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It's All on Sale: Marketing Ethics and the Perpetually Fooled

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Abstract Discussion of marketing deception has mostly focused on two main areas: first are cases that involve the intentional deception of people who tend to have compromised intelligence, such as children or the elderly, and second are cases that involve intentional falsehoods or the withholding of vital information, such as Madoff's exploits. This article will differ from most in the field by examining marketing practices that are generally truthful, but deceive almost everyone. These practices do not fool just small select groups, but are fooling those usually assumed to be rational. For example, we love "free" merchandise so much that we are willing to irrationally settle for less to get the free product. Behavioral economists and psychologists are proving that, as Dan Ariely puts it, most all of us are "Predictably Irrational." Is it wrong for marketers to take advantage of the mass's foibles as it is wrong to take advantage of children? The article will look at some of the behavioral economists' data, how that data affects the rational and ignorant person standards of marketing, and suggest the reflective rational person standard as a way to morally evaluate marketing techniques given this new data.

Keywords Marketing ethics · Behavioral economics · Rational person standard · Advertising ethics

Most theorists hold that in marketing persuasion is acceptable, but deception and lying are wrong. Hence, discussion of marketing deception has mostly focused on two main areas: first are cases that involve the intentional deception of people who tend to have compromised intelligence, such as children or the elderly, and second are cases that involve intentional falsehoods or the withholding of vital information, such as Madoff's exploits. This article will differ from most in the field by examining marketing practices that are generally truthful, but deceive almost everyone. These practices do not fool just small select groups, but are fooling those usually assumed to be rational. Behavioral economists and psychologists are proving that, as Dan Ariely puts it, most all of us are "Predictably Irrational." Is it wrong for marketers to take advantage of the mass's foibles as it is wrong to take advantage of children? The article will look at some of the behavioral economists' data, and how we ought morally to evaluate these marketing techniques.

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Art Van: A Common Case

Art Van is a successful statewide furniture chain in Michigan. They have a large advertising budget with loud yelling TV commercials and bright newsprint that announces its new sale every week. One week it is an anniversary sale, the next week it is an inventory reduction sale, the following week it has a "three day only" up to 65% off sale, and this week "it's all on sale." The sales are constant and like many furniture stores, nothing is ever offered at "full price." The customer can always be assured of "saving." The approach seems to have worked on the customer's psyche. They have sales every week, but the masses are still drawn to them. When they say "We have never had a sale like this sale," most of us know the prices are not drastically different than last week. But these buzz words still pique our interest and drive us to buy. Even with all the facts in front of us, we feel good about the "deal" we got on the La-Z-boy recliner.

Art Van's marketing techniques are not unique. They are followed by many if not most large retailers in the country. With such widespread usage, the constant sale technique must be working. But why are more people attracted to stores that have constant "sales" than to a store that has similar prices, but does not run a sale? Also, often the "reasonable person" standard is used to assess the morality of marketing techniques. It seemingly sensibly says that only marketing techniques that would deceive a reasonable person are immoral. Art Van's marketing techniques tend to persuade and perhaps deceive the reasonable masses, so are they immoral?

Predictably Irrational

Dan Ariely is a behavioral economist who has looked into why we are attracted to constant sales and other marketing techniques. The thesis in his book *Predictably Irrational* is that economists have been mistaken in assuming that people are acting rationally within a market system. Economists assume that people in general do quite well making decisions to further their own interests. We do a cost benefit analysis and perform that action which has the most benefits with the fewest costs. We do make mistakes, but "market forces" will cause us to correct our actions. For example, we might buy a SUV because it looks cool, but then be forced to trade it in when we cannot afford to drive it. Behavioral economists like Ariely contend that this is a rosy picture of human nature. Their findings show us that we are often irrational in our decisions, and we are irrational over and over again. We can overcome this irrationality, but the draw will always be there. The illusion of a good deal is similar to visual illusions. The Müller-Lyer illusion is of two lines that seem to be of different lengths due to different types of arrow like lines attached to them, but upon closer measurement are the same. Yet, even when we know the lines are the same length, visually they still look different lengths. Marketing techniques work a similar way and seem to be even more beguiling for they have strong motivational effects even when we know that they are irrational (Ariely 2009).

One of Ariely's examples of irrationality comes from an advertisement in *The Economist* magazine (The *Economist* claims the ad was accidental). The advertisement was for the economist on-line for \$59, the print-only subscription for \$125, and the on-line and print subscription for \$125. Ariely found that 84% his smart MIT students wanted joint on-line and print subscription and 16% wanted to the on-line only version. No one wisely chose the print-only. He then gave the ad to a similar group of MIT students but took out the print-only subscription that no one chose and which seemed to be irrelevant to their choices. But taking out this option resulted in 68% of the students choosing the on-line only version and 32% choosing the print and on-line option. Ariely calls this the decoy effect where the comparison makes us behave irrationally. The rationally irrelevant addition of the print-only subscription makes us think that we are getting something for nothing, and in many cases an irrational decision is made (Ariely 2009, pp. 4–6).

Ariely tells of another decoy story that happened at Williams-Sonoma. They had a \$275 bread maker that was not selling well. They brought in a Marketing expert who recommended that they bring in another bread maker that was larger and fifty percent higher in price. The gimmick worked and the presence of the more expensive bread maker caused the now cheaper looking \$275 dollar bread maker to fly off the shelves. The decoy made customers want something that they normally would think was too expensive and they did not need (Ariely 2009, pp. 14–15). Similar examples can be seen all around. I have often wondered why they make five thousand dollar televisions that very few people can afford to buy. One answer is that they help to sell the fifteen hundred dollar sets that with a little stretch many people can afford. The five thousand dollar set makes the fifteen hundred dollar set look like a relative bargain.

Getting something for free is something that we all like, but behavioral economists show us that free stuff actually makes us irrational. Ariely shows in several examples that we value free things more than we should. His example is of giving people the option of a chocolate truffle at 15 cents or a Hershey's Kiss at 1 cent. 73% chose the truffle. When the truffle price was lowered to 14 cents and the Kiss was free, the whole dynamic changed. Now, 69% of people chose the free kiss over the truffle (Ariely 2009, p. 52). Being free made the product was much more valuable. We know that free deals are everywhere in marketing and like the ArtVan sales we continue to fall for them. We are told that if we buy three tires, then we get the fourth one free. Amazon.com tells us that if we buy two books then we get free shipping. These free offers sometimes cause us to do irrational things. We might buy a book that we did not want, or buy sale tires even when non-sale tires are a better deal. Thus, free merchandise causes irrational decisions. The irrational attraction to free things might even explain why "buy one get one free" sales are often more successful than 50% off sales.

The Moral Assessment of Marketing in General

Marketers commonly defend their actions by saying that they are simply supplying what the consumer wants and needs. Theodore Levitt claims that advertising is analogous to art. Art fulfills the human desire for beauty, enrichment, imagination, and entertainment (Levitt 1974, pp. 84–92). Entertaining ads during the Super bowl and Art Van commercials satisfy these uniquely human needs. John Kenneth Galbraith disagrees. He criticizes ads for creating desires rather than satisfying them. People did not want the $275 dollar bread maker until the $400 one was presented. People are manipulated into developing wants that they would otherwise not have. Galbraith believes that as a result consumers spend their money on private goods like expensive bread makers and then ignore public goods like art, parks, and clean air that without advertising people would desire (1976). Advertising is not like art, it is a substitute for art. For Galbraith it is the bad consequences of marketing, rather than deceptive intentions, that makes it morally suspect. Art Van would have a very different marketing campaign if it was simply supplying what the consumer wants. They get many people thinking: "I don't really need a new sofa, but at 60% off it is very tempting."

A second defense of advertising is the claim that we are dealing with adults and adults are rational persons. They can make the choice not to buy the product or perform the action. People are not as irrational as Galbraith suggests and consumers are at fault when they irrationally fall for these marketing techniques. The consumer should have more fortitude. In one sense, this position seems right. People should read books like Ariely's and try to overcome or work within their irrationalities. Ariely even suggests tips to overcome irrationality by using devices, such as smart credit cards that alert one's spouse upon one's giving into a temptation. Nevertheless, focusing on the responsibility of the consumer does not alleviate the entire responsibility of the marketer. Kant rightly teaches us that the marketer should not try to use people. Consumers should not be fools, and marketers should not be foolers. Analogously, I may be unwise to leave my house unlocked, but my doing so does not negate the blameworthiness of the robber.

The Rational and Ignorant Persons Standards

The marketers might reply that they are not trying to fool people. They are simply presenting their product in a persuasive and entertaining way. Some illogical people may be deceived, but that is not the intent and the average "rational person" will not be. Advertisers should not be held to such a high standard. As Manuel Valazquez says, "Advertisers should take into account the interpretive capacities of the audience when they determine the content of an advertisement. Most buyers can be expected to be reasonably intelligent and possess a healthy skepticism concerning the exaggerated claims advertisers make for their products (2006, p. 286)." The rational person approach does seem reasonable. It does not hold either the marketer or the consumer to an unusually high standard. One initial worry about the theory is that marketers would still be allowed to fool the most vulnerable members of society who need to be protected the most. Taking advantage of people such as children and the elderly seems particularly troubling. But there could be extra restrictions put on ads that target those markets. For example, toys and caskets currently have more stringent marketing requirements than cars and running shoes.

Behavioral economists point to a second major problem with the "rational person" standard: it's assumption that most people are rational. What we have seen with Ariely is on the contrary most people are irrational. They fall for marketing tricks over and over and over again. We continually fall for free "giveaways" and stores with constant "sales." So, perhaps the rational person theory holds the consumer to an unusually high standard, as most people have very strong irrational tendencies. The free shipping that Amazon gives us is like giving fee drugs to a known drug addict or using Müller-Lyer tricks to make their products look bigger than they are. It is a rare person who can overcome these ingrained tendencies. Much of what we buy does not have such a detrimental effect as hard drugs, but Galbraith seems right that we may be foregoing public goods that we would value without the constant bombardment of these marketing techniques.

The Supreme Court seemed to recognize this problem in 1937's *FTC vs. Standard Education.* Standard Education's agents gave away a set of encyclopedias for free, and then the buyer only had to pay $69.50 for updated inserts. The "free" approach convinced even doctors and professors to buy the inserts even though the books and inserts were regularly sold for the same price. The courts said that their marketing practices were overly deceptive and the Federal Trade Commission (FTC) could prohibit them. The court declared that intentional deception was wrong and advocated what is frequently called the ignorant consumer standard.

The ignorant consumer standard says that event marketing practices that deceive the naïve and ill-informed consumers should be banned. There is a responsibility to protect the trusting as well as the rational and cautious customer. Such an approach might seem appropriate given Ariely's research and the Standard Education case which shows most everyone is frequently intellectually naïve. Most all of us are now protected from being used. The standard holds that Art Van, the *Economist*, and almost all infomercials which claim "but wait, for free we will include not one but two extra of these amazing devices" are immoral.

Many thought that this standard was too stringent on marketers, and even the FTC eventually found that they could not protect everyone from everything. Thus, the FTC modified their approach by only going after marketers who deceived large numbers of people. The modified standard would still prohibit Standard Education's practices due to the prevalent deception, but what about Ariely's cases? No one is withholding valuable information in the *Economist* or bread maker cases. As the deception is widespread, it should be censured by the FTC, but are they using people?

The main problem the modified standard is that the masses like these commercials. They watch television often for these advertisements and enjoy the entertainment provided. They know they are being naïve, but the thrill of getting something for free or buying on sale is worth it. Consumers want to be entertained and they want to buy; this is why they read or watch the advertisement. They are like a novice swimmer who wants to swim, but gets to the end of the diving board and needs a little push. The marketers are providing this push and Ariely has exposed the psychology behind it. Yet, this does not open the flood gates for any type of marketing technique. Consumers can still be unjustly used as a mere means by being subjected to detrimental deceptions or falsehoods. Thus, we will turn to a sketch of a new approach to marketing protection.

The Reflective Rational Person

The reflective rational person approach says that consumers are not being treated as a mere means if they accept the way they were treated after reflection. The consumer becomes rational after reflection. This approach protects consumers from serious deception, but it preserves the beauty and entertainment of advertisements. The consumer's long-term logical thinking is preserved, even if suspended in the short term. The theory says that if people say things such as, "I know it was irrational to take the free item, but free items are fun and I still like the Hershey kiss" or "I know that the sale at Art Van is a weekly sale, but it felt good shopping there and I like my new couch" then the person is not being used as a mere means. If Art Van's sale prices are actually much higher than the competition's prices or their products are considerably inferior for the price, then they are using the consumer and their action was wrong.

Another example currently popular in infomercials is to offer a lifetime of free pads for a mop and then in fine print or a hushed voice to say that you must just pay shipping and handling. Unlike the Standard Education case, the marketer is not withholding vital information. Also, if the consumer purchases the mop in part due to the free lifetime pads, she will likely only have buyer's remorse if the shipping and handling costs more than pads for a similar mop in a local store. After all, no reasonable person on reflection should think a company could stay in business giving away such things for free for a lifetime.

The rational reflective person standard does seem to be commonly considered. Most retailers have generous return policies that give buyers 30 days to return the product. These return policies may be what make the consumer and perhaps the FTC more willing to allow deceptive practices. The consumer knows that on reflection she can simply take the product back with little cost. However, many wrongly believe that the rational reflective person standard legally applies to agreements for large purchases, such as houses and cars. Morally, it does seem like there should be a 3-day return policy, but rarely is it the law. Unfortunately, in general, the law is not on the buyer's side, and any return is dependent upon the good will of the seller.

Although it is an improvement over the alternatives, there are some problems with the reflective rational person standard. First, the most vulnerable consumer is not protected. As mentioned above, this problem can be somewhat alleviated by having special restrictions on marketing practices when such groups are targeted. The FTC does use special precaution when it comes to children and certain products.

Second, people often do not reflect after a purchase or when they do they are unable to assess if they were treated within fair limits. For example, it was very difficult for consumers in 1937 of Standard Education's encyclopedias to know that the standard price for encyclopedias and the inserts. Today, though, the open access to information through easy transportation and the internet should help to alleviate this problem. There is no requirement that people reflect, but, in general, the opportunity is available. Special precaution would need to be given to people, such the very poor, who do not have ready access to information.

Third, overtly manipulative marketing practices would be considered permissible if people do not mind them. The marketer is saying I am going to try to fool you and the consumer is saying "go ahead, it's fun." It is deception, but perhaps not problematic because people are agreeing to it. The consumer is saying, "Try to fool me, but don't go too far." It is similar to going to a hypnotist to be fooled and entertained, but we expect it to be limited to the performance hall. This consent means that the consumer is not being treated as a means only.

The consent may be a problem because it seems to be given in retrospect. Consent is normally required before the activity. If the hypnotist tricks us without knowing it, we might feel used even if it was simply for our own entertainment. Marketing techniques might be different because they are so prevalent. We know they are constantly on television, the web, or in print. They are almost everywhere we look. The ubiquitous nature of marketing also means that our knowledge of it in general is quite strong. We should not be and are not usually surprised by marketing techniques that lure us to buy things we normally would not have considered. We are consenting by just being part of an open market society. The reflection part is then less a mater of consent and more one of performance evaluation.

Conclusion

Art Van’s ads and similar techniques are part of our everyday life. For many they are entertaining and for most they are alluring. Dan Ariely helps us to understand why it is difficult to avoid being attracted to them. He shows us that most of us are irrational. Sales and free items stupefy the mind. Yet, the exposing of our weakness and marketer’s deception does not mean we should prohibit such techniques. Rather we should allow deception within limits. Marketers cannot tell falsehoods and marketers cannot unduly deceive as in the Standard Education case. Yet, marketers can deceive as long as consumers in rational reflective mode still look kindly upon the deception. Within these constraints, perhaps consumers can enjoy the entertainment and joy that marketers supply, and not feel manipulated in the end.

References

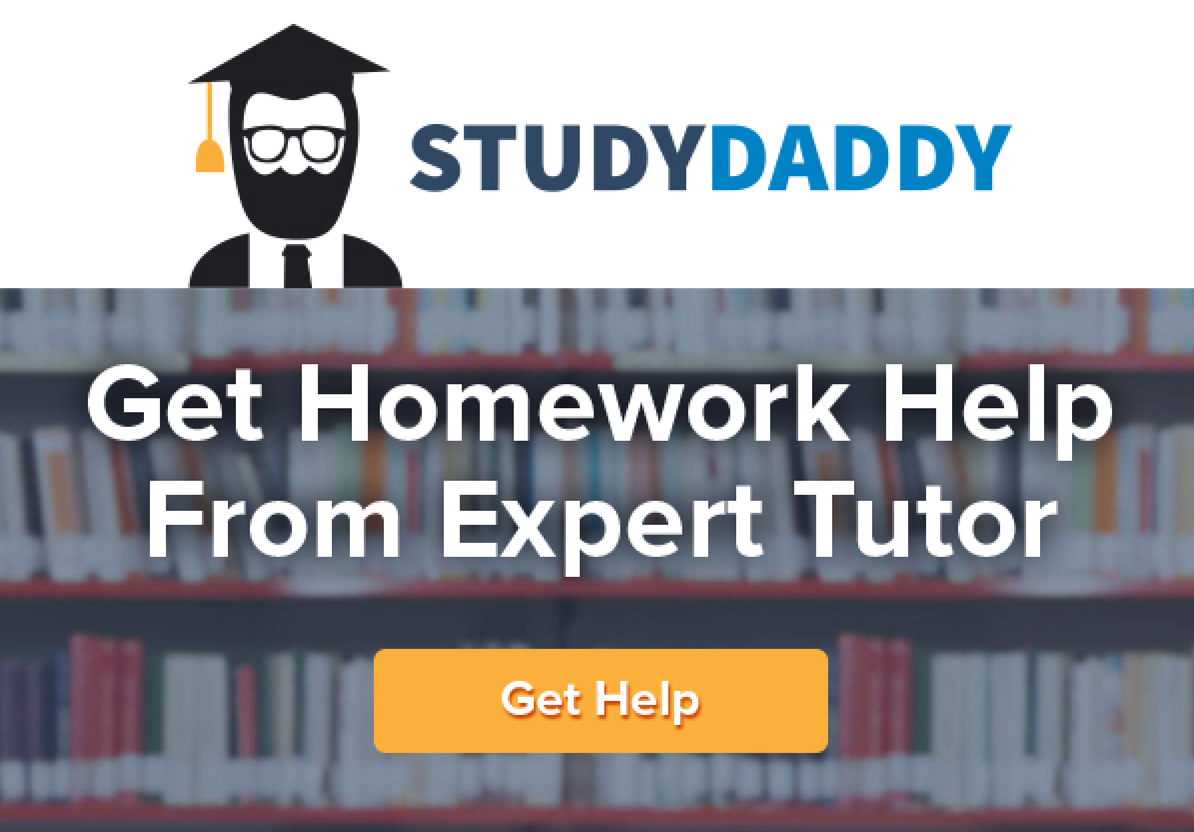
Ariely, D. (2009). *Predictably irrational: The hidden forces that shape our decisions* (Rev. ed.). New York: HarperCollins.

Galbraith, J. K. (1976). *The affluent society* (3rd ed.). New York: Houghton Mifflin.

Levitt, T. (1974). The morality of advertising. *Harvard Business Review, 48*(July–August), 84–92.

Preston, I. L. (1996). *The great American blow-up: Puffery in advertising and selling* (Rev. ed.). Madison: University of Wisconsin Press, pp. 121–123.

Velasquez, M. (2006). *Business ethics: Cases and concepts* (3rd ed.). Upper Saddle River, NJ: Pearson Prentice Hall, p. 286.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