S. retail sales in 1971 to as high as 78 percent in some sectors today.⁵⁶ Although the discounts are deeper than ever these days, the initial mark-up has increased. Indeed, the product is often designed with the discount built in. This works, it seems, because buyers have little idea what goods are really worth, but they like feeling that they got a deal. Take a real example, provided by an industry consultant. A major retailer pays a supplier \$14.50 for a sweater. It comes with a suggested retail price of \$50. Although the retailer sells a few sweaters at that price, more sell at the first markdown price of \$44.00, and the bulk sell at the final discount price of \$21.99. All this is according to plan, with an average retail price of around \$28 per sweater and a healthy profit margin for the retailer.⁵⁷

Rebates, too, are a type of manipulative pricing. Most consumers dislike them. Satisfying the redemption rules and mailing them in are hassles. Sometimes the rebates are arbitrarily denied, and even when they're not, it usually takes weeks and weeks to receive the check. When a long-forgotten check does arrive, consumers sometimes toss it in the trash because it looks like junk mail. Companies love them, though. Rebates get consumers to focus on the discounted price of a product and then buy it at full price. And then, as one consultant explains, "anything less than 100 percent redemption is free money" for the company. With millions of rebates offered every year, that translates into more than \$2 billion of extra revenue for retailers and their suppliers. Small wonder then that many consumers—and some state and federal authorities—suspect that companies design the rules to keep redemption rates down.⁵⁸

Some cases of manipulative pricing are not so obvious. For example, the pharmaceutical company Cephalon repeatedly raised the price of its popular narcolepsy drug Provigil to get patients and insurance companies to switch to a longer-acting version of it, called Nuvigil. That's because Cephalon's patent on Provigil was set to expire, after which the drug would face stiff competition from generic equivalents. Before that happened, the company wanted to make sure that Provigil users were taking Nuvigil instead because its patent—and the high profits that go with it—was still good for years to come.⁵⁹

Many practical consumers think of these pricing practices and gimmicks as a nuisance or irritant that they must live with, not as something morally objectionable. But tricky or manipulative pricing does raise moral questions—not least about business's view of itself and its role in the community—that businesspeople and ethical theorists are now beginning to take seriously.

Tricky or manipulative pricing is not just a nuisance; it also raises moral questions.

Price Fixing

Much more attention has been devoted to price fixing, which despite its prevalence is widely recognized as a violation of the rules of the game in a market system whose ideal is open and fair price competition. **Horizontal price fixing** occurs when competitors agree to adhere to a set price schedule, not to cut prices below a certain minimum, or to restrict price advertising or the terms of sales, discounts, or rebates. For example, in 2012 three major publishers were found guilty of collusion in the pricing of e-books, and in 2013 Japanese and American officials uncovered more than a dozen separate price-fixing conspiracies among manufacturers of the auto parts sold to U.S. car makers, affecting more than 25 million vehicles over the years.⁶⁰ There is nothing illegal about businesses consciously charging the same prices as their competitors. It is the agreement to do so that violates the law.

Vertical price fixing takes place when manufactures and retailers—as opposed to direct competitors—agree to set prices. For example, a federal judge found Toys “R” Us guilty of conspiring to keep prices for Barbie, Mr. Potato Head, and other popular toys artificially high. The retail giant used its market clout to force Mattel, Hasbro, and other major toymakers not to sell their toys to warehouse clubs like Sam's Club and Costco.⁶¹ Sometimes it is the manufacturer, not the retailer, that engages in vertical price fixing. For example, Panasonic was found guilty of pressuring retailers such as Circuit City, Kmart, and Montgomery Ward into selling its products at the company's suggested retail price and not at a discount. Although manufacturers often suggest prices to their retailers, the retailers are supposed to be free to set their own prices, depending on the profit they foresee in the market.

Before 2007 any agreement between a manufacturer and a retailer to fix prices was illegal. That's when the U.S. Supreme Court reversed a 100-year-old precedent and held that minimum-retail-price agreements do not automatically violate the Sherman

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SUMMARY

Business has obligations to consumers that go beyond safety: Product quality must live up to express and implied warranties, and prices should be fair. In particular, business should refrain from price fixing, price gouging, and manipulative pricing. In assessing a particular pricing practice, we should ask whether it would be good for our socioeconomic system as a whole if it were widespread or generally followed.

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Antitrust Act.⁶² In fact, some “resale price maintenance” agreements, the Court held, might even promote competition. It therefore instructed lower courts to adopt a case-by-case approach, forcing them to specify when such agreements unfairly disadvantage consumers and, more generally, when and why such price fixing is wrong. In response to the Court’s decision, in 2009 Maryland passed a law that prohibits manufacturers from requiring retailers to charge minimum prices for their goods. Some other states are likely to do the same. In the meantime, small companies have sprung up that scour the web on behalf of clients such as Sony, Samsung, and Black & Decker, looking for retailers who are offering bargains below the minimum price set by the manufacturer. If the discounter is an authorized dealer, it is contractually bound to raise its price. If the seller is not an authorized dealer, other tactics are used, such as threatening people selling the product on eBay with trademark or copyright infringement.⁶³

Horizontal price fixing, however, remains unambiguously outside the law. And it’s easy to see why. When a handful of companies dominates a given market and conspires to charge artificially high prices, this clearly disadvantages consumers and subverts the principles of a market system. “It’s tempting to see it as victimless because each customer is hurt only a little,” says Mark Whitacre. “But it’s bank robbery without a mask and gun.” He knows what he is talking about, too, having blown the whistle on an global conspiracy to fix the price of lysine, an animal-feed additive (an episode that inspired the 2009 film, “The Informant!”).⁶⁴

Of course, firms in an oligopolistic industry can tacitly agree not to compete with one another, thereby avoiding losses that might result from price-cutting competition. They can then play “follow the leader”: Let the lead firm in the market raise its prices, and then the rest follow suit. The result is a laundered form of price fixing. Even when there is no tacit price fixing, the firms that dominate a field are often reluctant to compete on the basis of price. Nobody, they say to themselves, wants a price war, as if price competition were a threat to the market system rather than its lifeblood. Thus, familiar rivals such as Pepsi and Coca-Cola or McDonald’s and Burger King usually prefer to compete by means of image and jingles rather than price.

Price Gouging

From the moral point of view, prices, like wages, should be just or fair. Merchants cannot morally charge whatever they want or whatever they think the market will bear any more than employers can pay workers whatever they (the employers) wish or can get away with. In particular, price gouging is widely viewed as unethical, although what exactly constitutes price gouging is often debated.⁶⁵ Some define it as charging what the market will bear regardless of production costs. But that definition doesn’t take into account supply and demand. Because they are in short supply, tickets for the World Series or houses in a popular neighborhood may command an extremely high price relative to their production costs, yet this does not constitute price gouging. **Price gouging** is better understood as a seller’s exploiting a short-term situation in which buyers have few purchase options for a much-needed product by raising prices substantially. New York hotels that doubled or tripled their prices in the aftermath of the September 11, 2001, attacks were guilty of this, as were oil companies, innkeepers, and merchants who took advantage of Hurricane Katrina to jack up their prices. Some jurisdictions make it illegal for retailers to raise their prices during a natural disaster or other emergency. However, the morality or immorality of some instances of possible gouging seems open to debate. Is it unethical for a hardware store to boost the price of snow shovels after a large snowstorm, for a car dealer to mark up the price of a popular car model that is temporarily in short supply, or for Uber, a taxi service, to charge more for requesting a ride at busy times?

Although price gouging is generally viewed as unethical, there is disagreement about what it is and whether all instances of it are wrong.

In May 2008, American Airlines, one of the industry's major carriers, started imposing a checked-bag fee. Other airlines promptly followed suit. What are consumers to think when a pricing policy instituted by one company is promptly adopted by others?



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What about the idea that Coca-Cola once had to have its soft drink dispensers adjust the price based on the temperature outside?⁶⁶ Would that have been price gouging?

When a gas station raises the price of its current stock of gasoline because the wholesale price is scheduled to go up or when the big oil companies set the wholesale price of gasoline 10 to 19 cents a gallon higher in San Francisco than in Los Angeles because average household income is greater there,⁶⁷ that may not fit the definition of price gouging, but it strikes many people as unfair. So does the fact that Americans have to pay substantially more for medicines than do Canadians or Europeans. This is not a matter of cheap generics or illegal knockoffs. Brand-name drugs such as Lipitor, Zoloft, and Nexium cost 30 to 100 percent more in the United States than in Canada or Europe.⁶⁸

Seventy-five days after initially introducing its iPhone, Apple decided to cut its price by \$200. That might have sounded like good news for consumers, but it ignited loud protests from some of Apple's most devoted fans. That's because many of them had stood in long lines to purchase theirs and now felt like chumps. Maybe they weren't victims of price gouging in the traditional sense, but they believed they'd been exploited and they quickly let Steve Jobs hear about it. As a result, he apologized and issued early buyers a store credit for \$100. That move was unprecedented, but it still left some of them unhappy. After all, a store credit is not the same as cash, and given the new, reduced price, Apple was still coming out \$100 ahead.

In the end, the question "What is a fair price?" probably defies a precise answer. Still, one can approach an answer by assessing the factors on which the price is based and the process used to determine it. Certainly, factors such as the costs of material and production, operating and marketing expenses, and profit margin are relevant to price setting. One can also ask whether a seller's pricing practices try to exploit buyers by taking advantage of a lack of competition or some other buyer vulnerability or in some other way treat people as means rather than respecting them as ends in themselves. Also relevant is whether it would be good for our socioeconomic system as a whole if a particular pricing practice were widespread or generally followed.

Product price, of course, reflects in part the consuming public's judgment of the relative value of the article. Ideally, this judgment is formed in the open market in a free

interplay between sellers and buyers. However, for this process to function satisfactorily, buyers must be in a position to exercise informed consent. As will be discussed further in Chapter 9, informed consent calls for deliberation and free choice, which require in turn that buyers understand all significant relevant facts about the goods and services they are purchasing. But consumers do not always receive the clear, accurate, and complete information about product quality and price that they need to make prudent choices.

LABELING AND PACKAGING

Business's general responsibility to provide clear, accurate, and adequate product information undoubtedly applies to labeling and packaging. The reason is that, despite the billions of dollars spent annually on advertising, a product's label and package remain the consumer's primary source of product information. Often, however, labels and packages do not tell consumers what they need to know, or even what exactly they are getting. For example, many high-energy drinks do not list their caffeine content, and few cigarette cartons tell consumers which of the nearly 600 additives that manufacturers sometimes use have been added to their cigarettes.

What information do consumers need to know? For instance, U.S. meatpackers have long opposed any regulations requiring country-of-origin labeling of beef, chicken, pork, and other meats. They argue that it is expensive and that the information is irrelevant. But many consumers care about it, hoping to avoid meat that comes from countries with lax safety regulations. Even more controversial is whether genetically modified (GM) food should be labeled as such. GM food is much more pervasive than most people realize. Food manufacturers contend that GM foods are indistinguishable from unaltered foods and pose absolutely no health risks. In their view, labeling them would only cause consumers unnecessary alarm. They think labeling should be required only when some health risk exists or there's a danger that the consumer might be misled about the product's characteristics. Some proponents of labeling call GM products "Frankenfood" and blame it, without any real evidence, for all sorts of ills. Others, however, favor labeling because they believe that consumers have a right to whatever information a significant number of them are interested in, whether it is rational or not for them to care about it.

Even when product labels provide pertinent information, they are often difficult to understand or even misleading, and what they omit may be more important than what they say. For example, organic milk often comes from cows that are not on pasture, and products that bear the label "organic" or "USDA organic" are not necessarily 100 percent organic but may contain the same kind of synthetics that conventional food processors use.⁶⁹ One-third of the fresh chicken sold in the United States is "plumped" with water, salt, and sometimes a seaweed extract called carrageenan that helps it retain the added water. Although chickens processed this way contain up to eight times as much sodium per serving, they are still labeled "all natural" or "100% natural." That's because water, salt, and carrageenan are natural ingredients, even though they are not naturally found in chicken.⁷⁰

The FDA has no formal definition of "natural." To its credit, though, Ben & Jerry's has dropped the phrase "all natural" from its labels, after a health advocacy group complained that its ice cream contains alkalized cocoa, corn syrup, hydrogenated oil, and other ingredients that aren't natural. Equally confusing is environmental labeling. Manufacturers label products "biodegradable," "green," "environmentally safe," or "recyclable" without defining those terms or providing any scientific evidence to back them up. As environmental awareness has grown, so has the prevalence of "greenwashing"—the making of false or misleading environmental claims—by marketers.⁷¹ And even the most socially and environmentally conscious consumers have difficulty distinguishing among "fair trade certified," "fairly traded," "Rainforest Alliance certified," "sustainable," and "certified sustainable."

Product labels and packages often fail to tell consumers what they need to know or even exactly what they are getting.