

should motivate businesses to recognize the importance of being perceived as socially responsible. The majority of this chapter centers on how the growth of socially responsible companies will influence the future of investment banking as large investors and venture capitalists move toward socially responsible investing—an integration of financial and social criteria. Embley predicts that many companies will integrate financial and social criteria when making future investment decisions.

Chapter 7, "America's Admired," profiles some of America's biggest corporations and their roles as leaders in the area of social responsibility. This chapter illustrates how some of the most admired companies in the world (e.g., Johnson and Johnson, Levi Strauss and Company, Prudential Insurance Company) are conducting themselves as socially responsible companies and are going far beyond the conventional business norms. Recent winners of the Council on Economic Priorities Awards are identified, and the author describes the activities each company performed to win such awards. Embley concludes that big business is leading the way in embracing the concept of philanthropic economics. Moreover, it is becoming very important for small businesses to recognize the leadership principles of the big companies if they want to be a part of the new business community.

Chapters 8 and 9 demonstrate how to implement the concept of philanthropic economics. The author develops a working model of enlightened capitalism and applies it to the commercial printing industry. Chapter 8 is one of the most informative chapters in the book; it presents criteria for businesses wanting to become more socially responsible. This chapter discusses several important strategic elements, such as targeting a market, identifying a cause with which to align, building a strategic alliance, determining a common bond, and incorporating value-added benefits. The major drawback of Chapter 8 is that it comes near the end of the book, and much more of this how-to approach is needed to enable businesses to implement a socially responsible strategy. Chapter 9 continues the theme of implementing philanthropic economics, demonstrating the importance of corporate culture in becoming more socially responsible.

According to the author, the target market for this book could be all Americans, because Embley believes that the "American public finds the concept of doing well while doing good a very effective way of dealing with many of our societal problems" (p. x). Because its focus is mostly on the experience of small companies and entrepreneurs, the book is probably best suited for the manager of a small business or entrepreneur who has little knowledge of the current business practices regarding social responsibility. Another possible target for this book would be educators interested in adding more cause-related marketing examples into their class lectures. I found Chapters 5 and 7 particularly well done, with excellent background information and cause alignment strategies on such successful marketers as Ben & Jerry's Homemade, Inc., The Body Shop, IBM, Johnson & Johnson, Nike, Merck Pharmaceutical, and Kellogg's.

A major strength of *Doing Well While Doing Good* is that it has the potential to raise the awareness level of small businesses regarding the importance of corporate social responsibility. For those companies still unaware of the current business emphasis on social responsibility, Embley presents a strong case that the American public and segments of American business are moving in this direction. The author's goal of motivating small businesses to become more socially active is a positive attribute in and of itself.

The major weakness of this book is the author's seeming obsession with convincing the reader that the American public and businesses are becoming more socially responsive. The first seven chapters of this nine-chapter book are replete with trends, data, and examples attempting to convince the reader of this phenomenon. In my view, the media, the recent presidential election, the AIDS epidemic, and the "green" movement have all contributed to raising the awareness level of all Americans regarding the importance of

working together in combatting our social problems. I believe that this book's real contribution lies in helping small business implement socially responsible programs. However, only the last two brief chapters of this book discuss implementing such strategy.

A review of *Doing Well While Doing Good* would not be complete without a few words regarding the author's concept of philanthropic economics. Embley was praised previously for his attempt at motivating small business managers/entrepreneurs in becoming more socially responsible. Ironically, the controversy over philanthropic economics is how Embley motivates his readers. The book is replete with examples of how much money entrepreneurs made because they were socially responsible (e.g., The Body Shop is an \$800 million company; Ben and Jerry's Homemade, Inc. is an \$80 million business). The tone of the book at times seemingly says that to make money, you *must* be socially responsible! Some readers of this book may find the concept of philanthropic economics to be exploitative, as Embley argues that solutions to the vast array of social problems facing our society today are contingent on money. According to Embley, because government is no longer able to manage effectively and solve all our social problems, then perhaps businesses should be motivated to help through their profits.

*Doing Well While Doing Good* has the potential to open readers' minds. If money can help motivate large as well as small businesses to pitch in and help combat our social problems, then perhaps Embley's thesis deserves some consideration. Business organizations may be the ones in the future to provide the leadership to suggest solutions to the vast array of social problems facing our society today.

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### ***The Impact of Advertising Law on Business and Public Policy***

**By Ross D. Petty (Westport, CT: Quorum Books, 1992, 228 pages, \$45.00)**

Interdisciplinary study is at the core of much of marketing scholarship, from adapting theories of cognitive and social psychology to developing management science models. Despite this tradition of openness, a gap exists (in both academia and business practice) among the areas of marketing, economics/public policy, and the instruments affecting both—legal principles and rules. Consider advertising, in which lawyers usually speak in terms of cases, issues, torts, and damages; economists/public policy scholars often talk of cost/benefits, efficiency, and equity; and marketers discuss persuasion and inference, consumer awareness, positioning, and competitor reactions. Despite language and concentration differences, communications among the three are vital to both academics, through enhanced understanding of principles and phenomena, and practitioners, through successful achievement of their respective goals. Seeking to enhance exchange by assessing various laws' impacts and their effects on each of the other two (public policy and business/marketing) is both worthy and difficult. *The Impact of Advertising Law on Business and Public Policy* sets out to do this.

Although the book represents a step in this direction, I was disappointed that the title only partially reflects the contents of the book. I was expecting an analysis of how business, policy, and society have been affected by advertising laws; instead, the book only indirectly accomplishes this. It is devoted primarily to inferring effects of advertising cases, distinguishing between various advertising laws, and offering suggestions on how case decisions should be made.

The book is divided into four broad sections—Background (Chapters 1–3), Principal Advertising Laws (Chapters 4–7), An-

titrust Analysis (Chapters 8 and 9), and Conclusions and Recommendations (Chapters 10 and 11). Substantively, the second section represents the core, which includes a review of the trends and the cases concerning two major federal advertising laws—the Federal Trade Commission Act (Chapter 4) and the Lanham Act (Chapter 5)—and a comparison of their implementation and effects (Chapters 6 and 7). I discuss the merits and drawbacks of each of the book's chapters in turn.

Chapters 1 and 2 represent essential overviews concerning advertising law. They answer the question, "What is advertising law?" and generally do so effectively. One can respond to this inquiry by listing and describing particular advertising laws. But in a federal system, advertising laws stem from both the federal government and localities, with principles governing supremacy and exclusivity of certain laws. Moreover, advertising laws derive from common law (judge-made law) and legislative authority. Principles exist for the relationships between common law and legislative rule (both within and across federal and local jurisdictions). Thus, to begin to appreciate and understand the continual interplay between the bodies of law and their effects, it is important to organize the discussions of law in a conceptually useful manner. The author accomplishes this in two major ways: First, he begins with the principles for the foundation of the regulation of advertising in the United States, those concerning the Constitution (Chapter 1); second, the laws and their functions are introduced in separate categories, common law and statutory, and by their purpose (Chapter 2). Attorneys (academics and practitioners alike) often compartmentalize legal theories in terms of common issues and arguments. But for industries and public policy proponents potentially interested in affecting, changing, or modifying laws, beginning with the structural foundations and moving to particulars by source and purpose of law is crucial.

At the end of Chapter 1, the author introduces a new, simpler test for determining whether communications should be viewed by courts and regulators as unprotected commercial speech (subject to advertising regulation) or as protected speech (free from government intervention). However, as major as the author purports the test to be, it is not discussed sufficiently; it would be more appropriate as the subject of a complete analysis in no less than a law review article. As an attorney, I have questions concerning whether the test is markedly simpler or more conceptually cogent than prior ones; and as a marketing academic, I wonder whether this test would make significant differences in advertising strategy. The chapter as a whole is meritorious in that the interplay between protected and unprotected speech is relevant for studying the effects of advertising law; those interested in a more detailed account of the relationships among protected speech, commercial speech, business practice, and public policy would also benefit from reading *Advocacy Advertising and Large Corporations* (Sethi 1977).

In Chapters 4–7, the author describes and discusses case applications of the Federal Trade Commission Act and the Lanham Act in the context of behavioral and economic principles set forth in Chapter 3. On the positive side, we gain insight into the operations and outcomes of FTC cases in the 1970s and 1980s and Lanham Act cases from the 1950s to the present. Because these bodies of law are key in the regulation of advertising, the focus on a longitudinal study of these cases is useful. One also gains a strong sense of history and flow when reading the chapters, and the author's comparisons between the two bodies of case law are useful. Nevertheless, four general limitations warrant attention.

First, it quickly becomes apparent that the scope of the analysis is quite limited. The arguments primarily take the form of characterizing cases by the type of product and type of advertised claim at hand and inferring effects on the basis of certain simplistic assumptions of consumer and business behavior (discussed in the next limitation). The author employs no independent measures of consumer or business effects (e.g., changes in consumer behavior over time, changes in business litigation budgets, or qualitative re-

sponses from interviews with companies, regulators, judges, attorneys, or consumers). Instead, much of the analysis focuses on how cases should have been decided on the basis of the *inferred* effects of the cases. The upside, however, is that this omission prompts the reader to raise hypotheses and think of ways to test them.

The second limitation involves the aforementioned behavioral assumptions, on which many of the author's inferences rely. The book's policy analysis is based almost solely on dividing cases by the type of products at hand (durable and disposable) and by the nature of the advertised claims (experience, search, credence, or what the author calls "faith," which includes more extreme credence claims). The author then generates conclusions throughout the book on the basis of two primary intuitive assumptions: (1) consumers need no protection from claims that can be verified through search because consumers will engage in search and (2) there is greater potential harm to consumers from misleading or deceptive information concerning durable goods, and, thus, where possible, consumers will search more about claims regarding durable goods. A typical conclusion reads as follows (p. 85):

Consumers should be able to evaluate all search characteristics before purchase and therefore would not benefit from lawsuits challenging claims about such characteristics. Similarly, disposable experience goods can be readily evaluated after purchase and cost little to try. Therefore, consumers would also benefit very little from lawsuits involving this type of claim and good. The remaining 70 percent of the cases do appear to have potential for consumer benefit. However, plaintiffs prevailed ... in only 59 of the 87 proconsumer cases. Therefore, aside from immeasurable deterrence effects, consumers have the potential to benefit from less than half of the cases.

In part, the author confuses what consumers should do with what they actually do in practice. As an example, it does not follow that because consumers should be able to evaluate search characteristics, consumers would not benefit from regulation of such claims. Basing much of the analyses on like inferences is disconcerting. Among other alternative behavioral assumptions neglected, the author fails to consider that for several potential reasons (e.g., the cost of thinking) consumers may not search even for claims for which the truth is capable of being ascertained. He also does not address other alternatives, such as the fact that, for consumers in the aggregate, disposable goods frequently purchased can present as much of a loss as can durable goods. Addressing alternative assumptions would have marked a real improvement.

A third related limitation is that the author's inferences are based mainly on comparisons of proportions (such as comparing proportions of different decision outcomes for particular types of goods). Because some of the compared proportions are not very different (e.g., p. 103), they should have been subjected to statistical significance testing. None of them, however, are tested for significance.

Fourth, the author's conclusions frequently are extremely obvious, such as the following (p. 125): "although there likely have been some anti-competitive challenges to comparative advertising under the Lanham Act, it also has been used to encourage competition as well." We are often left without clearly useful insights. Again, however, the upside is that one is forced to continue thinking of other possible conclusions.

Chapters 8 and 9 on anticompetitive uses of advertising litigation add to the breadth of an otherwise limited subject. Two primary aspects are discussed: the use of advertising to collude tacitly (e.g., by dividing up regions) and to exclude competition. The latter topic is a fascinating area. Discussion is necessarily limited because there is a paucity of cases in this area, but, when discussed, there is little effort given to analyzing how public policy and businesses have been affected; the thrust of the conclusions again relate to how courts should decide cases.

Chapter 10 moves us into a new area; it introduces a developing aspect of advertising law—the regulation of imported goods—as administered by the International Trade Commission. It is unclear why this particular law merits the focus of an entire chapter. Because so few cases have dealt with this body of law in the realm of advertising, about half of the chapter (five pages) is devoted to procedural issues and the other half to case synopses. The author concludes that “there have been so few litigated FTC advertising cases that the type of policy analysis performed in earlier chapters appears inapplicable here. Nonetheless, there are interesting policy questions” (p. 167). This body of law, together with other developing areas, such as the use of “RICO” in advertising cases (a statute prohibiting racketeering, alluded to in the conclusion of Chapter 2), could have been more effectively analyzed together under the general framework of deciphering current trends in advertising law.

Chapter 11, titled “Toward a ‘New and Improved’ Advertising Law,” begins quoting Shakespeare with “The first thing we do, let’s kill all the lawyers.” The author continues (p. 177), “The above quotation is perhaps the most famous one concerning lawyers. Although many may find it compelling, is arguably goes too far (in a number of aspects). This study has found instances in which advertising law, and therefore, the lawyers bringing such lawsuits, appear to serve the interest of consumers quite well. It has also found instances in which the law and advertising lawyers appear not to serve the interests of consumers.” Although I had hoped the author would have used the Shakespearean quote humorously, we are left instead with a serious and obvious conclusion that, at this point in the book, acts as an ultimate disappointment.

The remainder of the chapter neatly summarizes the backbone of the prior analyses (the distinctions between types of products and between types of claims) and goes on to recommend changes in the jurisprudential applications of the advertising laws. The recommendations go beyond much of the discussion in the book by advocating, for example, a private right for individuals to bring Lanham Act cases and the privatization of cases by removing them from the courts. Although I agree with the author’s basic tenet that courts often fail to pay attention to behavioral phenomena, his conclusions go beyond this and require much more detailed discussion.

Finally, and importantly, though the book clearly has sufficient insights for all to gain something, it is unclear who the intended audience is. I say this with explicit qualification that the author’s task is formidable and delicate, in that he attempts to bridge areas of study for which each potentially intended audience has different expertise and knowledge boundaries. However, attorneys would

find much of the legal analysis and background cursory. (Those interested in an introductory but comprehensive and rich treatment of many of the legal ideas would benefit from starting with the book often quoted by the author, *Advertising Compliance Handbook* [Plevan and Siroky 1988] and its current supplement [Plevan, Siroky, and Kipperman 1992].) On the other hand, despite the fact that the legal sections are often too basic for attorneys, the book does not appear to target marketers and business people; it sounds “legal” in that the author often resorts to law-type pedagogy, including case conflicts and distinctions (sounding like “In Blank v. Blank, plaintiffs argued...”). Terms are employed without explanation that only attorneys or those familiar with law would necessarily understand or appreciate (e.g., “tort,” “standing,” “treble damages,” “injunctive relief,” “Circuit”). Those knowledgeable in psychological, communications, and/or economic theories concerning advertising effects would find some of the discussion and analyses too simplistic, and those who are empirically demanding might be uncomfortable with the limited quantitative examination and many of the author’s inferences derived from rudimentary empirical findings, potentially lacking validity.

Although the author surely deserves credit for his achievement, it would have enhanced the outcome for him either to have addressed a wider audience by raising the level of analyses across the board but defining terms adequately or to have targeted specifically and explicitly a particular audience by focusing on the effects relevant to that group. To be sure, the book provokes thought on the important topic at hand. I would generally recommend the book, although the reader should be ready to find some parts simplistic and some less than adequately explained and must be comfortable with the fact that many of the policy conclusions might be very different if one were to vary some of the fragile initial assumptions.

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