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Economists' Hubris – The Case of Business Ethics In Financial Services

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Abstract

This is the sixth article in the Economists' hubris paper series, which aims to critically examine the practical applications of academic thinking. The focus of this article is business ethics, with a specific focus on the financial services industry. The main challenges that one faces in determining whether businesses do in fact act unethically, intentionally or otherwise, are that there are no universally agreed parameters for describing ethical behavior; that ethicality seems to be in the eye of the beholder; and that since we are relying solely on external data, and do not have access to the thinking processes that lead to different business decisions, we are unable to state categorically that the management knew ex-post that a given decision would result in an unethical outcome. Given these difficulties, this article suggests that firstly, while most businesses don't necessarily set out to act unethically, when ethics and profitability collide the latter seems to win most of the time and secondly, that should companies decide to, or inadvertently, act unethically they have learned from the actions of Western governments how to manage the ramifications. The increasing influence that businesses now have over those that monitor them, including governments and the media, could potentially lead to corporations becoming less concerned about the ethical ramifications of their actions and consequently result in the concept of business ethics becoming even less viable from a practical perspective.

1 The views expressed in this article are those of the author and do not in any way represent those of Capco Institute, Capco, FIS, or any of their affiliate companies or clients.

INTRODUCTION

The recent global financial crisis, which somehow never seems to end, has brought the issue of business ethics to the fore once again. Many are asking why the banks behaved the way they did in the run up to the crisis and why they were allowed to simply pay financial penalties without having to admit any wrongdoing. More importantly, as Ben Bernanke, the Chairman of the Federal Reserve at the time of the crisis and one of the people credited with saving the banking system, recently asked [Page (2015)], why weren't there more prosecutions of the executives at these financial institutions? Executives whose actions prior to the crash he judged to be "bad business and immoral."[2] It is a fair question. Why were they behaving that way, and why were they able to avoid having to accept they behaved wrongly? Of course, the people who are asking these questions now are either too young to know or have simply forgotten how the banks behaved during the Internet boom of the late 1990s.

Those of us who followed the endeavors of Elliot Spitzer remember vividly the types of emails he was able to uncover about what investment analysts really thought about some of the stocks they were issuing buy recommendations on, which their colleagues were pushing onto clients, institutional or otherwise. The famous clarification of what Henry Blodget meant by PoS will forever be etched on the minds of those of us who knew that the Internet bubble of the late 1990s was nothing but that [Cassidy (2003)]. But, the issue is that even during those investigations most financial institutions simply paid their penalties and neither accepted nor rejected any wrongdoing. They just paid a fine and moved on.

Of course, some of the more recent issues that financial services firms have faced, such as the LIBOR-fixing scandal or money laundering, have resulted in some accepting criminal behavior, and it would be interesting to see what impact they might have with regards to U.S.-style class action suits by investors. But, by and large the so-called too-big-to-fail institutions that perpetrated these deeds have remained intact and their share prices seem to go up with every penalty paid.[3]

In response to the recent crisis, the public fury at the use of taxpayer funds to bail out a number of these institutions, the never-ending series of wrongful behaviors by the banks and the need for the governments to be seen to be doing something, a number or initiatives were undertaken. These ranged from ring-fencing investment banking activities away from the retail and commercial banking activities of banks (as suggested by The Independent Commission on Banking: The Vickers Report),[4] to the myriad of regulations, which are just too long to mention here, that were introduced by the Dodd-Frank Wall Street Reform and Consumer Protection Act,[5] to the limits on bonuses that were introduced by the European regulators and, of course, MiFID II and Solvency II. The list and the requirements of the new regulations introduced are extensive and complicated, and are beyond the scope of this article.

However, one of the responses of the U.K. regulators is of import to this article: the issue of "risk culture." Hector Sants, the CEO of the Financial Services Authority (FSA) between 2007 and 2012, made a number of speeches about the importance of culture within financial services firms and how steps needed to be taken by regulators to ensure that unacceptable cultures within firms are identified [Sants (2010a, b)]. Sants (2010a) stated that: "Historically regulators have avoided judging culture and behavior as it has been seen as too judgmental a role to play. However, given the issues we continue to see over time, I believe this one-dimensional approach has to be questioned. Every other aspect of the regulatory framework is under scrutiny and we should not shy away from debating the culture question."

Since Sants' speeches, many have started looking at the topic of risk culture and how to implement the guidelines that the FSA, now the Financial Conduct Authority (FCA), and the Prudential Regulatory Authority (PRA), as well as the Financial Stability Board (FSB)[6] have set for these firms. While the number of academic studies in this space is still quite small, with the most comprehensive so far being Power et al. (2013) and Jackson (2014), most consulting firms have published numerous reports on the topic and advised how firms should go about implementing the guidelines set by the FCA.

Clive Adamson, Director of Supervision at the FCA, stated at the CFA Society's U.K. Professionalism Conference in London that the FCA's approach to assessing culture is "to draw conclusions about culture from what we observe about a firm – in other words, joining the dots rather than assessing culture directly. This can be through a range of different measures such as how a firm responds to, and deals with, regulatory issues; what customers are actually

2 Please refer to this HARDtalk twitter link for Ben Bernanke's comments on Wall Street bankers: https://goo.gl/tWf29C

3 According to Reuters, "Twenty of the world's biggest banks have paid more than U.S.$235 billion (150 billion pounds) in fines and compensation," since 2008. Reuters: http://goo.gl/dEhl1g

4 The full text of Vicker's report is available from the website of the Library of the House of Commons via this link: http://goo.gl/OhFjfE

5 The full text of the Dodd-Frank Wall Street Reform and Consumer Protection Act can be obtained via this link from the website of the Securities and Exchange Commission: https://goo.gl/K9FGqY

6 Please refer to this FSB link for their framework for assessing risk culture: http://goo.gl/5G1gDE; also the following link for how serious risk culture failing will be addressed by the PRA: http://goo.gl/o1adZn

experiencing when they buy a product or service from front-line staff; how a firm runs its product approval process and the considerations around these; the manner in which decisions are made or escalated; the behavior of that firm on certain markets; and even the remuneration structures. We also look at how a board engages in those issues, including whether it probes high return products or business lines, and whether it understands strategies for cross-selling products, how fast growth is obtained and whether products are being sold to markets they are designed for. We are able, from all of this, to draw conclusions about the culture of a firm. This includes assessing if the perceived customer-focused culture is supported by, for example, regular discussions on conduct at board level and appropriate sales incentives plans."[7]

Needless to say, that each firm is now instituting, or trying to institute, the necessary structures so as to become compliant with the FCA's guidelines.

The U.S. regulators have also focused on this topic and the President and CEO of the New York Fed, William C. Dudley, made a speech about how important culture is to the safety of the financial institutions themselves and the industry as a whole and that should the firms fail to correct their cultures they might find that their firms might be downsized in order to maintain financial stability.[8] However, Mr. Dudley acknowledged that "regardless what supervisors want to do, a good culture cannot simply be mandated by regulation or imposed by supervision." Hence, the kinds of guidelines established by the FCA might not be instituted in the U.S.

From personal experience, however, I can confirm that senior executives at most of the major U.S. financial institutions have taken the speech by Mr. Dudley very seriously and are trying to learn from their European counterparts, specifically U.K. financial institutions, what they need to do in order to improve the risk culture of their organizations.

Irrespective of whether the FCA guidelines are instituted or not, in my opinion, and experience, it is going to be very difficult to improve risk culture within organizations that live off evaluation, packaging, and dissemination of risk, something they think they understand but recent evidence illustrates otherwise [Shojai and Feiger (2010)].[9] They might become compliant, but it doesn't necessarily follow that they will be able to, or even want to, change their culture, and they are not alone. In fact, most financial executives who have been looking at risk culture recognize this fact; hence the shift in the focus of discussions away from risk culture per se and towards finding out whether and how cultures of businesses can be improved. But, of course, improving the culture of a company, assuming it can be done in practice, doesn't necessarily translate directly into more ethical behavior. And that is the premise of this article; that financial services firms are not alone in acting in a way that many deem unethical, and that the term ethical business is nothing more than an oxymoron, irrespective of the industry you are considering.

Now, I am sure there are many academics who would argue with my take on the subject and genuinely believe that businesses can be both ethical and successful. In fact, many believe they can become even more successful by becoming ethical. I am not so sure. And I will explain in the following sections why despite their best intentions, businesses might never reach the levels of ethicality that academics would deem acceptable.

This paper, which is the sixth article in the Economists' hubris series of papers, looks at the topic of business ethics, with a specific focus on the financial services industry, and is organized as follows. In Section 2, I will explain why business ethics as a subject is so difficult to understand and explain. In Sections 3 and 4, I will explain why the behavior of governments influence how businesses behave, and why there is really no genuine mechanism to ensure that businesses do not act unethically. In Section 5, I will discuss why the pressures on today's businesses makes acting totally ethically very difficult and what lessons the Enron scandal and the bankruptcy of Lehman Brothers provided businesses in responding to crises. Section 6 concludes.

WHAT IS BUSINESS ETHICS?

While I don't for a moment claim to be very knowledgeable about the literature on the subject of business ethics, what I have found is that despite an entire publication dedicated to the subject, namely the Journal of Business Ethics, it is very hard to find articles that take the challenge of improving the ethics of a business head on. While that might have something to do with the fact that different terms are used to describe business ethics, such as such corporate

7 You can find the text of the speech on the FCA website: http://goo.gl/0GbnQ

8 You can view the text of the speech delivered at the Workshop on Reforming Culture and Behavior in the Financial Services Industry, held at the Federal Reserve Bank of New York on October 20th, 2014 via this link: http://goo.gl/qr7iLX

9 Shojai and Feiger (2010) suggest that assuming that the highly dubious mathematical and statistical models developed in universities and applied within financial services firms were accurate, even though they are not, the mere fact that financial services firms are dealing with multiple banking and trading systems in multiple locations, combined with problems that compensations cause when evaluating risk profiles of each desk, means that there is absolutely no way that financial institutions will be able to obtain a holistic view of the risks they face and hence manage them.

social responsibility (CSR), corporate citizenship, sustainability, being moral, etc., the reality is that it is very hard to describe what ethical behavior actually looks like.

Ethics is in the eye of the beholder. What might seem as unethical to one person might seem completely ethical to someone else. For example, some might view the fact that Western companies are moving manufacturing jobs to locations where labor is cheaper, such as China and India, as unethical, while others might view it as quite ethical, since it is helping bring a large number of people in these poor countries out of poverty, as it certainly has. Nonetheless, it certainly does not look very ethical from the perspective of those who have lost their jobs in the West, and there is no shortage of politicians and unions who believe this is the wrong thing to do. While this might be an extreme example, it does demonstrate that literally daily decisions of companies can result in actions that might be deemed unethical. And therein lies the problem, since we are not talking about companies not committing fraud, we are talking about companies behaving unethically.

It is not hard to determine whether a company has acted illegally or fraudulently, but it is very hard to determine whether specific actions by an organization are unethical, or otherwise. Furthermore, as Black and Anderson (2013) explain, "The question of what these ethical standards should be, how we judge them, and what we are ultimately aiming for, is central to this debate. When an aspect of the law needs to be determined, there is a mechanism for deciding what the outcome should be. But how should ethics and its grey areas be determined? Should public opinion be the point of reference? To do so could be a dangerous approach as public attitudes can change over time – ethics is not a static concept. While we may agree the norms at a high level, how they are applied in practice will be hotly contested and bitterly fought. We can already see this in the retail sector, where the line between 'mis-selling' and 'mis-buying' can be closely contested. What constitutes a 'mis-sold' product for one person, may be seen as a fair transaction for another. Clients and shareholders can also push firms to conclude transactions or pursue profits at the expense of ethics."

In support of this statement, there are many, including myself, who don't only blame the banks for the recent property market crisis. It is true that they should not have given many of the property loans that they did, but no one forced the borrowers to borrow either. They took on those loans knowing full well whether they were able to repay them or not. So, who acted unethically? The mortgage lender who knew the borrower was unable to repay their loan or the borrower who took on a loan they knew they could not repay? Would the fact that one company uses its connections to beat another company that also used its connections during a tender be considered unethical? Isn't that part of everyday business? Would the employees of the company that won truly think what they did was unethical? Or are both firms unethical for using their connections to get private information to win the business? If that is the perspective one takes, how would one go about viewing client expense accounts? Should those be banned, as they might tie the client to the company that wants their business?

In fact, don't academics use personal contacts for getting articles published where they can, or promotions? Don't they cite articles and theorems with questionable validity, as is very prevalent in social sciences, simply because it's accepted wisdom to quote them? Are they also not acting unethically? If they didn't, you would not have so many unnecessary economics articles published by the same group of academic institutions within so-called tier-1 economics journals. How many of those articles are of any practical use or genuinely scientific?[10] How many predicted the current crisis and its true causes? Don't charities, or religious organizations for that matter, act unethically when they give special treatment to major donors or powerful individuals? Do we all have the same opportunities to meet religious leaders? Somehow I doubt that. It is fully within one's rights to ask, "shouldn't these religious organizations or charities treat everyone equally"? And yet, businesses are accused of acting unethically by those same individuals and organizations who act in exactly the same manner when the opportunity arises. Lee (2010) provides an interesting comparison of the potential for dishonesty between business executives and preachers, politicians, and professors, and concludes that "in business the costs of determining honesty are smaller and the benefits greater than in the other three areas... the lower the costs and the greater the benefits of determining honesty, the more restricted are the opportunities to profit from dishonesty – and the less dishonesty will surface. Based on these arguments, my conclusion is that, as a rule, businessmen are more honest than preachers, politicians, and professors when making claims about their products."

10 One of the most fascinating comments about the scientific and useful nature of the work of economists was made by Friedrich August von Hayek during his prize lecture for the Nobel Prize in Economics in 1974, where he said that: "It seems to me that this failure of the economists to guide policy more successfully is closely connected with their propensity to imitate as closely as possible the procedures of the brilliantly successful physical sciences – an attempt which in our field may lead to outright error. It is an approach which has come to be described as the "scientistic" attitude – an attitude which, as I defined it some thirty years ago," is decidedly unscientific in the true sense of the word, since it involves a mechanical and uncritical application of habits of thought to fields different from those in which they have been formed." I want today to begin by explaining how some of the gravest errors of recent economic policy are a direct consequence of this scientistic error." You can read the entire speech on the Nobel Prize website: http://goo.gl/HDLSXd. See also Shojai and Feiger (2011) for the practical applications of award winning articles in finance.

The challenge of acting ethically, of course, becomes more difficult when international perspectives are taken into account. For example, what might seem ethical behavior to Indians might be, and probably is, very different to what U.S. or French citizens consider ethical. And ethicality changes with time, as behaviors become more or less acceptable.

Of course, the mere fact that it is hard to describe what ethical behavior on the part of management looks like has not stopped a number of academics from claiming that companies can and should act ethically and benefit from it.[11] The challenge, of course, is proving that is the case. Visser (2010) provides a summary of some of the findings in this space. He finds that, similar to other studies in economics, the "findings vary." For example, Griffin and Mahon (1997) reviewed 25 years of studies and found that a majority showed a positive link between CSR and financial performance, while Margolis and Walsh (2001) reviewed 80 studies, of which 42 show a positive relationship, 19 demonstrate no relationship, and four find a negative one. Two reports by SustainAbility (2001, 2002) also suggest mixed results. Some relationships between sustainability factors and business success factors are stronger than others, and in many cases, no relationship exists. Economist Arthur Laffer, on the other hand, in a review of Business Ethics magazine's 100 Best Corporate Citizens found "no significant positive correlation between CSR and business profitability as determined by standard measures" [Gupte (2005)]. Verschoor (1998) found that the financial performance of those corporations that, in their annual reports, commit to ethical behavior toward their stakeholders or emphasize compliance with their code of conduct (at the time of the study they accounted for 26.8% of 500 largest U.S. corporations) is significantly higher than those that didn't.

The challenge of determining whether there is a strong causality between acting ethically and improved business performance is exacerbated by the fact that different studies and organizations use different parameters to measure ethicality. The Institute of Business Ethics in the U.K., for example, uses the following parameters to determine ethicality: having a code of ethics, ratings for managing socio/ethical risks and being cited consistently in the annual list of Britain's Most Admired Companies [Webley and More (2003)]. The Ethisphere Institute uses a completely different methodology. Its corporate Ethics Quotient (EQTM) consists of five core categories: ethics and compliance program (weighting 35%), corporate citizenship and responsibility (20%), culture of ethics (20%), governance (15%) and leadership, innovation and reputation (10%).[12]

Furthermore, since all studies into business ethics have to rely on externally available information it is almost impossible to determine whether the parameters they have selected accurately encapsulate the thinking that went behind the decision that lead to the unethical behavior. This is because if the management's actions do result in an unethical outcome you need to be able to ascertain whether they were aware of it ex-post or whether it was a case of unintended consequences. Sadly, no one outside the group making the decision at the time has any idea of what the thought process was at the time the decision was made.

The long list of failed mergers proves that it is almost impossible to know what is really going on inside a company from the outside, and that is despite the bidding company spending months looking at, and talking with, the target. How are academics or analysts going to get information about how ethical, or not, a company really is from the outside? I am sure very few really thought that Enron or Bernard L. Madoff Investment Securities LLC were truly unethical companies before they both imploded. The latter even had money from a number of reputable charities, and according to Bragg (2002), Enron contributed millions of dollars to charities. Hence if you use associations with charities and the church as one of the parameters in your model, you would have missed both these firms. I am also pretty sure that Volkswagen was on many people's list of the most ethical companies, specifically because unions sit on the supervisory board of the company and so the company is deemed to work in the best interests of not only shareholders but also other stakeholders.

From a purely business perspective, Karnani (2010) makes a very important point when he says that: "the idea that companies have a responsibility to act in the public interest and will profit from doing so is fundamentally flawed." He goes on to make a very pertinent point, which is that "Very simply, in cases where private profits and public interests are aligned, the idea of corporate social responsibility is irrelevant: companies that simply do everything they can to boost profits will end up increasing social welfare. In circumstances in which profits and social welfare are in direct opposition, an appeal to corporate social responsibility will almost always be ineffective, because executives are unlikely to act voluntarily in the public interest and against shareholder interests. (...) Executives are hired to maximize profits; that is their responsibility to their

11 Denis Collins, who kindly reviewed this article, suggested that I have focused solely on the most extreme form of ethical theory, namely deontology/virtue ethics, and that I have ignored the other five important theories. The six theories of ethics (egoism, social group relativism, cultural relativism, utilitarianism, deontology and virtue) are easy to understand, and if one is honest quite commendable [Collins (2012)]. However, sadly while I am certain they are rich in connotations for academics researching this discipline, they are relatively unknown to most executives, and even the general public for that matter, and consequently rarely arise during discussions of implications of business decisions or in the internal struggles employees have over such issues.

12 Descriptions of the categories are available via this link: http://goo.gl/Q8rczi

company's shareholders. Even if executives wanted to forgo some profit to benefit society, they could expect to lose their jobs if they tried – and be replaced by managers who would restore profit as the top priority. The movement for corporate social responsibility is in direct opposition, in such cases, to the movement for better corporate governance, which demands that managers fulfill their fiduciary duty to act in the shareholders' interest or be relieved of their responsibilities. That's one reason so many companies talk a great deal about social responsibility but do nothing – a tactic known as greenwashing."

I cannot imagine many executives arguing with these facts. Of course, there are many academics who think that it is possible to do both, and when the two interact it certainly happens, but to suggest that firms should forgo profitable opportunities in order to be beneficial to society is not only naïve but also ignores the main economic objective of public corporations, which is to maximize shareholder wealth.

The shareholder wealth maximization principle is only one of the foundational concepts in finance that makes business ethics a difficult topic to tackle from the perspective of the finance discipline. The theory of agency costs [Jensen and Meckling (1976)], which suggests that managers are unethical by their nature and should be controlled since they use their private, internal, information about the firm to maximize their own wealth at the expense of the owners, is another. If we assume, as most finance academics do, that the unethicality of managers is given, then there really is not much that they can do that would surprise us. There are, of course, some academics who view the agency cost theory as oversimplistic [Clarke (2014)] and accuse it of ignoring the fact that there are many managers who can and do work in the best interest of the shareholders [Carlin and Gervais (2009)], but sadly they are a small minority. Most finance academics have to accept many of the highly contentious finance theories, such as agency costs, as given and not question them if they wish to get their papers accepted in the so-called top finance journals. This might help explain why Bernardi et al. (2008) find that "none of finance's top-40 journals or the journals listed in finance's version of Cabel's (2004) indicates an interest in ethics research."

The truth is that those who believe they have found significant relationships between ethical business and economic success are placing a lot of faith in the data's ability to scientifically quantify and determine ethicality,[13] a situation not much different to financial economics who believe that they can quantify asset prices and investment returns using so-called risk-adjusted models [Shojai and Feiger (2009)]. Furthermore, there is some evidence to suggest that in many cases economists don't even realize that their personal perspectives on issues actually impacts their findings. For example, a recent study by a team from Columbia Business School into the impact of political leanings on the areas they research and the findings of their studies found a (significant) correlation between the ideologies of authors and the numerical results in their papers. "That means that a left-leaning economist is more likely to report numerical results aligned with liberal ideology (and the same is true for right-leaning economists and conservative ideology)" [Jelveh et al. (2014)]. Moosa (2013) also finds that many academics run statistical models and then add and remove variables until they get significance in the direction they are looking for. Consequently, if you want to find that more ethical businesses experience better performance you will find data to support it.

A simple test of the difficulty in determining the ethicality of business is perhaps asking some of your colleagues, friends, or students to name five companies that they consider to be ethical and to explain why. Then genuinely try and find out if they truly are ethical or not, irrespective of what your personal description of ethical is. You will seriously struggle to find many people who can name such companies. I have been a student, lecturer, and employee in the field of finance and financial services for over 20 years and I am struggling to think of one company that would meet what I would call ethical. However, that by no means suggests that corporations are behaving unethically. It is just that like most people, I am not sure what corporations should do to achieve the label of being ethical.

Of course, my comments won't persuade those who believe businesses can be both ethical, or in fact have to be, and commercially successful, but I hope that I have at least made a strong enough case for those who have actually worked in the world of business and seen the true state of affairs within most companies. Having a code of ethics does not make you an ethical organization.

13 As Hayek (1974) stated: "Unlike the position that exists in the physical sciences, in economics and other disciplines that deal with essentially complex phenomena, the aspects of the events to be accounted for about which we can get quantitative data are necessarily limited and may not include the important ones. While in the physical sciences it is generally assumed, probably with good reason, that any important factor which determines the observed events will itself be directly observable and measurable, in the study of such complex phenomena as the market, which depend on the actions of many individuals, all the circumstances which will determine the outcome of a process, for reasons which I shall explain later, will hardly ever be fully known or measurable. And while in the physical sciences the investigator will be able to measure what, on the basis of a prima facie theory, he thinks important, in the social sciences often that is treated as important which happens to be accessible to measurement. This is sometimes carried to the point where it is demanded that our theories must be formulated in such terms that they refer only to measurable magnitudes."

LEARNING TO CONTROL THE NARRATIVE, LESSONS FROM THE POLITICAL CLASS

In my personal opinion, two events had a profound impact on the way that today's businesses operate and which support Karnani's proposition that most companies talk a good talk about being ethical but in fact don't do much about it; hence the highly questionable value of the external parameters used above to assess the ethicality of businesses.

The first was the development of the 24 hour news, and in specific its application to the first Gulf War, with the advent of the Internet also being part of that, and the second was the Enron scandal and Lehman Brothers' bankruptcy. Each had, in my opinion, their specific impact on how companies now behave and respond to crises. I will discuss the Enron scandal and Lehman Brother's bankruptcy further below.

The independent press

CNN, which was founded a decade prior to the first Gulf War, was already well-known in the U.S. and a number of Western countries, but it was the first Gulf War that helped bring its specific style of presenting news, 24-hours a day, to the masses worldwide. Their round the clock coverage of the war, with images of the so-called smart bombs (or as U.S. military calls it: precision-guided munition), made for great TV. I remember how impressed and excited I felt watching the images of these rockets destroying Iraq's different military sites. The success of CNN in attracting those interested in the news, and those who became interested as a result of CNN's work, spawned a number of other 24-hour news channels, including BBC, France 24, Russia's RT, Qatar's Al Jazeera, and Fox News.

The benefits of 24 hour news are clear to the viewers. However, those about whom the news was created, namely the politicians and governments, were not so sure how such an environment could be managed, if not controlled.

Well, it didn't take long, and the same war that made CNN was also a great training ground for governments in learning to control what the media should say and what it shouldn't say, and more importantly to create the environment in which they end up having to say what you want them to say.

The first thing that the U.S. government, or military, learned was that by embedding journalists within the military their only source of information becomes you. It's surprising that many news agencies actually claim being embedded with the military during war as something to be proud of. Fox news even has an OpEd from one of its journalists about how lucky he was to be embedded with the military and what a great journalistic experience it was [Leventhal (2013)], even though he could only stick his head out of the back of the armored vehicle once in a while. Obviously, it did not occur to him that it basically meant he only saw the war from the U.S. perspective and that he was not performing his most basic task as a journalist, namely to get perspectives from both sides of the story. It basically means they are not doing any investigative work and are just reporting what they have been told by the military.

Business executives have also learned how to use their PR departments to control what is said about them in the press. The most famous example of how pressures from advertisers can force publications to self-censor was the resignation of Peter Oborne, at the time the Chief Political Commentator of the Daily Telegraph, in response to the publication's refusal to publish a critical article he had written about why HSBC had canceled the accounts of a number of well-known British Muslims for fear of losing advertising from HSBC [Oborne (2015)]. In fact, Peter Oborne even claims in his resignation OpEd that not only was there self-censorship, but that there is a possibility that the advertisers requested that negative comments be removed. He states that: "I researched the newspaper's coverage of HSBC. I learnt that Harry Wilson, the admirable banking correspondent of the Telegraph, had published an online story about HSBC based on a report from a Hong Kong analyst who had claimed there was a 'black hole' in the HSBC accounts. This story was swiftly removed from the Telegraph website, even though there were no problems. When I asked HSBC whether the bank had complained about Wilson's article, or played any role in the decision to remove it, the bank declined to comment. (...) Then, on 4 November 2014, a number of papers reported a blow to HSBC profits as the bank set aside more than £1 billion for customer compensation and an investigation into the rigging of currency markets. This story was the city splash in the Times, Guardian and Mail, making a page lead in the Independent. I inspected the Telegraph coverage. It generated five paragraphs in total on page 5 of the business section."

But, of course, the Telegraph is not alone, most newspapers have to be careful about upsetting advertisers. The issue, however, is that sadly self-censorship is not the biggest problem we face when it comes to news media. The need for 24 hour news coverage, certainly facilitated by the Internet, means that news agencies that are already under financial strains, again brought about by the proliferation of non-print news media on the Internet, are forced to produce more news with fewer people. The result is that they are forced to rely on the help of public relations departments, be they corporate or governmental. Lewis et al. (2008), who looked into press independence in the U.K., found that "60% of press articles and 34% of broadcast stories come wholly or mainly from one of these 'pre-packaged' sources." And that "19% of newspaper stories and 17% of broadcast stories were verifiably derived mainly or wholly from PR material, while less than half the stories we looked at appeared to be entirely independent of traceable PR." The pressure from PR departments and the need to continuously generate news has resulted in the following quote from the Health Editor of The Times, Nigel Hawkes, who says "We are 'churning' stories today, not writing them. Almost everything is recycled from another source […]. It wouldn't be possible to write so many stories otherwise. Yet even more is expected, filing to online outlets is now considered to be part of the job. Specialist writing is much easier because the work is done by agencies and/or writers of press releases. Actually knowing enough to identify stories is no longer important. The work has been deskilled, as well as being greatly amplified in volume, if not in quality" [Lewis et al. (2008)].

The close relationship between PR and the press has in fact reached a point where news organizations even advertise on behalf of corporations without making it seem like an advert. Robert Peston, who has recently left his post as the economics editor of the BBC to join ITV in the U.K., mentioned this in his Charles Wheeler lecture at the University of Westminster in London.[14] Peston stated that: "Today when I talk to my pals on newspapers, they talk of constant pressure – not to get unique and exciting stories, but to find ways of turning what is now called content, and is regarded by bosses largely as a commodity, into money. It is all about, awful word, monetising news. Which, of course, in one sense is completely necessary. There will be no jobs for any of us if there is no way to generate profit from news. But news that is a disguised advert, or has been tainted by commercial interests, is not worth the name. You might say that it is all very well for me to sit here smugly moaning about this, because I am lucky enough to work for the licence-fee funded colossus that is BBC News. But even we are not immune to a trend I fear is pernicious – because I saw an interview the other day with an executive of our commercial arm BBC Worldwide who said it was inevitable that we would be running what are known as native ads. "Native ads" is a terrible Orwellian Newspeak phrase for ads that look like impartial editorial. They could be articles written by a commercial company, or features written about a commercial company by the journalists of a news organisation but sponsored by that company. Or they may be videos either sponsored by a business or produced by the business."

Similarly, articles are published that could be perceived as being biased in support of one side of an argument without following the typical journalistic paths/guidelines. For example, a recent headline stated that "Labour won't admit it, but most people don't really care about tax avoidance." The suggestion is that if it mattered to people then they wouldn't continue buying from companies that have been accused of not paying their fair share of taxes. While that might be true, and people would probably continue buying from companies they don't necessarily deem as being ethical, the mere act of purchasing doesn't suggest they are condoning their actions. Furthermore, what data was this claim based on? But, of course, it fully supports the actions of those companies that have made sure they pay as little tax as possible via schemes that are now being judged to have been illegal.[15] Another recent article claimed that "The fiddling with temperature data is the biggest science scandal ever." This is despite the following quote on NASA's website: "Multiple studies published in peer-reviewed scientific journals show that 97 percent or more of actively publishing climate scientists agree: Climate-warming trends over the past century are very likely due to human activities. In addition, most of the leading scientific organizations worldwide have issued public statements endorsing this position."[16] Interestingly, it seems that even some of the oil companies themselves have known about the relationship between CO_2 emissions and climate change for more than 30 years. Now, of course, it could be that author of the article actually believes what they are saying and has found data to support their position, but the fact that a blogger is quoted as evidence that more than 97% of scientific community are not only wrong but fabricating evidence and that none of the members of this community were allowed to respond to the commentary, which is what you would expect from a professional journalist, might suggest that causing a stir was of greater interest than scientific illumination. More importantly, it supports the position of all those companies that finance research denying climate change, such as the oil companies themselves.

The Internet has not only not helped, it has in fact made matters a lot worse. What most people fail to take into consideration is that while the business models of Internet companies allows them to provide services to you and I for free, it also means that our free services are being paid for by giant corporations. The fact that Facebook and Linkedin, for example, are free is that they live off advertising. Google is the same. You get a free search engine in return for the adverts that they place on your searches.

News organizations are no different. As more people get their news from the Internet, as is quite obviously happening, the economic model of news media is also changing. They are moving away from generating most of their revenues from actual sales of print publications, as well as, of course, the advertising within them, to

14 You can read the full text of Robert Peston's speech via this link: http://goo.gl/qFsBCg
15 The BBC News link to the illegality of the Starbucks and Fiat Chrysler tax deals: http://goo.gl/NEesYV
16 You can view the NASA quote here: http://goo.gl/4SU9hc. You can view the Huffington Post article about Exxon's knowledge of the risks of fossil fuel on climate change here: http://goo.gl/2893t7

becoming predominantly reliant on advertising based on the number of clicks each news item gets. The more clicks they get, the more they can charge advertisers, and as a result the more powerful those advertisers become. The best analogy I can think of is football teams. In the past, a good proportion of a football club's income came from ticket sales. Today, according to Deloitte, ticket sales only make up between 20% and 30% of the revenues of the top clubs. Most of their income comes from broadcast rights and sponsorships and advertising.

In fact, Peter Oborne mentions this phenomenon in his resignation OpEd [Oborne (2015)]. He says that "The arrival of Mr Seiken coincided with the arrival of the click culture. Stories seemed no longer judged by their importance, accuracy or appeal to those who actually bought the paper. The more important measure appeared to be the number of online visits. On 22 September Telegraph online ran a story about a woman with three breasts. One despairing executive told me that it was known this was false even before the story was published. I have no doubt it was published in order to generate online traffic, at which it may have succeeded." And, please remember this is the Daily Telegraph, a highly respected publication, not one of those publications or TV news networks where facts are a mere nuisance.

We have all seen how outlandish and unnecessary topics have been increasingly covered by what used to be considered quality publications in order to attract more comments from the readers. It seems the more comments a topic generates the more advertising revenues can be generated; hence the attraction of publishing offensive commentaries from people that many dislike in order to generate responses.

This race to the bottom has many participants, and its more than simply publishing untruths or nonsensical commentaries. The tone has truly become derogatory in many cases. The worst example that I have recently come across, though I am sure there are probably others, in the U.K. press, which used to be, and to a large extent still is, less hostile and more polite, is the commentary by the Chief Political Correspondent of a major British TV news network, about what the Leader of the Labour Party was wearing for his dinner with the Chinese President in October 2015. This is his description of Jeremy Corbyn: "Dressed in white tie and tails for the state banquet for the Chinese President, Jeremy Corbyn looked more like a downtrodden below-stairs butler or footman in Downtown Abbey than James Bond." First of all, why is how he looks in his suit even news, and why attack so personally someone who is such an important politician, irrespective of whether you agree with him or not. Furthermore, are these the types of comments that a so-called Chief Political Correspondent should make?

Many blame the U.S.-based Fox News for the more partisan and adversarial kind of news that many of us are witnessing today on the major U.S. news channels. Some of its programs use very aggressive tactics and they do not shy away from insulting those they invite to be interviewed. Fox News has also been blamed for replacing journalism that is based on facts with one that is based on opinions.[17] However, while no one can deny that Fox News has had a significant impact on how news is broadcast in the U.S., and to some extent in the U.K., it is not clear that other broadcasters didn't use its existence as an excuse to also change the way that they operate. While different channels support different political parties in the U.S., none are purely news channels anymore, or totally objective, and few have any patience for opposing views. It is within such a partisan environment that one is not certain whether what is being broadcast is based on genuine facts, honest independent opinions, or perspectives that have somehow been influenced by third parties.

Attempts have been made to find out whether U.S. media organizations were influencing their viewers in such a way so as to view misconceptions as facts. One of the most highly publicized studies was undertaken by the Program on International Policy Attitudes (PIPA) at the University of Maryland in conjunction with Knowledge Networks [Kull et al. (2013). The PIPA study, for example, found that among those who receive most of their news from Fox News, 67% believed that links between Iraq and al-Qaeda had been found, 33% felt that weapons of mass destruction were in fact found in Iraq, and 35% believed that the majority of people in the world support the invasion of Iraq by the U.S. In fact, the study finds that 80% of these viewers feel that at least one of these three misconceptions is a fact.

What is interesting is not that 80% of Fox News' audience believe these misconceptions, after all Fox News has made no secret of the fact that it aggressively supports the Republicans, hates the Democrats, and believes the U.S. war in Iraq was both justified and successful [Rosen (2009)]. What is interesting is the fact that no one quotes the findings for the other TV news channels, who don't perform much better. For example, while the 80% number for Fox News is quoted all over the place, no one mentions that 71% of CBS viewers, 61% of ABC viewers and 55% of NBC and CNN viewers also believe that at least one of these three misconceptions is correct.

17 A documentary about Fox News, called "Outfoxed: Rupert Murdoch's war on journalism," provides an interesting insight into how the broadcaster operates. The video is available on Amazon.com via this link: http://goo.gl/IW9Flh

In fact, around 50% of their viewers also think that links between al-Qaeda and Iraq were found. This means that if these numbers are correct more than half of the U.S. TV viewing public believe that at least one of these three misconceptions is correct. In other words, news was presented in such a way that viewers could not make a definite judgement about the invalidity of these comments, even by those TV channels that now claim to be against the war.

When these private corporate-owned broadcasters are compared with publicly-owned broadcasters the differences are startling. For example, among those who obtained most of their news from the National Public Radio (NPR) and the Public Broadcasting Service (PBS) only 23% believed at least one of the three misconceptions, only 16% believed that a link between al-Qaeda and Iraq was found and only 11% believed that WMDs were found in Iraq. It is not exactly clear why such stark differences are obtained between the audiences of public and privately-owned broadcasters, but it does show that there is a greater need for independent public broadcasters to ensure citizens are better informed about facts. Which is why despite the best efforts of some politicians and media owners Britain should do its utmost to retain its highly respected TV news broadcaster, namely the BBC, in public hands.

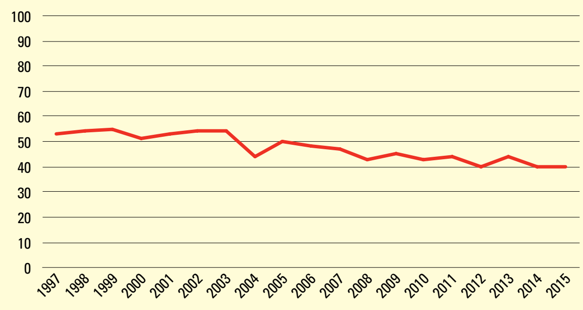
In summary, the pressures of the 24-hour news, aided by the Internet, and falling readership of print media (according to ZenithOptimedia, media consumption has fallen by 31% between 2010 and 2015 for newspapers, while it has risen by 105% for the Internet) [Ingram (2015)], have increased the negotiating position of PR and companies have learned how to use that power to influence. And, we have the Western governments to thank for that.

Why is that news?

The second thing that corporations also learned from Western governments is how to respond when a negative news item breaks. This is what I call the "why is that news" phenomenon. Western governments have mastered the art of managing bad news by asking "why is that news?"

My personal experience with this issue came during the second Gulf War. The U.N. weapons inspectors were sent to investigate Iraq's weapons of mass destruction program. But, the Iraqi government was refusing to let them enter the country because they suspected the inspectors of being CIA spies.[18] Of course, the U.S. was outraged by these allegations and accused the Iraqi government of using a weak excuse to prevent the U.N. inspectors from doing their jobs.[19] Of course, it later transpired that they were spies.[20]

It is not the fact that some of the U.N. inspectors were in fact CIA agents that is newsworthy, what is of interest is the U.S. response to the revelation, which was to say that of course they were spies. Why wouldn't they be? Anyone who didn't realize we would send spies via the U.N. into Iraq is either very naïve or doesn't understand international politics.



Percentage of Americans who have a fair to great deal of trust and confidence in the mass media – such as newspapers, TV, and radio – when it comes to reporting the news fully, accurately, and fairly.
Source: Gallup

Figure 1 – American's trust in the mass media

The same justification was used when European leaders were outraged to find that their phones had been tapped by the U.S. National Security Agency (NSA): why is that news?[21] Most U.S. news organizations interviewed security officials and most said pretty much the same thing, that all allies spy on each other and there is no reason to be shocked by that. Trowbridge (2003) made the U.S. government perspective and response quite clear: "in response to uproar across the Atlantic, current and former U.S. intelligence officials and government leaders have argued that, when it comes to spying on allies, the U.S. isn't alone. "It's well known that our allies do spy on us." It seems what was news was that Snowden had made this information public.

18 One reference to Iraq's reaction is provided in this Sky News link: http://goo.gl/Ni4R9R
19 The response of the U.S. government to the Iraqi accusations is provided in this BBC news link: http://goo.gl/4ri4tl, or in this Washington Post link: https://goo.gl/gNsDC3
20 The original story was published by the Washington Post, and can be viewed via this link: https://goo.gl/LAI42e
21 Reactions to Edward Snowden's revelations that a number of world leaders' phones were tapped by the NSA can be found in this Guardian link: http://goo.gl/6QSH65. Interestingly, even some in the media, including the British media, have used the why is that news response. Charles Moore, the former editor of a major British newspaper, stated that: "I gather that Wikileaks worshippers have been disappointed that the citizens of Britain and the United States have not acclaimed Snowden's courage or been shocked by his revelations. Public opinion seems to have given a worldly shrug and said, "Obviously, our secret services spy on us in cyberspace; what's all the fuss?"

And, of course, the Americans were right. Less than a year after the German outrage over the NSA phone tapping, it was revealed that Bundesnachrichtendienst (BND), the German foreign intelligence agency, was collecting information on European governments, officials, and corporations for the NSA. Later, it transpired that the NSA was using the facilities created to spy on Germans as well.[22]

Obviously, the issue is not whether Edward Snowden and wikileaks are traitors or a heroes, or whether or not governments should tap each other's, and our, calls and emails; and more importantly whether such revelations are even news. The issue is that these events illustrate that there are very powerful media organizations, and in many cases high-end ones, on both sides of the pond who happily jump to the support the actions of governments and corporations, irrespective of whether they are legal or ethical.

The result of such actions have obviously not gone unnoticed. According to Gallup [Riffkin (2015)] around 60% of Americans do not trust mass media's coverage of major events (Figure 1). While that might seem bad, it is still better than how journalists are perceived in Britain, where, according to Ipsos Mori, 72% feel that they can't trust journalists to tell the truth.[23] Despite the bad numbers, journalists can take heart from the fact that in both countries they are still more trusted than their governments.

Obviously, with such media organizations around, corporations feel quite comfortable about saying one thing and doing something completely different, since they know that damages can be controlled somehow. They can also play the "why is that news" card. Unless, of course, the damage is so huge that it cannot be managed, such as the recent Volkswagen emissions scandal. Volkswagen has had to admit that it had installed devices that could detect when they were being tested and changed the performance of the car accordingly to improve results; hiding the fact that under normal driving conditions the cars were producing more than 40 times the permitted nitrogen oxide pollutants. So far, that is bad enough. What is even worse, and sadly doesn't get as much attention it seems is that according to the Financial Times: "EU officials had warned of the dangers of defeat devices two years before the Volkswagen emissions scandal broke, highlighting Europe's failure to police the car industry."[24]

In summary, we find that unless it's a major catastrophe, companies and governments can and do respond by saying "why is that news." Citizens have been trained to accept that unethical acts are undertaken in certain circumstances and the fact that they are revealed should not come as news to anyone.

The situation will certainly get worse as ownership of media organizations becomes more concentrated, as it has been over the years.[25] Lewis et al. (2008) found that 87% of the news items they studied were based on the information of a single source, and that in only 12% of cases where the claims thoroughly corroborated. There is really no fact checking, especially when the claims come from government officials, who can revoke your access to their future press conferences, or companies, who can take their advertisement dollars elsewhere.

SYSTEM OF CHECKS AND BALANCES

If as citizens we cannot rely on the media to be honest with us about what is really going on in the world, and should sort of accept that news can be, and is, distorted, then who should we look for to get any kind of resemblance of facts about the corporations that we do business with? More importantly, from the perspective of this article, how do we know whether they have indeed acted unethically, and should we really expect them to be ethical?

Of course, when most people talk about companies acting ethically these days, they are referring to how they treat their labor, be it domestically or overseas, whether they pay them such that they can have a reasonable quality of life, how they deal with their suppliers,[26] whether they cause pollution, whether they pay their fair share of taxes, and whether they pay bribes to win deals in countries where government officials who tender the contracts are less than scrupulous.

When people are considering these issues, they look to the press, non-governmental organizations (NGOs), and of course their own governments to inform them when a company acts unethically from the perspectives I mentioned above.

22 Der Spiegel: http://goo.gl/XapPuu
23 Ipsos-Mori: https://goo.gl/BvBTIL
24 Financial Times: http://goo.gl/1t8xUP
25 Based on testimony before the House Judiciary Committee examining Comcast's acquisition of NBCUniversal "in 1983, 50 companies owned 90 percent of the media consumed by Americans. By 2012, just six companies – including Fox (then part of News Corporation) and Time Warner – controlled that 90 percent," The New York Times article can be found here: http://goo.gl/mPLOzk. In the U.K., 70% of national news circulation is in the hands of just 3 companies, and BBC and ITV control 88% of the national and international news viewed on TV: http://goo.gl/J7OczD
26 This is typically referred to as fair trade and there are organizations who purport to help companies act in a manner that would be considered fair trade and individuals to buy from companies who have signed up to fair trade, such as the Fair Trade Foundation in the U.K.

Well, I think we have exhausted the idea that the media will report aggressively on whether companies have paid bribes to win deals or treated their suppliers and employees unfairly. Of course, I am not denying that such investigations do happen, and most of us have read and seen such coverage. But, they tend to be either in response to a catastrophe, such as the collapse of the Rana Plaza building in Dhake, Bangladesh,[27] where more than a 1000 people lost their lives, or ad-hoc investigative journalists who go undercover to find out how workers are treated in factories in the East or how some manufacturers pollute the sea, land, or air in the areas where they are based. The discussion on taxes are neverending, and it's quite clear that corporations have the upper hand. Needless to say that the little coverage that these issues do receive don't result in much changing. Of course, in this case the media cannot be blamed since, as was discussed above, they need to write about topics that attract readers online and it seems discussing unethical behavior by companies doesn't. Or at least it doesn't as much as the lost advertising revenues from those companies being covered.

There are also NGOs such as Transparency International that rank the degree to which the public sector of a given country are corrupt. Their annual rankings of corrupt countries is meant to highlight that corruption exists and which countries are the worst offenders. What Transparency International fails to realize is while their rankings, like all rankings, are an interesting read for a couple of days after their publication, they really don't have much of an impact on whether countries become more or less corrupt. In fact, if their ratings were to have any value or benefit at all, they would rank the companies that have paid the most bribes per year. But, obviously that is much harder to ascertain, and the last thing they need is lots of defamation cases in courts from companies that were either unfairly accused, or who knew that only under extremely specific circumstances would their actions be found and proven.

As far as businesses are concerned, Transparency International rankings are in fact quite useful, since they can guide them on how to prepare for dealings with the governments of those countries that are at the bottom of the list. More importantly, and as George Monbiot explained in his column in the Guardian [Manbiot (2015)], the parameters used are simply based on whether bribes are paid to win business and fail to take into account the kinds of corruption that all of us know is rife in the West, such as creation of tax havens, which the City of London is the largest center of, or when connections are used at the highest levels to win business. Just think about how many multi-billion dollar contracts were awarded by the U.S. governments to companies close to the inner circle of President Bush's cabinet without being put out to tender [Fifield (2013)].

And, of course, when large scale corruption on the part of a major corporation becomes public knowledge, they can find protection from their own governments if they are deemed too important to the economy; interestingly those same governments, or their regulators, that have been established to identify and prevent unethical behavior on the part of businesses. The best example of this is, of course, the Serious Fraud Office investigations into alleged bribes paid by British Aerospace (BAE) to win a multi-billion dollar contract to provide military equipment, mostly fighter jets, to Saudi Arabia, which was stopped by the then Prime Minister, Tony Blair, on the grounds of national security.[28] So, next time you feel like accusing banks of abusing their too big to fail status, think again. All companies use their connections to their advantage.

Of course, it's not only in times of crisis that corporations lean on governments for help. Business lobbies are renowned for their efforts to get governments and regulators to water down [such as they have done and continue to do to the Dodd-Frank Act, antipollution regulations, or even executive accountability in financial services firms: Picchi (2015); Hanrahan (2014); Nelsen (2015); Bowers and Treanor (2015)], or even eliminate [such as the Glass-Steagal Act: Brown (1995); Crawford (2011)] regulations that they deem to be harmful to their clients [Cave and Rowell (2014)]. As the recent decision by the FCA to not publish its report into the culture of banking in the U.K. illustrates, they can even prevent critical reports undertaken by the regulators themselves from being published [Dunkley (2015)]. There have, of course, been accusations that the so-called revolving door between financial regulators and financial services firms [Johnson and Kwak (2011); Masters (2012); Ross Sorkin (2011)] ensures that regulations are either not too restrictive or are not executed in the ways they were intended [Popper and Eavis (2014)]. It is hard to determine just how the revolving door actually impacts enforcement by regulators, but there is no doubt that it exists. A recent study by the Federal Reserve Bank of New York [Lucca et al. (2015)] found that while the revolving door does exist, it does not impact the ways in which regulators monitor financial services firms and that their findings do not find support for the so-called quid-pro-quo hypothesis, where the expectations of a future career in financial services firms might impact the strictness with which the regulators enforce regulations. It should be said that the proxy they have used, which is that the number of regulators moving to the private practice should fall during periods of high enforcement activity, is highly dubious, as all such proxies are, and simply does not provide the necessary proof that regulators are in fact being

27 BBC News: http://goo.gl/ZmKP2R
28 BBC News: http://goo.gl/dUlBny

effective in their enforcement duties. The authors themselves acknowledge the shortcomings of the proxies used, though I suspect the proxies have significantly lower explanatory powers than the authors acknowledge.

Nevertheless, despite the fact that the influence of business lobbyists on governments cannot be underestimated, it is not always easy to determine just how successful they really are in getting the changes they aim for. As Drutman (2015) states in his book, while 95% of the biggest spending lobbyists are those representing the interests of businesses it is not always clear they get what they pay for. Furthermore, it doesn't always follow that the changes they aim for are to the detriment of others. However, it would not be too farfetched to claim that similar to the growing influence of business on media, their influence, through their lobbyists, on governments, in specific in the U.S.,[29] and to a lesser extent in the U.K., is also increasing: making their ability to get away with unethical behavior even greater than in the past. Just how much more is up for debate, and beyond the scope of this paper.

The fact of the matter is that corruption is rife everywhere, in different forms, and companies and citizens are fully cognizant of this fact. They realize that in most parts of the world, even in the so-called developed and democratic West, it's the cost of doing business. Some gets reported, but by and large it is overlooked. And, of course, the citizens who buy the products of these companies are neither aware of the full scale of corruption nor naïve enough to think that this specific company is worse than any of the others.

Rating agencies and auditors

Obviously the system of checks and balances within the corporate world doesn't start or end with governments, NGOs, or the media. In most developed countries, it also relies on auditing firms, who review the financial health of organizations and help with the preparation and attestation of the annual reports and accounts, and rating agencies, who evaluate the riskiness of securities issues by large corporations, and as a result the companies themselves. What differentiates rating agencies and auditors, however, is that they have access to the kinds of internal information that are not available to anyone outside the companies they work with. And, while it is clearly not their role to assess whether companies act ethically or not, they should be able to highlight fraud, an extreme form of unethical behavior, to investors, and even possibly the general public and regulators, and could be a source through which such activities could be identified and studied.

Rating agencies

Rating agencies provide guidance on the financial status of major corporations and their obligations. They try to determine the likelihood that investors might not be able to recover their investments from the organizations they have lent to. In other words, the likelihood of failure. Their assessment of the likelihood of corporate failure, or the securities they issue, should also be able to uncover fraud, one of the means by which the management can act unethically, since it is an important factor in the business failing. Well, I don't need to tell the readers how effective they were during the run up to recent crisis in doing just that. I am sure most readers are well aware of controversy surrounding the actions of the rating agencies during the recent crisis, and none is a better illustration of that than the "Financial crisis inquiry report"[30] that the National Commission on the Causes of the Financial and Economic Crisis in the United States published in 2011. There is a fascinating point in the report where a former managing director of Moody's, Gary Witt, was asked whether: "investment banks frequently threatened to withdraw their business if they didn't get their desired rating." Witt replied, "Oh God, are you kidding? All the time. I mean, that's routine. I mean, they would threaten you all of the time... It's like, 'Well, next time, we're just going to go with Fitch and S&P.'" Another former managing director of Moody's, Jerome Fons, suggested that Moody's was complaisant when it should have been principled: "[Moody's] knew that they were being bullied into caving in to bank pressure from the investment banks and originators of these things. ...Moody's allow[ed] itself to be bullied. And, you know, they willingly played the game... They could have stood up and said, 'I'm sorry, this is not – we're not going to sign off on this. We're going to protect investors. We're going to stop – you know, we're going to try to protect our reputation. We're not going to rate these CDOs, we're not going to rate these subprime RMBS.'"

In support of the comments above, Friedman and Friedman (2010) provide the following example: "Moody's graded the securities that consisted of Countrywide Financial's mortgages – Countrywide is the largest mortgage lender in the United States. Apparently, the ratings were not high enough and Countrywide complained. One day later, Moody's raised the rating. This happened several times with securities issued by Countrywide."

While some might even accuse the rating agencies themselves for acting unethically, the main issue is not that the rating agencies are claiming to have capabilities that they obviously don't, no one does, namely that they can accurately value risk, it is that they are paid by

29 For example, the decision in support of Citizens United by the U.S. Supreme Court significantly increased the influence of businesses on politicians in the U.S. Please refer to this New York Times article for an analysis: http://goo.gl/7Tz5ha

30 The full report is available via this link: http://goo.gl/QiE0K

those same companies/institutions that they are supposed to monitor or rate (although they actually rate the specific securities issued by these institutions). They are supposedly doing their job on behalf of the investors by determining the risk of financial instruments that issuers are trying to sell in the market; hence you would expect that they would do their analysis, issue the ratings, and then sell the rating to investors who wanted to invest in those specific securities. But, that's not how the model was developed. It would be like having a police service paid for by criminals. The mere fact that these institutions still exist and that their compensation models have not changed, despite the tremendous damage that they caused by their ratings in the lead up to the crisis, illustrates how strong lobbying can protect businesses in the West. So long as these institutions are paid by those who they rate, the risks that we faced during the crisis will remain, as most observers will agree. More importantly, they cannot be relied upon to identify fraudulent behavior, and certainly not unethicality, on the part of companies they rate.

Auditing firms

The economic model of auditing firms is also the same as rating agencies; they are paid by those same companies they are auditing. In fact the degree of concentration is not too different either. The world of ratings is dominated by the three major rating agencies, Standard & Poor's (S&P), Moody's, and Fitch Group, and the world of auditing is dominated by the four major auditing firms, namely PricewaterhouseCoopers (PwC), Deloitte Touche Tohmatsu Limited (Deloitte), Ernst & Young (EY), and KPMG. According to Gerakos and Syverson (2015), the Big 4, as they are known, "handled 67% of audit engagements and collected over 94% of audit fees" of publicly traded companies in the U.S. in 2010. In the U.K., the Competition Commission's report into the audit profession found that the Big 4 "collectively audit more than 95% of the FTSE 350 companies" [Prem (2013)]. This means that we are dealing with a highly concentrated market for auditing. And efforts to reduce that concentration have not borne much fruit, including mandatory auditor rotation, since all that happens is one Big 4 audit firm is replaced for another [Fleming and Smith (2014)].

Auditors perform a very important task. They help prepare and attest the validity of the financial statements of public companies for investors. Investors rely heavily on the financial information published in companies' annual reports. They are the window through which investors look inside the companies they invest in. The obligations of the auditors, and hopefully the reliability of published accounts, increased subsequent to the introduced the Sarbanes-Oxley Act of 2002 [McConnell and Banks (2013)], which was introduced in response to the bankruptcies, mostly related to fraudulent activities, of Enron, Worldcom, and Tyco, and the collapse of the auditing firm Arthur Anderson.

PWC	**2004**	**2014**	**Percentage growth**
Advisory	0.4	1.1	188%
Audit	0.7	1.0	40%
Tax	0.5	0.7	49%
KPMG			
Advisory	0.5	1	105%
Audit	0.3	0.5	61%
Tax	0.3	0.4	38%
EY			
Advisory	0.3	0.9	225%
Audit	0.4	0.6	46%
Tax	0.2	0.5	150%
Deloitte			
Advisory	0.5	1.1	105%
Audit	0.4	0.7	97%
Tax	0.4	0.6	49%

Source: Agnew (2015a)

Table 1 – Breakdown of revenue growth of the Big 4 auditing firms in the U.K. (£ bln)

The Act also stated that audit firms should no longer be allowed to provide consulting services to their clients, as it was perceived that it had been instrumental in Arthur Andersen becoming willing participants in the Enron fraud. It is alleged that the fear of losing the consulting business prevented Arthur Andersen from doing its job as an independent auditor. As a result, most of the Big 4, as they were after the Arthur Andersen bankruptcy, started selling their consulting businesses. Ernst & Young sold their consulting business to Cap Gemini, PricewaterhouseCoopers (PwC) sold its consulting business to IBM, and KPMG spinned off its consulting business and called it BearingPoint.[31] The only one that didn't sell or spin-off its consulting business was Deloitte. Deloitte took a number of turns to end up back where it was. It initially announced that it would separate its consulting business and call it Braxton [Singleton (2002)], which confused many with the famous Scottish water, Buxton. Then, within 12 months of announcing its plan to spin-off its consulting business, Deloitte announced in March 2003 that it would retain its consulting business [Glater (2003)]. This obviously shocked most commentators, as well as the other Big 4 auditing firms, since they had already sold or spun off their consulting businesses.

31 For reports on the three transactions refer to the following articles: New York Times: http://goo.gl/Jh9H6J; Wall Street Journal: http://goo.gl/Th8OHs; AccountingWeb: http://goo.gl/RpzpVe.

	PwC		Deloitte[1]		EY[2]		KPMG	
	Revenues	Revenue growth	Revenues	Revenue growth	Revenues	Revenue growth	Revenues	Revenue growth
Assurance	15.2	0.3%	9.8	-3.0%	11.3	0.6%	10.03	-4.11%
Tax	8.9	1.5%	6.7	3.1%	7.5	3.6%	5.31	0.76%
Advisory	11.2	12.3%	15.3	6.3%	9.8	10.7%	9.10	0.11%

Source: Annual reports (2015 figures)
Notes: All percentage changes are calculated using dollar figures, not local currency. [1] Includes financial advisory (U.S.$ 3.1 billion in 2015, and U.S.$3.0 in 2014 when calculating percentage change), [2] includes Transaction advisory services (U.S.$ 2.5 billion in 2015, and U.S.$2.3 in 2014 when calculating percentage change).

Table 2 – Breakdown of revenues and revenue growth rates of different businesses of the Big 4 audit firms

It seems Deloitte had found a way of keeping its consulting business, and it was to do so by consulting non-audit clients. James Copeland, the CEO of Deloitte at the time stated: ''We fully intend to comply with those laws and regulations. (...) We really already have focused our Deloitte Consulting practice on the 75 percent of the market that we don't already audit.'' Needless to say, the others also reverted back to providing consulting services as well; once the non-competes with the businesses that were sold or spun off had expired.

According to research done by the Big4.com website: "By service line, audit accounts for 42% of total revenues and grew a solid 2.4% from 2013 to 2014 after a 0.2% growth in 2013. Tax services are 23% of total revenues and rose 6.2% in 2014 after rising 3.6% from 2012 to 2013. Advisory services have 35% of total revenues in 2014, with revenues accelerating by a strong 9.9% in 2014 after growing 6.8% from 2012 to 2013." The Financial Times (FT) looked at the U.K. market for the Big 4 and their findings are presented in Table 1. What is clear is that not only is the percentage of growth in the consulting business significantly higher than the audit business, it has in fact surpassed audit and tax to become the largest contributor to revenues. This means than in a few years the revenues from consulting will dwarf audit.

The growth of the consulting arms of the Big 4 in the U.K. is not only exceptional because it has surpassed the growth of audit and tax within these firms, their growth is also remarkable because their revenues in consulting is growing at a faster rate than the industry average. According to Source Information Services [Agnew (2015b)], "the big four accounting firms increased their revenues 8.9 per cent to £2.34bn in 2014, outperforming the rate of growth in the overall U.K. consulting market, which increased revenues 6.6 per cent to £6.02bn last year." If these numbers are correct, then the Big 4 have gone from pretty much having no consulting business, with the exception of Deloitte which retained its consulting business, to controlling nearly 40% of the U.K.'s consulting market in just over a decade.

From a group perspective, however, audit is still king in all but one of the Big 4 firms. Only in Deloitte, even if you exclude financial advisory, have the advisory revenues surpassed that of audit (Table 2). Nevertheless, it's quite clear that, given the growth of advisory businesses, in a few years advisory will surpass audit in all of the Big 4 firms. It has probably already done so in the major member firms, such as U.S. and Europe, of all Big 4 firms. It is in emerging markets, where advisory is still in its infancy, that audit still generates a greater share of the firms' revenues.

According to Gartner [Heng et al. (2015)], by 2014 the Big 4 controlled over 40% of the global consulting market, and they are experiencing much faster revenue growth rates than their peers. Furthermore, Deloitte is now the largest consulting firm in the world and the other Big 4 firms make up the rest of the top 4. I am not sure where Gartner derived their numbers from, and it seems for both IBM and Accenture they used fourth quarter figures rather than the full year figures. Consequently, I recreated the data from the actual published accounts of the major consulting firms. These are presented in Figure 2. While the results are different to those obtained by Gartner, it is quite clear that the Big 4 firms are fast catching up on their largest competitors, though KPMG does seem to be experiencing a dramatic slowdown in growth across all businesses. Furthermore, should the current growth rates continue they will become significantly larger than the other two giants of consulting, namely IBM and Accenture, and they could control 40% of the global consulting market within the next few years. It is also clear that the Big 4's brands and the connections they have built through their audit arms have been invaluable, otherwise such exceptional growth would have been impossible.

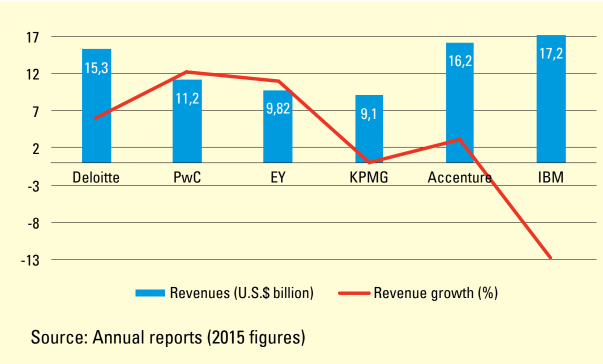


Figure 2 – The growing power of the Big 4 in the world of consulting

The success of the consulting arms of the Big 4 has once again raised the issue of whether the consulting partners might wish to divest themselves from the audit firm so that they don't have to share the fees they generate with their less profitable colleagues. Those who are old enough to remember, that is exactly what happened to Andersen Consulting. The consulting partners got tired of having to share their fees with the less profitable and less exciting audit arm and voted to separate the businesses, which resulted in two companies, Arthur Andersen and Accenture.

Of course, the spun off consulting arm doesn't always experience success. The Chapter 11 filing by BearingPoint, the former consulting arm of KPMG, in 2009 is proof of that.[32] Not all separated consulting arms become Accenture. And even Accenture seems to be struggling to keep up with the growth of the consulting arms of the Big 4. That is why the likelihood of the consulting partners taking the risk of losing the connections and the brand name of the auditing businesses is a lot less than many fear.

The reason the involvement of the Big 4 in consulting matters is that many are concerned that, like Arthur Andersen, the revenues generated from the consulting business, or their potential, might influence the actions of the audit firms, or at the very least damage the quality of people going into auditing, because these firms are focusing all their efforts, best people, and investments into consulting.

Academic investigations into the impact of fees from non-audit services (NAS) is, similar to all economic studies, inconclusive. Some studies find that NAS do not impact the independence of audit companies or the quality of their audits [Ashbaugh et al. (2003), DeFond et al. (2002); Schneider et al. (2006), Lim and Tan (2008), and Habib (2012)], while other, more recent studies, find that they do [Causholli et al. (2015)]. Quick and Warming-Rasmussen (2015) find that the mere act of providing NAS does not in of itself result in a negative perception of the independence of audit from the perspectives of German individual investors. However, when the ratio of NAS fees is high, it does result in a negative perception. Their findings corroborate those of Krishnan et al. (2005), Francis and Ke (2006), and Krishnamurthy et al. (2006). Goldwasser (2002) and Coffee (2006) suggest that the expectation of future NAS fees might influence some firms to send partners who are better in relationship building than audit quality, and might even impair their objectivity. Causholli et al. (2014) find "strong evidence that the anticipated future provision of NAS does represent a source of impaired independence in the current year." They also find that "clients with little or no potential for sales of new NAS would tend to be assigned to technical partners. To the degree that relationship partners possess less technical accounting and auditing skills, those clients assigned to them would receive a relatively lower quality audit."

It is obviously very difficult to scientifically determine the extent to which NAS fees impact audit quality and independence, since similar to ratings that have been inappropriately issued, you only find out the true state of affairs when there is a crisis. So long as there is not a crisis no one will know for sure how accurate or not the analysis of the independent ratings agencies or auditors truly are. For example, if the property market in the U.S. had not collapsed we would still think that the CDO ratings were accurate.

So, the question is how do we find out if NAS fees influence the independence of audit firms? Well, the honest answer is we can't. At least, not scientifically, since we have no access to the private discussions between the clients and their auditors. And, the major auditing firms are not shy in using their influence to ensure regulators don't get too critical or undertake the kind of scrutiny that might make people question their independence [Levinson (2015)]. Two qualitative parameters could possibly be considered to determine whether auditors are truly independent [Kaplan (2004)], and whether NAS might have an impact on their independence, but they cannot be tested quantitatively.

The first is to see whether there have been situations of bankruptcies, or major restatements, where the auditors did not warn the markets and regulators beforehand, even though they were aware of the problems, or were in fact found to have assisted the client in hiding its true state of affairs. In recent years there have been a number of such accusations against the major global auditing organizations, despite the establishment of auditing oversight boards,

32 CNN: http://goo.gl/Wwtf3W

such as the Public Company Accounting Oversight Board (PCAOB) in the U.S.[33] Of course, it's hard to determine whether the actions of the auditors would have been any different had there been no NAS fees involved, or expectations thereof, but their actions have raised questions about their impartiality when large fees are involved.

Needless to say, similar to the major banks, the only penalties paid by those organizations that were found to have bent the rules have been purely financial, and none faced anything even remotely similar to the problems that caused Arthur Andersen to collapse. Perhaps, the auditing industry, as some have suggested, has also become too-big-to-fail, and regulators are willing to turn the other way in order to avoid having another one of these giants fail [Economist (2014)].

Another method by which you can determine independence of auditors is to see how comfortable they are in criticizing the wrongful actions of their clients and highlighting their errors or mistakes publicly. You will find that the big auditing companies, similar to other consulting or professional services firms, are careful about coming across as too critical of their clients. While this might not be such a big issue for the major consulting firms, given the importance of auditor independence and their roles as watchdogs of corporate accounting, this might be something to be concerned about. In fact, many have questioned the role of auditors in the run-up to the recent financial crisis and why it was that they failed to raise any flags about institutions that faced severe financial problems during the crisis [House of Lords (2011); Rapoport (2010); Sikka (2009)]. This is perhaps what Goldwasser (2002) and Coffee (2006) meant when they suggested that expectations of NAS fees might influence objectivity.

Sadly, what this means from a business ethics perspective is that neither ratings agencies nor auditors, two organizations with unique access to the inner workings of their clients, can be considered as useful sources of information for determining the ethicality of corporations or as potential partners to fight against it.

Whistleblowers

The most reliable means of determining whether organizations are doing something untoward is when someone working for the organization blows the whistle on their illegal, and in certain circumstances, unethical, activities. And the regulators know this, which is why there is a heavy emphasis on protecting whistleblowers in the current risk culture discussions. However, why would whistleblowers be comfortable about blowing the whistle on their companies? They have already seen how someone like Snowden, who blew the whistle on the illegal activities of his government, has been treated. That I think was the best gift that the U.S. government could have given to corporations worldwide. People are now petrified of blowing the whistle on their companies and companies are much more careful about sharing their secrets with too many people inside the firm and much more aggressive in pursuing those who blow the whistle on their activities. The five-year prison sentence given to Hervé Falciani[34] by the Swiss court for disclosing that HSBC was helping clients launder money and evade taxes, while the bank itself was cleared of any penalty and simply paid a contribution to the state, is a case in point.

However, even before the Snowden revelations, most people were already very concerned about blowing the whistle on their employers. For one thing, and unlike what people who deal in hypotheticals think (such as regulators who want to be seen to be doing something, even if they are fully cognizant of its ineffectiveness, or academics), blowing the whistle on your employer is the most certain way of destroying your career. Of course, if you ask most employers they will tell you they would be very happy to hear from a whistleblower, but the truth is that they don't. They will find the best and quickest way of getting rid of them. And, that's because whistleblowers aren't just people with ethics, they are also people accused of getting in the way of the company's or department's progress. They are not team players. And, of course, they can't be, otherwise how would they raise their hands and say to the rest of the team "this is wrong."

Put yourself in the shoes of any employer and you will see what I am referring to. Worse still, having a whistleblower sign on your forehead is worse than having a prison record. No employer will touch you. Why would they? Who wants the headache of hiring someone who will spill the beans on the company in today's world, where bad news can travel very fast? It seems that not even the U.N., an organization that does everything in its power to destroy internal whistleblowers [Bowcott (2015); Hamilton-Martin (2015); Newman (2015)], while at the same time publishing guidelines on how they should be protected by governments.[35]

That is why no matter what the regulators say, companies will neither protect whistleblowers nor employ them. It's the fastest way of destroying your future career, and most employees have learned that.

33 Please refer to this review of PCAOB by the Washington Post: http://goo.gl/Z5dCiu
34 The Guardian: http://goo.gl/pdQuhT
35 United Nations: http://goo.gl/g4iDsa

THE REALITIES OF THE BUSINESS WORLD AND THE LESSONS LEARNED

As mentioned above, there are a number of academics, and an entire discipline in management, that believe businesses can be made to act more ethically, with the description of what is actually ethical still up for debate, and that this can be achieved by having ethical guidelines and regulations, which also includes whistleblower protection.

In my own personal experience as a former academic and someone who has been involved in a number of so-called independent studies sponsored by non-academic organizations, academics who undertake these types of studies tend to fall into two camps.

The first are those who undertake so-called independent studies paid for by industry bodies or organizations. From my own experience, I know that in most cases the press releases have been written long before the study has actually begun. And I am not referring here to those who have sold their souls to the devil and actually work for those think-tanks that are financed by specific political or business organizations and just publish documents in support of their agendas, irrespective of any of it having any basis in reality. I am referring to those who are actually employed by academic institutions. I was personally left in shock when a study I was sponsored to do was banned from publication when the findings didn't match those of the sponsor, who had already written the press release. After repeated refusals to change the findings, the report was finally destroyed. Needless to say, that was the last time I personally undertook a sponsored study myself.

I don't need to tell the readers how many such studies, with highly questionable conflicts of interest, are conducted and published each year [Friedberg et al. (1999); Lexchin (2012); Lexchin et al. (2003); Krimsky (2003); Resnik (2007); Sismondo (2008); Stelfox et al. (1998)]. I am also that sure there are many that you have come across that go against conventional wisdom, and that have received a lot of press attention, that you thought to yourself, they must be kidding.[36] Chaudhry et al. (2002) found that when the same fictitious study is sent to two groups of British Medical Journal readers and only one group is informed that it is privately funded, the group that has not been informed scored the paper significantly higher on all four metrics (importance, relevance, validity, and believability) than those who were informed, which highlights the importance of highlighting the sources of funding for studies.

Then there is the other group of academics, who are totally ethical but sadly have little idea of how the real business world actually operates. They believe that you can analyze and make determinations about what is really going on inside an organization by looking at externally available data.[37] They actually believe in the power of externally available data. These academics have rarely, if ever, worked in a truly competitive environment, where the raw thrill of competition and working hard with your colleagues to beat the competition makes it almost impossible for you to question the ethics of it. Like those soldiers in war, who have no time to think about the morality of the war they are fighting in, while trying to protect their comrades.

Social scientists, unless they have actually worked in private enterprise, which is very rare, have never experienced this. They have very little interaction with those they think they are competing with. Their main contributions are publications and there is little interaction with peers/competitors in other organizations while doing so. That is a very different dynamic to when you are going to the office every day, working with your colleagues to beat the competition, real competition; and none is more competitive and intense than the financial services industry in this regard. You want your team to win, you want your firm to win and you certainly want to impress your bosses, and in many cases that means choosing not to, or not having the time to, question their decisions.[38] It is your company against the rest. This is really where game theoretic models work at their best [Wilson (1987)], because they can help explain why individuals choose to join the most competitive teams and why they all work together to beat the competition, be it in trading equities or foreign exchange, advising clients in M&A transactions or insuring airlines. And, in the midst of all this effort it's very hard to sit back and think ethically all the time, especially since in many situations it would have been impossible to determine that the outcome might be deemed unethical ex-post. One of the criticisms leveled at most

36 A highly publicized recent example of such studies was the undercover sting by Greenpeace on two respected academics who agreed to not only write so-called independent reports denying the dangers of climate change, but also find ways to make them seem peer reviewed and avoiding the name of the sponsors being known [Goldenberg (2015)]. Olinger (2015) mentions a number of other interesting sponsored studies, including one funded by the Coca Cola Company.

37 Most companies taking over other businesses only find out what is really going on inside the target long after they have fully taken over the business. The acquisitions of Compaq [Loomis (2011)] and Autonomy [Garside (2015)] by Hewlett-Packard, with the former supposedly being the most well planned acquisition at the time, with the integration teams from both companies working for six months prior to the acquisition to make sure all was taken care of and ready for the day of the acquisition, should provide ample evidence that looking at businesses from the outside gives very little clues as to what is really going on inside. Even financial economists are aware of this so-called informational asymmetry, but it still hasn't prevented them from publishing articles on mergers and acquisitions and feeling like they have understood the dynamics of these transactions. For a critical assessment of academic analysis of mergers and acquisitions please refer to Shojai (2009).

executives is that they get so involved in their work that they simply lose objectivity. That lack of objectivity doesn't only result in bad business decisions, it can also lead to results that end up being unethical.

One of the most fascinating comments I heard about this topic was from the former CEO of one the world's largest financial services firms that faced difficulties during the recent crisis. He said that the suggestion that the executive committee got together and drew up plans to rip off clients and investors was utter nonsense. Every effort was made, with the best of intentions, to work in the best interest of clients and shareholders, but circumstances just took control of the events out of their hands. And that is absolutely right. The focus on beating the competition sometimes blinds businesses, and the people that work for them, to mistakes that cost them in the end. However, that doesn't always mean that they are intentionally trying to act unethically or immorally.

Ironically, while most of these academics acknowledge the existence of peer pressure on young people, they somehow assume that it disappears when you join a company. It doesn't.

If one were to raise a criticism it would be that under the current system, when a crisis does occur both the damages paid by the individuals involved and the number of people who are penalized is very small. As we saw during the recent financial crisis, bonuses are personalized and the losses are privatized or socialized, either paid by shareholders or in extreme cases taxpayers; very rarely paid by those who caused the losses.[39] Even if you look at some of the major ecological disasters caused by major corporations, which can put the financial crisis into context, such as the Exxon Valdez, Union Carbide's Bhopal disaster, or the BP's Deepwater Horizon explosion, you will see that in all cases the shareholders ended up paying the fines and at most the top executives lost their jobs, such as in the case of BP. None of the top executives from the parent companies went to jail or were asked to contribute to the penalties paid.[40]

Now, of course, there are some who believe that criminal penalties might dissuade some from taking excessive risks or acting fraudulently; and they could be right. However, experience shows that acting unethically is not necessarily a group exercise and there will always be people who, irrespective of the expected penalties, are willing to sail too close to the wind. Given the inability of financial services firms, or any organization for that matter, to effectively monitor the risk of the vast enterprises that they oversee [Shojai and Feiger (2010)] there will be always be people who get through the net and cause huge damage to their organizations and even industry. Examples of rogue traders who have caused unimaginable damage to the banks they worked for is proof of that. Consequently, it would be unfair to call an entire business, or industry, unethical simply because a handful of people have behaved unethically. In many of these cases, the workers, and even management, were unaware that it was taking place.

This is not to suggest that unethical behavior doesn't take place, since it certainly does. The point is that we should also take these factors into account when assessing whether firms are acting unethically. Another important fact that needs to be taken into account is the impact that the investment communities' carrots and sticks have on the behavior of management and employees of companies, especially within financial services where bonuses can in many cases dwarf salaries. There are huge compensations to be gained from meeting the targets set and serious consequences if they are missed. As Kay (2012) suggests, the situation has become exacerbated by quarterly reports, which place further pressures on the management to beat even shorter-term profitability targets.

When one looks at how the profitability of the Fortune 500 companies[41] has changed over the years it becomes clear just how great that pressure really has been, and continues to be. For example, if we compare the profitability of these companies between 1955, when the first ranking was published by Fortune, and 2015 we find that these organizations have increased their revenues and profits by multiples of 91 and 115, respectively. To put that in context, during this period, the Consumer Price Index (CPI) grew by a multiple of around 9. In fact, profitability has risen by more than twice

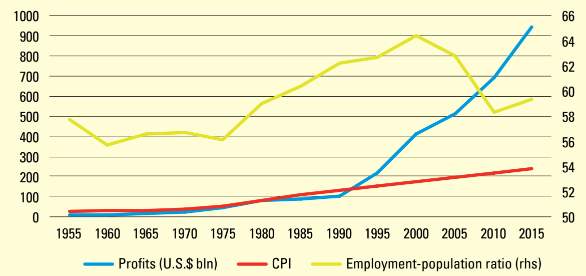
38 Silverman et al. (2014), for example, highlight how the arrogance of Joe Cassano, former president of AIG's financial products unit, had a huge role to play in the downfall of the insurance giant. The financial crises of the past 20 or so years have demonstrated how easily those who are simply making money from riding a market bubble can become extremely confident of their knowledge of the markets and intimate their colleagues, and even their regulators, from questioning their decisions, let alone challenging them. That task become significantly more difficult for those who report to them.

39 Some even accuse the U.S. government of ensuring that certain banks, in specific Goldman Sachs (whose former CEOs have been U.S. treasury secretaries a number of times, including at the time of the bail-outs), don't even experience any losses when those they contract with face difficulties during financial crises. When the U.S. government bailed out AIG with taxpayer money, which many believe was merely backdoor bailout of Goldman Sachs (as the bank received U.S.$ 12.9 billion), its objective was to prevent the insurer from defaulting on its obligations to the banks that it had sold CDSs to. And, it made sure no one experienced any losses and all were paid 100 cents on the dollar. Many believe that the government could have forced the banks to take haircuts, as had been the case when Merrill Lynch took an 86% haircut on the CDSs it had bought from Security Capital Assurance (SCA) of Bermuda just a few months earlier [Sender et al. (2010)].

40 BBC News on local management going to jail for the Bhopal disaster: http://goo.gl/6225; The Guardian on employees who will be prosecuted for the BP's Deepwater Horizon crisis: http://goo.gl/GZfNp2; The New York Times about the conviction of the Captain of Exxon Valdez being overturned and penalties paid by Exxon: http://goo.gl/qapncD

that of the S&P 500 index and three times the U.S. GDP. Figure 3, below, which compares the profitability of the Fortune 500 companies against the CPI, illustrates that profitability among these firms started to really take off from the middle- to late-1990s, around the peak of the Internet boom. The new technologies didn't only result in greater efficiencies at home, they also made it much easier to relocate certain functions to cheaper offshore locations through what became known as business service provider (BSP) boom. This assertion that outsourcing or offshoring [Irving et al. (2003)] resulted in greater profitability is somewhat supported by the falling employment to population ratio in the U.S., which fell as a result of the bursting of the Internet bubble in early 2000s, but remained lower for the subsequent 15 years. Of course, by meeting their targets the top executives have also been adequately compensated for their efforts. According to the Economic Policy Institute, between 1965 and 2014, the average annual earnings of the CEOs of major U.S. corporations increased from U.S.$832,000 to U.S.$16,316,000, resulting in the average CEO-to-worker compensation ratio to rise from 20-to-1 to almost 300-to-1 during this period [Davis and Mishel (2014)].

One could certainly raise a moral question about whether companies can afford to accept lower profits, or to at least not expect profitability to continue growing at such a severe pace, by employing more workers in their home markets or paying better salaries to those hired overseas. When you consider that the Fortune 100 companies went from generating, on average, less than U.S.$ 60 million in profits in 1955 to over U.S.$ 500 million in 1980, to around U.S.$ 2.5 billion in 2000, and just under U.S.$ 6 billion in 2015, you can ask a genuinely ethical question about how much profit can be sacrificed for the betterment of the society. Add to that the fact that around U.S.$ 2.1 trillion dollars are being kept outside the U.S. by the 500 largest U.S. companies to avoid having to pay taxes on them[42] and you can start



Sources: Fortune magazine for profitability figures and the Bureau of Labor Statistics for CPI data and Employee-population ratios

Figure 3 – The tremendous growth in the profitability of Fortune 100 companies (compared to CPI)

to appreciate just how much flexibility corporations could have to keep more people employed or pay more to those already on their payroll. But, of course, that does not happen, and companies that do try to do so will be harshly punished by the markets; markets that have got accustomed to large profitability growth rates.

Having said that, the fact that companies don't cut executive compensation to what would be more morally acceptable, or don't accept lower profitability to improve the lives of their workers, does not necessarily make them unethical. Unless, of course, all companies that act in the best interests of their shareholders are unethical. Furthermore, one cannot say for sure that these companies achieved such profits through unethical means, since none of us have access to the true state of affairs within these organizations. As mentioned before, the mere fact that companies move jobs overseas doesn't make them unethical, since they have been effective in lifting many people in poorer countries out of poverty. More importantly, experience has shown that both the management and their shareholders will do everything in their powers to fight regulations or guidelines that might impede their gains, something that both regulators and governments have learned over the years. Consequently, despite their best intentions, academics will struggle to find solutions that would force businesses to act in ways that they would deem ethical, assuming they can all agree on what it is, unless it suits businesses to do so.

The lessons of the Enron crisis and Lehman bankruptcy

Similar to the responses to the allegations that U.N. weapons inspectors were actually employees of the CIA opened the door to the use of "why is that news?", the Enron collapse also had ramifications beyond what many thought possible.

After the initial period of shock and the introduction of new regulations, companies started looking at how such an event should never happen again. And, by that, I don't mean to ensuring that they never act unethically again. I am referring to preventing the businesses from being shut down in case they do. They were trying to learn from Western governments how they should react to the revelations of bad news; the kind of bad news that could result in another Enron-type implosion. Of course, governments in less democratic countries, like Russia and China, had silenced critics and bad news for decades, but you couldn't exactly apply their strategies in the West.

41 These data is obtained from Fortune 500 rankings, which are based on revenues, available from the archives of Fortune magazine: http://goo.gl/GY882N

42 Reuters: http://goo.gl/Nxy32z

The response to bad news could certainly incorporate the "why is that news?" strategy, and many have used it. When a company or financial institution has been caught doing something illegal, the first response seems to be why is that news, everyone knows everyone else is doing it, and it seems in most cases they were right. Most banks were manipulating LIBOR,[43] most were mis-selling payment protection to those who didn't need it,[44] most were selling complex derivatives strategies to mum and pop businesses,[45] and so on.

An even more important lesson that organizations learned was to make sure that if they are ever caught doing something unethical, or even illegal, that the maximum penalty would be fines and nothing more [Warren (2016)]. And we have seen that happen a number of times as well. There have been a few episodes in recent years that have not been too different to what took place at Enron, but neither the auditor nor the client were closed down. In some cases, they were just forcibly sold to another company. But, more importantly, no one went to prison.

With regards to managing the public relations damage, companies have learned a lot. However, unlike what your reputational management textbooks suggest, which is to admit your mistakes immediately and take the necessary hit there and then, these companies have learned to actually say nothing. They literally close access to journalists, similar to how governments respond. They put all their efforts into dealing with the regulators and waiting for the news to move onto another topic. Given, as was discussed earlier, they have also learned to control the narrative, they know that their PR teams know how to manage the crisis and ensure it's not dwelled on too much.

According to Lewis et al. (2008), commercial enterprises have surpassed the U.K. government in terms of the share of PR generated news that news organizations present in the U.K.; 38% of press and 32% of broadcast, as compared to government's 21% for the press and 39% for broadcast media. Quite certainly it is not too different from that in the U.S. This ensures that the journalists don't dwell too much on bad news about these companies, as we have seen numerous times.

In addition, companies and governments have also learned how to use the comments sections of online news pages to justify the actions that have been criticized for in articles; what is known as astroturfing. Ironically, it seems that term was coined in 1985 by the then-U.S. Senator Lloyd Bentsen when he said, "a fellow from Texas can tell the difference between grass roots and AstroTurf... this is generated mail." The senator was describing a "mountain of cards and letters" sent to his office to promote insurance industry interests [Kolivos and Kuperman (2012)]. And I am sure most of us have read comments that just seem outrageous, but they do dampen the impact of the other negative comments from the readers about the accusations.[46]

Finally, institutions learned from the Lehman bankruptcy that you should do your utmost to become as systemically large as possible. Then, no matter what you do, you will be protected. Despite the huge damage that the Lehman's bankruptcy caused the global financial markets, and even the global economy, most institutions have learned that had it been a much larger institution it would not have been sacrificed in the way that it was.

If Ross Sorkin's (2010) accounts of the events that took place at the New York Federal Reserve in late 2008 are indeed correct, Lehman Brothers was sacrificed to save Merrill Lynch, by selling, or creating the environment to sell, the latter, which was much bigger, to Bank of America, rather than the former despite previous negotiations between Lehman Brothers and Bank of America.

You don't need to be a social scientist to work out how fast most institutions have grown since the global financial crisis. According to Big4.com, the Big 4 increased their employee numbers from 600,000 in 2010, to 756,000 in 2014. The data given by all four puts the figure at almost 820,000 for 2015. This means that they are now way too-big-to-fail. Likewise, for most of the major banking institutions; they have also become too-big-to-fail.

Hence, the lessons that these institutions have learned from the Enron and Lehman Brothers collapse is that if you make yourself too big to be closed down, you will not be. Just think of the recent problems that both BP and Volkswagen have faced. BP for negligence and Volkswagen for fraud. But, neither business was, or will be, closed down. They will pay their fines and just move on. All that happened to the CEO of Volkswagen, at least for now, is that he has lost his job. Both companies, however, will remain in business for years to come. Add to that, the lessons they have learned in influencing how media cover such crises and for how long, and you will see that businesses have certainly learned how to react to crisis in a way that they survive without too much damage.

43 Reuters: http://goo.gl/GChr8q
44 The Guardian: http://goo.gl/WO0BTD
45 Daily Telegraph: http://goo.gl/4jPFh
46 ComputerWorld: http://goo.gl/D8DI58

CONCLUSION

This article has presented arguments in support of the proposition that business ethics is indeed an oxymoron, and suggests that while businesses don't necessarily set out to act unethically, when ethics and profitability collide the latter tends to win most of the time.

It also highlights the fact that it is almost impossible to describe what being ethical as a business actually means, as ethics is in the eye of the beholder. What seems unethical to one group of individuals might be deemed completely ethical from the perspective of another. That despite what most academics think, it is not possible to rank businesses based on their ethicality and that unethical behavior is only determinable after the effect. It is only possible to identify unethical behavior when something goes horribly wrong and you can point to specific unethical actions that lead to the crisis.

This article also describes why a combination of falling journalistic standards, demand for and availability of 24-hour news, revenues increasingly coming from clicks on articles, and the growing power of PR has resulted in an environment where with the exception of truly catastrophic circumstances businesses can control the narrative.

Businesses have also learned from the experiences of Enron and Lehman Brothers that to protect themselves from closure they need to become as large as possible, ensure that their industry is highly concentrated, and to wait for the bad news to just pass. Given that their control of the media is growing, the speed with which bad news passes has increased.

From a purely academic perspective, the studies that find associations between business ethics and profitability are overlooking the simple fact that businesses can never be understood or analyzed from the outside in by solely relying on external data. Numerous failed acquisitions are proof of that. Academics need to accept that there are certain subjects that are simply impossible to obtain adequate information and data on to make meaningful determinations of the environment and provide prescriptive guidance on how to improve it. Business ethics is in my opinion one of those subjects. To try to understand the dynamics of so many people with different ethical beliefs all focused on making their businesses a success is a task too far and academics have to accept that. It is much more honest to accept that than accuse those who simply state that facts of not having a clear understanding of the circumstances.

My aim with this article is to explain to current students of management, and future managers of businesses, that while their aim should always be to be as ethical as possible that they should accept the world as it is and focus their efforts on making their careers as successful as possible without being unrealistically influenced by their professors who propose solutions that are neither realistic nor practical.

I am certain that those who advocate, or teach and research, business ethics as a discipline to be taught at business schools would take issue with my perspectives and genuinely believe that steps can be taken to make businesses act more ethically. I am not so sure, and I have made my case in this article. Furthermore, while some acknowledge the challenge is a big one they believe that doing something is better than doing nothing. My response is that the damage caused by such perspectives is significantly greater than many perceive, and could result in circumstances that are much less beneficial than actually doing nothing. These perspectives are no different to those who advocate that we should teach finance students about asset pricing models, or other theoretical finance topics, that have been completely discredited [Colander et al. (2009); Blommestein (2009)] and have no relationship to how the financial services industry actually operates, simply so that we are seen to be teaching them something about asset pricing rather than to not teach them anything at all. In my opinion, if we were to discard literally all of the models that we teach students of finance today we might have a better chance of developing models that can actually be used in business than we do today. The need for articles to be peer reviewed requires academics to accept the foundations of finance as gospel, resulting in a neverending series of articles that are awarded academic rewards [Shojai and Feiger (2011)] but are of no practical benefit to the students who wish to apply them in their work place. Worse, they are also doing a huge disservice to the future employers of those students by requiring them to retrain their new recruits in the practical aspects of what they were taught at business schools; a process many liken to unlearning and relearning the business discipline.

Interestingly, while the academic community is quite comfortable in leveling accusations against financial institutions and regulators for not heeding the lessons of the latest financial crisis and taking steps to avoid repeating the same mistakes, they are overlooking the fact that they have also missed a great opportunity to question the foundations upon which many of their theorems are based and to reevaluate the contributions they are making towards the discipline and the society at large. They are once again working away in their ivory towers, publishing article after article with little to no relevance to the realities of the world of business and making little or no effort to work closer with those practitioners who are supposed to put their ideas into practice. Sadly, it seems that neither the academics nor the financial community have learned much from the recent crisis and we are back to business as usual.

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