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**Case: Big Brother at Procter & Gamble**

In early August 1991, a former employee of Procter & Gamble telephoned *Wall Street Journal* reporter Alicia Swasy at her Pittsburgh office to report some disturbing news. "The cops want to know what I told you about P&G," he said. This 20-year veteran of the company had just been grilled for an hour by an investigator for the Cincinnati fraud squad. The investigator Gary Armstrong, who also happened to work part-time as a security officer for P&G, had records of the ex-manager's recent long-distance calls, including some to Swasy.

Alicia Swasy had apparently angered CEO Edward Artz with two news stories about troubles at P&G that the company was not ready to reveal. An article in the *Wall Street Journal* on Monday, June 10, 1991, reported that B. Jurgen Hintz, executive vice president and hair apparent as CEO, had been forced to resign over difficulties in the food and beverage division. The next day, on Tuesday, June 11, a long article on the division's woes quoted "current and former P&G managers" as saying that the company might sell certain product lines, including Citrus Hill orange juice, Crisco shortening, and Fisher nuts. Swasy believed that Artz had deliberately lied to her when she tried to confirm the story of Hintz's departure in a telephone conversation

on Saturday, and that he tried to sabotage the *Journal* by allowing the news to be released to the rival *New York Times* and the Cincinnati newspapers in time for the Sunday editions while the public relations department continued to deny the story to Swasy.

Immediately after the two articles appeared in the *Wall Street Journal*, Artz ordered a search of P&G's own phone records to determine the source of the leaks to the press. When this investigation failed to uncover any culprits, the company filed a complaint with the Hamilton County prosecutor's office, which promptly opened a grand jury investigation. The grand jury then issued several subpoenas calling for Cincinnati Bell to search its records for all calls in the 513 and 606 area codes, which cover southern Ohio and northern Kentucky, and to identify all telephone calls to Alicia Swasy's home or office and all fax transmissions to the newspaper's Pittsburgh office between March 1 and June 15. The search combed the records of 803,849 home and business telephone lines from which users had placed more than 40 million long-distance calls.

P&G contended that it filed the complaint because of "significant and ongoing leaks of confidential business data, plans and strategies," which included not only leaks to the news media but also leaks to competitors as well. The legal basis for the grand jury probe was provided by a 1967 Ohio law that makes it a crime to give away "articles representing trade secrets" and by a 1974 Ohio law that prohibits employees from disclosing "confidential information" without the permission of the employer. However,

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**Ethical Theories 47**

reporters are generally protected by the First Amendment right of freedom of the press, and Ohio, Pennsylvania, and 24 other states have so-called "shield laws" that protect the identities of reporters' confidential sources.

Information about an executive's forced departure is scarcely a trade secret on a par with the formula for Crest toothpaste, and the use of the phrase "articles representing trade secrets" has been interpreted in the Ohio courts to mean documents such as photographs and blueprints, not word-of-mouth news. Any law that limits First Amendment rights must define the kind of speech prohibited and demonstrate a compelling need, but the 1974 law does not specify what constitutes confidential information or the conditions under which it is protected. Thus, some legal experts doubt the law's constitutionality. P&G denied that any reporter's First Amendment rights were being violated: "No news media outlet is being asked to turn over any names or any information. The investigation is focused on individuals who may be violating the law."

**How do you think the public responded to P&G's actions?**

**Compare Your Thoughts**

The response to P&G's role in the investigation was quick and angry. The Cincinnati chapter of the Society of Professional Journalists wrote, in a letter to CEO Artz, "The misguided action Procter & Gamble is taking threatens to trample the First Amendment and obviously reflects more concern in identifying a possible leak within the company rather than protecting any trade secrets. . . . Your complaint has prompted a prosecutorial and police fishing expedition that amounts to censorship before the fact and could lead to further abuse of the First Amendment by other companies also disgruntled by news media coverage." An editorial in the *Wall Street Journal* asked, "What possessed P&G?" and questioned the legality by saying, "We understand that P&G swings a big stick in Cincinnati, of course, and maybe the local law can, like Plumpers, be stretched to cover the leak. It is not funny, though, to the folks being hassled by the cops." The sharpest criticism came from William Safire, the *New York Times* columnist, who objected to Edward Artz's contention that P&G's mistakes are not "an issue of ethics." Safire concluded a column entitled "No P&G or Safire's" with the words, "It's not enough to say, 'our leak hurt backfired, so excuse us'; the maker of Tide and Ivory can only come clean by showing its publics, and tomorrow's business leaders, that it understands that abuse of power and invasion of privacy are no mere errors of judgment—regrettably inappropriate—but are unethical, bad, improper, wrong!" In the end, no charges were filed against any individual, and the company continued to deny any wrongdoing. A spokesperson for P&G stated, "[The press] has the right to pursue information, but we have the right to protect proprietary information." Fraud squad investigator Gary Armstrong later went to work for P&G full-time.

**Points to Consider. . .**

Procter & Gamble's heavy-handed investigation was undeniably a violation of several accepted business ethics principles. However, the critics of P&G did not cite any harmful consequences of the investigation beyond the chilling effect it might have had on employees and members of the press. They complained instead about the abuse of power and invasion of privacy. In particular, P&G was charged with violating certain hard questions of ethics require that we think deeply and search out the best reasons available. For a fuller, more adequate understanding of ethical reasoning than that provided by the previously presented ethical frameworks, we may need the resources of the ethical theories that have been developed over the centuries by major moral philosophers.

It is customary initially to divide ethical theories into two types, usually called teleological and deontological. The most prominent historical examples of a teleological and a

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### Points to Consider...

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Consequences aside, however, there is something objectionable about a company snooping on its own employees and using law enforcement officials for company purposes. Although P&G's conduct appears questionable, it is not easy to specify exactly the moral wrongs. Moreover, reasonable people might disagree about what is wrong in this case and on the more general issues involved. Our ordinary moral beliefs and the simple rules and principles of morality cannot settle all controversies that might arise from this and other cases.

When reasonable persons disagree about cases like these, we need to go beyond our conflicting positions and seek common ground in ethical theory. Put simply, the reality

hard questions of ethics require that we think deeply and search out the best reasons available. For a fuller, more adequate understanding of ethical reasoning than that provided by the previously presented ethical framework, we may need the resources of the ethical theories that have been developed over the centuries by major moral philosophers.

It is customary initially to divide ethical theories into two types, usually called *teleological* and *deontological*. The most prominent historical examples of a teleological and a deontological theory are utilitarianism and the ethical theory of Immanuel Kant, respectively.

Teleological theories hold that the rightness of actions is determined solely by the amount of good consequences they produce. (The word "teleological" is derived from the Greek word "telos," which means an end.) Actions are justified on teleological theories by virtue of the end they achieve, rather than some feature of the actions themselves.

Deontological theories, by contrast, deny that consequences are primary in determining what we ought to do. Deontologists typically hold that we have a duty to perform certain acts not because of some benefit to ourselves or others, but because of the nature of these actions or the inherent value of the principles from which they follow. (The word "deontological" is derived from "deon," the Greek word for duty.) Thus, what makes lying wrong, a

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