The Arguments Against Business Ethics... and How to Meet Them

The leading arguments Against are numbered. The counter-arguments are indicated by a *, and rebuttals by a + followed by a letter in brackets, and further counter-arguments by a further *.

1. Maximising arguments

These arguments purport to show that a businessman ought to maximise profit and nothing else. Thus Elaine Sternberg, "The defining purpose of business is to maximise owners’ value over the long term by selling goods or services" and "Managers who employ funds for anything other than the legitimate business objective are simply embezzling." 1 Two arguments can be adduced in support: the nature of money, and rational expectation.

§1(i) Money is that of which one could with more of. Other things being equal, one would prefer a situation in which one had more money to that in which one had less. Money would not work if this were not so. The comparative implies the superlative. The situation in which one has most money is preferable to all others, and is therefore the one we should seek.

But

§1(i)* The situation in which one had more money is necessarily preferable only if other things are equal, which they often are not. If I am offered a pay-rise I naturally am inclined to accept it, but not if it would entail moving house and saying goodbye to all my friends, or moving to a location where there are no good schools for my children, or if it would involving working under hazardous conditions, or if it would require my telling lies to prospective customers. Nowadays people often down-size when they have paid off the mortgage and educated their children; they move to the country, and take a less stressful, less well-paid job with congenial colleagues in pleasant surroundings. It can be a perfectly rational decision, trading money for other benefits. Money is not the only good.

§1(ii) Rational Expectation Theory defines rationality in terms of maximising. Often it is unclear what is being maximised: sometimes it is, in the terminology of the Theory of Games, pay-offs; more often the utilities that Utilitarians seek to maximise; more often still, especially in economic discourse, it is money, profits, or shareholder value. But whatever it is that is valued, the rational thing to do is to maximise it. And since businessmen are in it for the money, getting the most money is what they should be trying to do, either for themselves if they are individual entrepreneurs, or for their shareholders if they are managers.

But

§1(ii)* Rational Expectation Theory is wrong. MeFirstism as a general policy is irrational. If generally adopted, it produces sub-optimal results in many situations. The Prisoners’ Dilemma, thought about by Protagoras, Plato and Hobbes, and articulated in our own time by A.W. Tucker, proceeds that we need to go from the first person singular to the first person plural. To remain stuck in the first person singular is like solipsism in metaphysics. The solipsist cannot be forced out of his position, but has an inadequate view of himself, since he can give no account of selves in general. If I am to give an adequate account of myself, I need to see myself as one along with other selves, like them in some respects, though unlike them—indeed, unique—in others. Similarly, if I am to give an adequate account of myself as an agent, I must recognise that I am not the only pebble on the beach, and that what eventually happens depends not only on my choices alone but on the decisions of other agents each with his own point of view and with his own set of values. Other arguments from the Theory of Games show the need to conjugate more widely, and to take account of the third person plural, 2 of past commitments as well as present and future consequences, and of possibilities as well as actualities. If I am to be reasonable, I

2 Besides the standard examples of the Rule of the Road and language, it is worth pondering railway gauges and keyboards. Brunell’s 7 foot gauge was far more suitable for the railways than the traditional 4'8", but the latter having already been adopted, the superior merits of a wider gauge gave way to the need for rolling stock to be able to travel on the track of any railway company. The qwerty keyboard was designed to slow typists down in the age of mechanical typewriters so that the keys would not get stuck: with electronic systems other keyboards would be much better; but though some, such as the Dvorak, are on the market, qwerty reigns supreme simply because it is there and does reign supreme.
need to consider not only me, but us and them, and what has been done as well as what will or may come about as a result of our actions.

However,

§1(ii)*+(a) Maximisers try to sidestep this argument by changing the content of what is being maximised. Instead of money it is profits, instead of profits it is long-term profits, that, they say, a businessman should seek to maximise, instead of shareholder value it is shareholder value in the long term. Shareholder value in the long term is an elastic concept. It is arguable that shareholder value in the long term is enhanced by having a good reputation, because then a better class of employee will be attracted. Likewise green credentials will encourage green-minded customers to buy, and donations to the Third World will similarly attract custom from those concerned to alleviate third-world poverty. Indeed, a self-interested motive can be made out for doing any sort of disinterested action. For, in a world inhabited by other people, any action that has adverse consequences for anyone is likely to incur condemnation by potential victims, and even victim-less bad behaviour, if it contravenes the moral code of other people, is likely to be stigmatised as such to the detriment of the standing of the perpetrator.

But

§1(ii)*+(a)* these considerations, though largely true, do not rehabilitate the maximising definition of reason or rationality. Instead of telling us what rationality is in terms of something definite, like money, or profits, or shareholder value at a particular time, the quantity being maximised varies from case to case. If we call them ‘interests’, instead of requiring that rationality should conjugate, we are conjugating interests. This is very largely true of interests, but tell us us nothing about rationality. Rational Expectation Theory, in order not to be refuted by counter-example, has been evacuated of all content. All it says is that we do what we do, because doing it maximises our doing what we want to do.

§1(ii)*+(b) But still, it might be argued, if Rational Expectation Theory has not been rehabilitated, it can, in view of the extendability of interest, be dispensed with. If in business the rule is to maximise one’s interest, one will be led to do all the right things. One will not be a short-termist. One will seek long-term shareholder value rather than short-term profits; one will undertake public duties and do good deeds to enhance one’s reputation.

Yes

§1(ii)*+(b)* this may well be the case. For the reasons given, honesty —and morality, generally—is the best policy, and in many societies there is further institutional support for good behaviour. But the account is inadequate as a guide to making decisions. I may well think it to be in my interest to be thought to be good: but in order to be thought to be good, I must do good deeds, and to do good deeds, I must know what good is; at the very least, I must know what other people regard as good, and must have some understanding of why they think it, and hence of how they think generally. But in that case, if I do not myself accept the idea of goodness, and recognise its claims on me and my behaviour, I shall suffer serious psychological dissonance between the principles and ideals which I know others have and partly understand myself, and my own lack of principles and ideals. The conscience of the fully maximising businessman is necessarily uneasy.

But

§1(ii)*+(b)+* corporations do not have souls, and so do not have consciences.

Yes, but

§1(ii)*+(b)+* they do have employees and managers, and will be in trouble if their employees and managers are as free of moral scruple as the corporations themselves are said to be. Why should a manager seek to maximise shareholder value rather than his own emoluments? It was a question often asked in the first decade of the Twenty First Century, and it is all too evident now that no convincing answer was available.

2. Arguments for Business Amorality

These arguments do not say what a businessman ought to do. They claim that moral considerations simply do not apply to business. Private individuals may have consciences, but corporations have no souls. They are free to make whatever decisions they want, constrained only by the law.

The merit of these arguments is that they are simple: the demerit is that they are simpliste.
The Concept of Money

§2(i) Homer’s question to Telemachus provides a general classification of human relations into those that involve force and those that are consensual. The former is the sphere of law, the latter of economics. Economics is about interactions that are agreed to by both parties. The paradigm is the South Sea trader swapping beads for copra. Both he and the native islanders agree to the exchange thinking it beneficial to themselves. Any exchange agreed to by both parties is similarly making them better off, and so is OK.

But

§2(i)* The paradigm is untypical. Most economic relations are not confined to one-off transactions; witness the word ‘customer’. In advanced economies economic relations involve repeated transactions, some of which are not easily dispensed with, integrated into a complex pattern of life. Even with dispensable, one-off transactions, agreement is not a conclusive proof of acceptability. Honesty requires not only that one fulfills one’s contracts, but that one does not cheat or short-change. The copra delivered must be like the copra initially inspected, and not mouldy or worm-eaten. The market requires honesty and fair dealing, and hence standard weights and measures and laws such as the Sale of Goods Act. Rules regulating banks and take-over procedures are but an extension of these.

§2(ii) Law should be minimal. We have to have laws to avoid living in a state of nature, but the function of law is just that—to avoid violence and enforce contracts. I am willing to agree with the civil authority or my fellow citizens to obey the law in order to have the protection of the law, but not to obey every or any law that happens to be proposed. The only laws the bargain requires me to obey are those necessary for maintenance of civil society.

But

§2(ii)* There never was a bargain, either with an already established authority or between citizens. Stories of the the Social Contract are fairy tales, which may illuminate, but cannot commit. There are arguments for a minimally coercive state, but that will require there being many laws, not there being as few as possible.

§2(iii) Law and morality are separate. It is not the function of law to make us moral, or induce us to act morally. It is up to the individual what morality he chooses to adopt, and no business of the law to interfere, except to avoid certain definite harms to other people. These are adequately protected by existing laws.

But

§2(iii)* The fact that law and morality are different does not mean that they entirely disconnected from each other. The fact that moral commitment is an individual matter does not mean that moral judgements are subjective, and not a matter for rational and public concern. The fact that the law does much to protect the life, liberty and property of the individual does not mean no other protection is ever needed. Recent history shows that existing laws have often proved inadequate.

§2(iv) If laws are found to be inadequate, they should be amended; and business should comply. But they should not be expected to comply with whatever fancies do-gooders imagine to be their responsibility. Individual shareholders can go in for fantasizing, but businessmen have to live in the real world, and do whatever they think best within the limits laid down by law. If the law requires something, they should do it: if not, not.

But

§2(iv)* This, again, is to misunderstand the nature of law. Law does not exist in a vacuum, but in a social context, along with social and moral norms. Although distinct from morality, it is connected with morality. There is a generally recognised moral obligation to obey the law—if there were not, and people obeyed the law only when compelled to by the threat of coercion, law would break down. Law depends not only on people generally thinking they ought to obey it, but on some people—judges, jurors, witnesses—having a high standard of morality. Many actions believed to be morally wrong are forbidden by law: many, but not all; if something is wrong, we often say ‘There ought to be a law against it’, but recognise that this is not a conclusive argument. Laws are expensive to pass, expensive to enforce. Sometimes there should not be a law, because really there is no need. People’s consciences

3 In the Odyssey (bk. 3, ll.71-4) Nestor asks Telemachus and his companions whether they are pirates or traders. The Cyclops asks Odysseus and his companions the same question (bk. 9, ll.252-5).
and public opinion are sufficient disincentives. More often it is difficulties of enforcement and the possibility of blackmail that argue against legislation.

Since there is, indeed, some separation between law and morals, it is open to businessmen and others to argue that the fact that many people think something is wrong does not automatically mean that there should be a law against it, and that they should act as if there were one. But conversely, it also shows that if there is not a law against it, it is quite all right. The law's prohibitions do not exhaust the prohibitions of morality. The businessman who takes not a simplistic view of law, but a serious one, will have to acknowledge the force of moral considerations, and consider whether and how they apply to him in the decisions he is called upon to take.

A New Example of Business Amorality

BP (British Petroleum) is lobbying the Government not to put pressure on Mr Putin to respect Russia's guarantee of Ukraine's territorial integrity because it might jeopardise its investments in Russia. If it is successful, NATO's commitment to the Baltic States will be put in doubt. Estonia, Latvia, and Lithuania, all have Russian minorities living within their borders. If Mr Putin gets away with annexing the Crimea and Donetz regions, he will be able to do the same in the Baltic. NATO will have two options: abandon the Baltic States or threaten nuclear war. If it abandons the Baltic States, it will cease to be a credible alliance, and the USA will no longer think it worth supporting. If NATO threatens nuclear war, it may have to carry out its threat, because Mr Putin believes that the pressure from British Petroleum will prevail, and so will not be deterred by the threat. BP, pursuing its own financial interest, regardless of the wider consequences, is nudging us towards nuclear war.