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Marketing and Ethics: The Case of Food and Health.

Towards a Managerial Grid

Abstract

The health-enhancing food business is growing and generating many R&D and marketing initiatives, which sometimes come under criticism for immoderation. In order to meet major economic challenges, companies, particularly large multinationals, are developing self-regulation based on ethics. The self-regulation sometimes applies to a whole industry, sometimes to an individual company and takes the form of codes of ethics. This article begins with a survey of the public and private, and collective and individual issues involved in moralising the market, and then analyses the various philosophical sources of ethical thought available to company heads. The potential areas of application of codes of ethics, particularly in marketing, are then identified and analysed. Next we study the content of codes of ethics in general as well as codes used by international food companies that produce health-enhancing foods. Finally, we propose a managerial grid designed specifically for the industry. The grid includes four chapters and twelve items.

Key words

Marketing, code of ethics, health-enhancing foods, food and health, managerial grid

¹Health-enhancing food, in other words, foods products reputed to reduce the risk of illness or improve body systems, are a rapidly growing business in industrialized countries. Such foods can be classified as belonging either to the *restricted perimeter* or the *extended perimeter*. (Guillon and Willequet 2003). The restricted perimeter (functional foods, dietary supplements, dietetic foods) includes products for which there is normally scientific proof that they provide benefits to targeted body systems (in humans or animals) beyond those associated with the basic nutrition they contain. Extended perimeter foods do not (yet) meet the criteria for restricted perimeter foods, but include all foods reputed to be health-enhancing or for which health claims are made, such as “light” products, fruit and vegetables in general (though many clearly belong to the restricted perimeter), lean meat, sugar and fat substitutes and organic foods. In economic terms, the extended perimeter of health-enhancing foods is up to ten times larger than the restricted perimeter, and accounts for up to a third of all food. It should be noted that markets for specific products develop on the fringes of what can be called the quest for a healthy diet, which has been adopted generally by the public authorities of all countries trying to control industrial epidemics such as obesity.

The market for health-enhancing foods is growing faster than any other area of the food industry owing to industrial innovation and strong demand from consumers in developed countries. Moreover, consumers increasingly tend to self-medicate, and health-enhancing foods are sold without a prescription in traditional food stores and through specialized services, such as para-pharmacies, organic food outlets and mail order. Food companies are thus very tempted to enter the market and develop *ad hoc* communication plans. According to data presented at the International Food Products Exhibition (SIAL 2004), over 50% of new food products are claimed to enhance health.

The growing market for such products is leading companies to offer foods with merits that are sometimes supported by solid research, but sometimes not. There is much criticism from public authorities in every country, consumer associations, health care professionals and companies in a competing but highly regulated industry: pharmaceuticals. In particular,

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scientific, moral and public authorities often express concerns that consumers may *lose the chance*² to take an orthodox medicalized approach.

For companies in the health-enhancing food sector, it is crucial to maintain consumer confidence, which requires moralizing the market. Two types of approaches to this are being taken in the countries concerned: public regulation and self-regulation of the industry and individual companies.

Public regulation of health food production, marketing and communication is being standardized at the international level in accordance with the *Codex Alimentarius*. (Shimizu 2005)

Self-regulation is another approach, and has been defined as “the possibility for economic stakeholders, social partners, non-governmental organizations or associations to adopt amongst themselves and for themselves common guidelines.”³ Self-regulation is thus seen as a collective approach in an industry, and takes the form of professional codes and charters.

However, an individual company can also adopt a specialized or corporate code of ethics, which is defined as “a statement setting down corporate principles, ethics, rules of conduct, codes of practice or company philosophy concerning responsibility to employees, shareholders, consumers, the environment, or any other aspects of society external to the company.” (Langlois and Schlegelmilch 1990)

Self-regulation is being developed in the health-enhancing food industry at the national and international levels, particularly with respect to communication and health benefits claims. Major food companies are developing codes of conduct and good practice, and specialized charters applying to the development and marketing of health-enhancing foods. Some independent institutions, such as the British Food Ethics Council (1999), have applied their own standards to the industry and made ethical judgments on the general issue of functional foods.

² *Loss of chance*: the result of an inappropriate allocation of one’s own resources (e.g., money, time and information) to ineffective approaches to health care when effective approaches are available but unused.

In this article, we will present an overview of ethical issues and health-enhancing foods that will conclude with a draft conceptual tool that could be used by food companies and self-regulatory associations.

This article

- Describes the stakes involved in moralizing the health food industry,
- Reviews the content of the primary sources of inspiration for industry and company codes of ethics,
- Describes the areas of application of ethical principles in the health food industry,
- Proposes a view of the structure of company codes of ethics based on a partial review of existing codes,
- Proposes an industry-specific grid that companies and professional associations could use to develop self-regulation.

Issues involved in moralizing the health food industry

Successful examples of industry moralization (e.g., in France: BVP 2005, pp.76 and 77) show that one of the conditions for moralizing a market is the adoption of self-regulation based on a framework of consensual values by a sufficient number of companies “interacting with the general environment” (since “self-regulation cannot be practised alone in a corner”), and that such self-regulation can complement appropriate public regulation. However, what are the stakes involved in moralizing the health-enhancing food industry?⁴

For the state and civil society, the primary concern is public health, which can be assessed using generally accepted criteria for health care systems and policy (Majnoni d’Intignano and Ullmann, 2001): effectiveness, fairness and equal access for all; balance between prevention and cure; degree of responsibility of caregivers and patients; and cost effectiveness. An immoral health food market would therefore be one in which companies do not try to meet these criteria to an appropriate degree, in particular, with respect to product effectiveness and unequal access to health care resources for individuals.

³ *Interinstitutional agreement on better lawmaking* co-signed by the European Parliament, Council and Commission (OJ C 321, 31 December 2003).

⁴ We will look at what is at stake first for the state and civil society and then for companies, in accordance with a practical socio-economic segmentation that is not generally shared by moral philosophers.

In this sense, the ethical issue for government and civil society is either utility, in other words, the health and well-being of all members of the population, or justice, as will be defined below in accordance with Rawls' theory. (Rawls 1971)

In terms of utility in developed countries, the concern is to control industrial epidemics related to poor diet (obesity, cardiovascular disease, cancer, etc.). The food and restaurant industries are clearly part of the problem. An ethical approach should lead them to become part of the solution.

In terms of justice, two ethical issues are crucial:

- Equal access for all to new health-enhancing foods (food products are not reimbursed by national health care systems), and
- *Loss of chance* owing to a lack of information or inappropriate information in underprivileged segments of the population, in particular children and vulnerable people.

Companies are facing many critical issues. Some concern the industry as a whole (and can be governed by industry-wide self-regulation), while others concern individual companies (and can be dealt with using company codes and charters).

At the level of the industry as a whole, the issues include

- First, regular, steady market growth with consumer confidence and approbation from other components of the health care sector. In this virtuous circle of growth, all companies, including the few “black sheep,” can hope to prosper in the short term, but companies with an ethical approach can hope for long-term commercial and financial success.
- Second, more context-specific but nonetheless social and crucial, reduction of the skepticism of many general practitioners, specialists and dieticians with respect to health-enhancing foods, including functional foods and dietary supplements. The opposition is stronger in some countries, such as France.
- Third, counteraction or even reversal of the social movement towards greater regulation (BVP 2005) both in general and especially with respect to health-enhancing foods. In Europe in particular, the movement is led by consumer associations. A complementary issue is the ability to anticipate or even influence future regulation.

- Finally, company freedom and the ability to establish creative policies for product innovation and advertising.

At the level of individual companies, the issues are

- First, trademark and image. The definition and display of generic consensual values such as integrity, honesty and respect, have helped to strengthen brands ever since brands first came into being. What is true in general is all the more so in the health sector, which is crucial to consumers but full of uncertainty.
- Second, establishment of customer loyalty by strengthening trust.
- Third, specific to the health food sector, reduction of the risk of scientific and technological failure despite the heavy investment required in nutraceutical development.
- Finally, dissemination of a formalized ethical approach within the enterprise. This makes it possible to guide employees, particularly in multinational companies facing different socio-cultural situations and strong pressure from competition.

Sources of ethical reflection

Given what is at stake, company heads and operational managers need to be guided with respect to ethical thinking and implementation. Philosophers are the primary source of ethical thought, but since so far their writings have not directly targeted management in the health food industry and are not generally easy to read, specialized organizations (e.g., in business, advertising and nutrition) and experts have tried to bridge the gap. The result has been company codes and practices that we will examine below. However, we will first rapidly and incompletely present and summarize some of the schools of ethical thought underlying company reflection, as well as the theories of a few authors who have mediated such reflection.

The etymology of the word *ethics* is the Greek word *ethos*. However, some authors understand it as synonymous with the word *morals*, which is based on the Latin word *mores*, while others consider morality to be a sub-section of ethics. In its broadest sense, ethics means reflection on good and evil (and justice) and its goal is to identify which actions are morally good. (Lopes 2003) Meta-ethics seeks to identify the criteria that determine the validity of value judgments. Ethical issues cover norms and values that govern or should

govern relations among individuals. Ethical norms (unlike legal norms) are not imposed by force, but rather appeal to a feeling of responsibility to an entity other than oneself, such as God, society, humanity or an impartial observer. “The deontological ethical attitude consists in an (economic) agent voluntarily submitting to the transcendence and universality of a rule that he has created himself by adopting it for himself.” (Dupuy, 1999)

Until the twentieth century, moral doctrines were grouped into two main categories: consequentialist doctrines and deontological doctrines. We would like to call special attention to the doctrine of one deontologist in particular, namely that of Rawls in *A Theory of Justice*.

Consequentialist doctrines, including utilitarianism,⁵ subordinate what is just to what is good. An action is just or moral if it contributes to maximizing the happiness (i.e., utility) of the greatest number. Actions are evaluated in terms of their consequences. The well-being of the largest number of people is the fundamental value in utilitarianism. For some utilitarians, the aim is to promote the least amount of evil or harm, or to prevent the greatest amount of harm for the greatest number, but most deal with producing the greatest amount of good for the greatest number. Even though most utilitarians do not distinguish (anymore) between the two points of view, people in the health food industry will see in this a distinction between promises of reduced risk of disease and claims about improved body system function.

With respect to health food, this approach would entail assessing the ethics of marketing a product in terms of its safety for society as a whole (for example, does the product contribute to the obesity epidemic), effectiveness (for example, does the product have a real effect?) and social utility, which depends on how much additional well-being the product could provide to a large part of the population.

In contrast, deontologists (of whom the primary example is Kant) give absolute priority to the just over the good. The fact that an action’s consequences contribute to the general good can never legitimate it. An action must be good in itself, and moral norms and principles must be complied with for themselves. Here, right has precedence over fact, and freedom and rationality come first. People must be respected as individuals and not in accordance with a cost-benefits analysis of either individual or collective scope. According to such doctrines,

⁵ Utilitarianism was originally proposed in 18th century England by Jeremy Bentham, John Stuart Mill and others.

actions concerning other people in society must be judged according to the respect that they show for people's independence and freedom of choice.

From the point of view of the market for health-enhancing food, this approach leads to the questions of whether the information given to consumers is appropriate and of good quality, and of whether consumers have real freedom of choice, for example, in a situation where the range of products is too small. Very concretely, from this point of view, it would be difficult to see as ethical an offer of a single size of chocolate bar in a non-reclosable wrapper.

A third approach, namely that suggested by John Rawls in the twentieth century, seems pertinent. (Rawls 1971) While his *A Theory of Justice* begins in a Kantian vein, he cannot bring himself to abstract his system of ethical thought from social reality and inequalities even if they can be justified. His Second Principle of Justice can be summarized as "economic and social inequalities are only justified if they benefit all of society, especially its most disadvantaged members."

The health food market creates inequalities far beyond what can be seen in terms of general health care and food. Food products are not reimbursed, and *a fortiori* functional foods and food supplements are not either. Yet, the latter are much more expensive than normal food. We can therefore include another criterion in our ethical thought on food products, namely one of Rawlsian inspiration: affordability of the benefits of nutraceuticals and food supplements for the greatest number.

These three types of doctrine constitute forms of moral intuition that cannot be combined in a single consistent ethical system. However, Paul Ricoeur pointed out the need to bridge the gaps. He defined what he called *ethical intention* as "aiming at the 'good life' with and for others, in just institutions." (Ricoeur 1990) According to Ricoeur, ethical intention precedes morals and compliance with norms, and forms the foundation of ethics. However, he felt that it is impossible for practical reason, i.e., economic reason, to take only one of the ethical criteria into consideration. (1995)

It is true, and in the end fortunate, that economic and managerial practices do not have to follow the strict laws of internal logic specific to philosophical systems. Companies have long been used to basing decisions on many different criteria, and we will use this type of

multicriteria approach in the grid we will suggest below. Indeed, in the twentieth century, some philosophers also had an inkling of this conceptual and practical problem, and suggested an approach different from that based on universal principles (e.g., duty, utility and justice). Habermas and Apel called the approach “ethics of discussion” or “procedural ethics.” The approach belongs to the Kantian tradition,⁶ but involves focussing on the quality of the process by which moral laws are established and not on the moral law itself. For example, a moral norm or law would be considered good if it was developed according to specific ethical criteria. Here, the procedure is more important than the result. According to Habermas, the validity of claims about the justice of practical statements depends on the conditions of the discussion in an “ideal speech situation.” (Habermas 1996)

In practice, this “discussion” approach is consistent with the creation of ethics committees (e.g., in bioethics) designed to help managers of public and private organizations make decisions. A number of major food companies use such committees, but the legitimacy of membership in ethics committees is a perennial issue.

Some transversal organizations have tried to mediate philosophical concepts in the form of codes, charters and reflections tailored to certain industries (such as food) and professions (such as advertising).

We will give three examples of organizations that have done particularly interesting work: the Food Ethics Council in Britain, and the BVP and IREMAS in France.

The Food Ethics Council⁷ was created in 1998 “in response to widespread public concern about recent developments in food and agriculture. Since then, [it has] reported on ethical issues ranging from drug use in farm animals to intellectual property in agricultural research.” The Food Ethics Council is composed of eleven members with academic, farming and scientific backgrounds. They claim to be independent of government and industry and not affiliated with any political party or religious organization. The Council is a charity registered in England.

⁶ Jean-Pierre Dupuy notes that “...the (Kantian) universalization test that allows us to choose between rules of conduct is a procedure of precisely this kind.”

⁷ www.foodethicscouncil.org/index.html

For the Council, three important ethical principles are

- Respect for well-being (i.e. health and welfare)
- Autonomy (i.e. freedom of choice)
- Justice (i.e., fairness)

This approach is very useful, so we have included the Food Ethics Council classification system below. (Food Ethics Council 1999)

Figure 1. The Ethical Matrix of the Food Ethics Council

Respect for	WELLBEING (HEALTH & WELFARE)	AUTONOMY (FREEDOM/CHOICE)	JUSTICE (FAIRNESS)
THE BIOTA*	Conservation	Biodiversity	Sustainability
PRODUCERS	Adequate income & working conditions	Freedom to adopt or not to adopt	Fair treatment in trade and law
CONSUMERS	Availability of safe food	Respect for consumer choice (e.g. labelling)	Affordability of food

* Biota are 'the plants and animals of a region' (i.e. wildlife or the 'living environment')

In France, the BVP⁸ (Advertising Verification Bureau) belongs to the EASA (European Advertising Standards Alliance), which advocates the development of corporate self-regulation with respect to advertising. The undertaking's longevity is remarkable: it began in 1953. Among other things, the BVP has issued three recommendations applying to the sector we are discussing. The recommendations concern

- Health-enhancement claims,
- Advertising and obesity, and
- Advertising and children.

IREMAS⁹ (Institute for Research in Food and Health Marketing) is a not-for-profit organization established in France in 2003. Its members include professionals and researchers, and its goal is to create sustainable confidence in the health food sector. IREMAS is an international organization, with members in many countries and a multidisciplinary, international scientific board. Its Marketing and Ethics Think Group works on concrete questions submitted by companies.

⁸ www.bvp.org

In appendix, we include a list of international academic and professional research organizations that are studying various aspects of the issue.

Potential areas of application of ethical principles with respect to health-enhancing food

Given the issues at stake for individual companies and for society as a whole, and the wealth of sources of ethical thought, we can identify areas of managerial decision-making and action that can create relations and oppositions among issues and principles.

It is generally accepted that a company's goal is to create value for its stakeholders (i.e., owners, managers, employees, consumers, etc.) by carrying out its purpose in strategic areas of business. In order to do this, it develops and reinforces value chains (Porter 1986) in every managerial function. The role of marketing (Mercator 2003) is to create (economic) value for the company by creating, revealing and promoting value¹⁰ for customers.

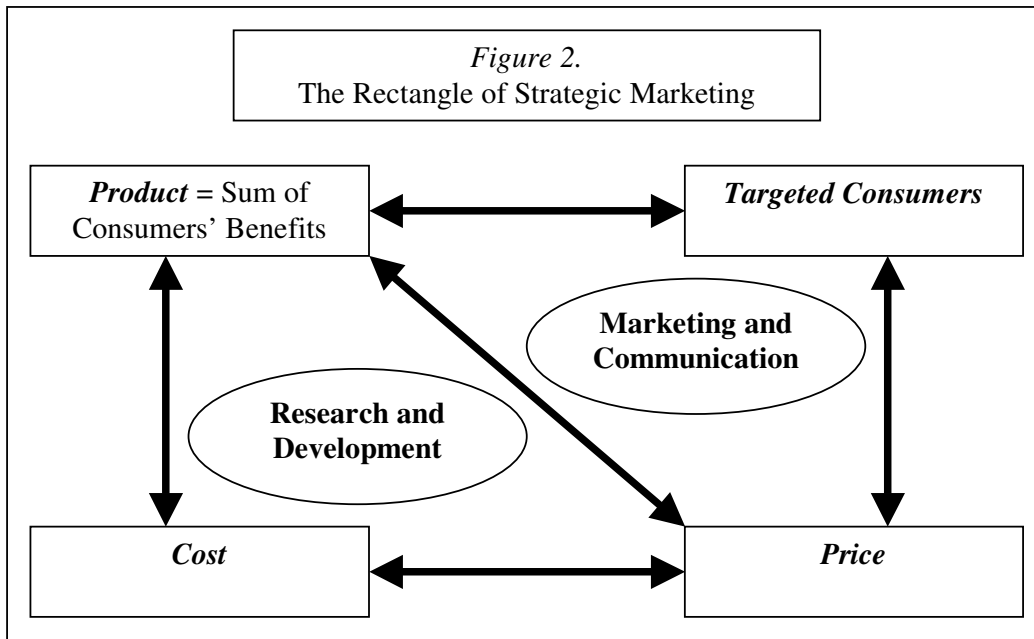
The attempt to create value in the health-enhancing food industry involves many departments of a company, but two are crucial:

- Research and development, and
- Marketing (including communication).

The rectangle of strategic marketing (Guillon 2003) shows the structural link between R&D and marketing, as well as the inter-relations between the promises made to consumers, production cost, target market and price (cf. Figure 2).

⁹ www.iremas.org

¹⁰ Value (Porter, 1986): "In a differentiation strategy, value is what customers are willing to pay. A higher value through differentiation can be obtained by providing unique advantages that more than compensate for a price that is generally higher." [Our translation.]



This diagram shows the internal tension that is necessary in order to optimize the whole.

- Production costs must be lower than the price acceptable to consumers for the benefits promised. This is the problem facing R&D.
- Communication has to show that the product's value (the price that consumers would be ready to pay for the benefits provided) exceeds its real price. This is the challenge facing marketing and communication.

Clearly, when there is strong competition, these two problems might be solved, at worst, by violating general moral principles.

For example,

- There could be inappropriate and dangerous tampering with the product's formula to reduce production costs, or
- Fraudulent promises could be made about the benefits delivered by the product in order to increase sales or price, and therefore profit.

Clearly the decisions made in both areas necessarily involve ethics. Concretely, there is both an economic and ethical dimension to every R&D and marketing decision, as can be seen in Table 1.

Table 1. Economic and ethical aspects of some R&D and marketing decisions

<i>Decision</i>	<i>Economic Goal</i>	<i>Ethical Issue</i>	<i>Department(s)</i>
Choice of ingredients	Reduce the cost of the product by using high-calorie, palatable nutrients even though they have low nutritional value (e.g., fat and sugar)	Effective health enhancement Risk to health	R&D
Nutritional value		Increase or decrease of utility (public health) Contribution to industrial epidemics related to nutrition	
Size of portions	Maxi-sizing/mini-sizing and profitability. (Guillon 2004)	Utility: Contribution to industrial nutritional epidemics caused by over-consumption Freedom of choice: purchase and consumption	Marketing, R&D
Number of sizes of portions available	Limit the number of options to make economies of scale		
Individual packaging that is or is not re-closable (candy bars, etc.)	More or less costly packaging Increase or reduce the number of units sold		
Develop only products that meet clear, major public health needs	Reduce or increase opportunities to create products and markets	Increase or decrease of utility (public health) Freedom of choice: purchase and consumption, asymmetrical information	Marketing, R&D
Mention or failure to mention in communications documents the segments of the population scientifically targeted	Reduce or increase the potential market		Marketing

Limit communication to targets capable of making independent decisions (exclude children and vulnerable people)			
Reduce or increase the profit margin per unit and thus the price	Limit or increase profit	Product affordability	Senior management, Marketing

Operational managers and senior management of companies producing health-enhancing foods therefore have a wide range of choices.

From corporate to specialized codes

Major companies, especially multinationals, have felt the need to deal with these issues. We have identified and studied a number of publicly available documents from public and private organizations and associations that set out formal codes of ethics, codes of conduct and general and specialized industry codes (targeting specific functions and areas).

Once they are a certain size, food companies generally develop formal principles and basic policies, and adopt and publicize them. The principles and policies define

- The company’s purpose, mission and values,
- Corporate social responsibility, and
- Nutrition and marketing policies.

These different aspects of corporate discourse are not always found in the same documents and may be covered by chapters in a range of documents intended for different readers.

Based on their analysis of 197 Swedish, Canadian and Australian corporate codes of ethics, Singh *et al.* (2005) suggest that a code can potentially be broken down into 64 items and 10 domains (Figure 3).

Figure 3.
List of Domains, Corporate Codes of Ethics (Singh *et al.* 2005)

- (1) Conduct on behalf of the organization;
- (2) Conduct against the organization;
- (3) Integrity of books and records;
- (4) The basis of the code (legal, ethical, or both);
- (5) Specific laws cited;
- (6) Reference to government agencies;
- (7) Internal and external compliance/enforcement measures;
- (8) Codes mentioning enforcement/compliance procedures;
- (9) Penalties for non-compliance;
- (10) References to the need to maintain the corporation's "good reputation".

We will use domains (7), (8) and (9) in our proposed grid because there is overwhelming evidence that a code without procedures for monitoring compliance and assigning penalties has little chance of credibility or enforcement.

Depending on their business strategies, companies also set out formal commitments with respect to responsibility and ethics in more specialized documents, such as on food product marketing and health. The link between corporate and specialized codes is not always explicit.

However, it is at Kraft Foods.¹¹ The links between documents and chapters are easy to identify (cf. Figure 4). Company values are described in the chapter entitled "Profile." Functional policies (product development, marketing, communication) on health-enhancing food ("healthy living policies and practices") are covered in the chapter entitled "Responsibility."

At Danone,¹² values (openness, enthusiasm, humanism, proximity) are also described in a separate chapter entitled "Our Company." The value *humanism* is in turn covered in detail and included in a sub-section of the chapter "Responsibility:" "Danone pays attention to the safety of people and products, acts pro-socially and is environmentally friendly." Nutrition is included in another chapter, entitled "Sustainable Development," which covers five themes: "Water, Environment, Childhood, People, and Health and Nutrition." The theme "Health and

¹¹ www.kraft.com / July 2005

¹² www.danone.com / July 2005

Nutrition” includes functional policies set out in Danone’s *Food, Nutrition and Health Charter*. It in turn includes five “convictions” (balance, variety, pleasure, conviviality and information) and nine commitments on the following themes: product ranges, dialogue with scientists, support for research, sharing of knowledge, collaboration with public organizations, information to consumers, nutrition and health claims, advertising and physical activity.

Nestlé¹³ (“Good Food, Good Life”) presents its “Business Principles” (“the ideology and ethics that guide Nestlé’s business practices”) separately. Nestle also has a separate chapter entitled “Our Responsibility,” which is explicitly linked to the way its business principles are presented because it includes a number of themes and applications, including the principles of commercial communication. Finally, a third chapter, “Nutrition,” makes explicit the functional and operational policies in the Group’s areas of business. The chapters contain many cross-references.

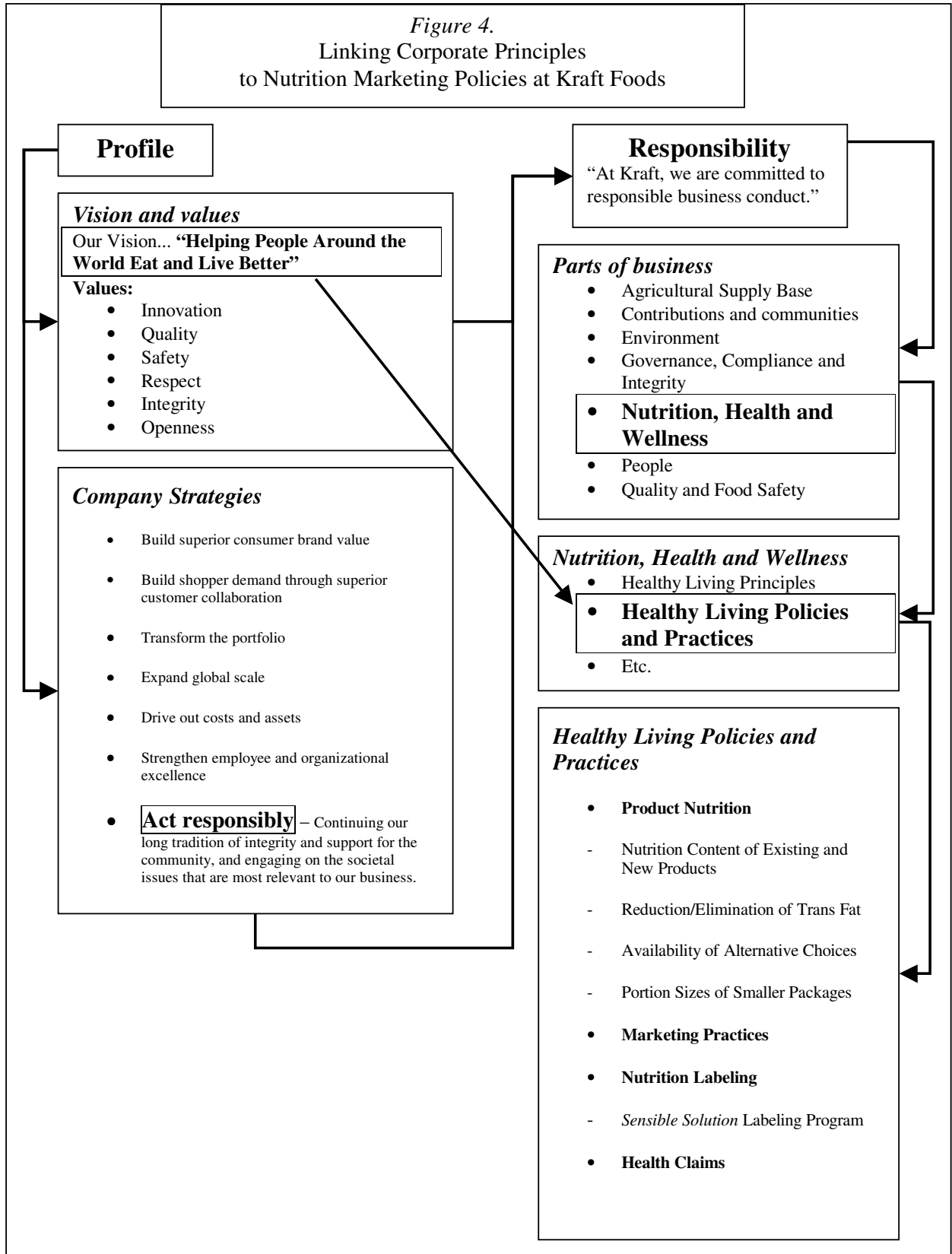
Unilever¹⁴ (“Feel good, look good and get more out of life”) also sets out its mission, values, principles and nutrition policies in separate chapters:

- One chapter is devoted to the Group’s “vitality mission.” (“Our Vitality mission connects us to consumers as citizens. We will pursue the goals of sustainable development where we have the greatest impact, through our sustainability initiatives in fish, agriculture and water. We will play our part in society as a responsible business and engage with the communities we serve.”)
- Another chapter covers implementation of a responsible nutrition policy. (“We’ve created policies and guidelines to ensure we always act responsibly when it comes to health and nutrition.”)
- Finally, one chapter, entitled “Unilever Food and Beverage Marketing Principles,” covers Unilever’s marketing recommendations.

¹³ www.nestle.com / July 2005

¹⁴ www.unilever.com / July 2005

Figure 4.
Linking Corporate Principles
to Nutrition Marketing Policies at Kraft Foods



Our fifth example is Yakult,¹⁵ a Japanese company that was one of the first to enter the health-enhancing food business (in 1935). It asserts its principles in a more holistic manner and has a global philosophy, namely to “contribute to the health and happiness of people around the world.” The company’s documents say it not only markets a health-enhancing product but also provides people with health information and engages in cultural activities. Yakult’s marketing is in line with its vision of society, and its principles are set out in an internal *Yakult Bible*. The primary principle is “KNOW marketing is NO marketing.” All of the principles described in Yakult’s marketing bible convey the company’s constant vision of ethical marketing.

The word *ethical* is not often used in the public documents that we have mentioned above or in the other company documents that we consulted.¹⁶ Instead, the word “responsibility” is often preferred in the sense of “responsibility to society as a whole.” *Ethical* is not used perhaps out of fear of not being understood (*ethical* is a word that is generally misunderstood) and of having a boomerang effect with respect to a sensitive issue on which large companies are often challenged.

However, it is clear that their inspiration is indeed the main philosophical movements in ethics as summarized above. The corporate charters and codes belong to what researchers call codes of ethics. Langlois and Schlegmilch (1990) define a code of ethics as “a statement setting down corporate principles, ethics, rules of conduct, codes of practice or company philosophy concerning responsibility to employees, shareholders, consumers, the environment, or any other aspects of society external to the company,” though Singh *et al.* (2005) note that the “documents vary in length, breadth of topics covered and extent to which topics are covered.”

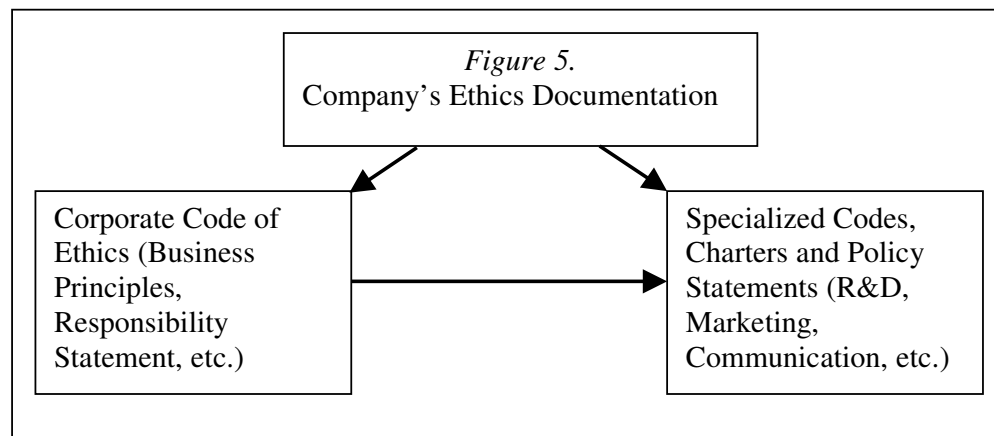
The documents we have mentioned (“Business Principles,” etc.) clearly fit this definition even though they are not called codes of ethics and generally have a format and structure more complex than a single unified statement.

¹⁵ www.yakult.be or www.yakult.co.jp/english/ / July 2005

¹⁶ Companies and groups: Ferrero, Coca-Cola, Uniq, Lesieur, Pepsico, Masterfoods, Bonduelle, Kellogg’s, Heinz, Sara Lee, McDonald’s, Tesco, Wal-Mart, Carrefour.

Moreover, specialized operational documents (e.g., on nutrition and health) applying to a whole sector (e.g., a profession or product) combined with a company's general documents seem to us to be an integral part of an overall edifice that we will call the company's ethics documentation. Note that within professions and companies, specialized codes are sometimes also called codes of conduct, principles of good practice or charters.

We therefore suggest the following chart:



Proposed managerial grid

So far, we have situated the stakes related to codes of ethics in the health food industry for society as a whole and for individual companies. We have also indicated possible areas of application for an ethical approach in marketing and summarized the links between general ethical principles and specialized company codes.

In conclusion, we propose a managerial grid based on the above findings. It includes four chapters and twelve items.

The four chapters are:

- Norms and sanctions (2 items)
- Well-being (5 items)
- Autonomy (4 items)

- Affordability (1 item)

Norms and sanctions

The first chapter, “Norms and sanctions,” concerns a company’s formal code of ethics and written enforcement, compliance and penalty procedures.

This chapter could contain two items:

1. A written code: Does the company have a written code or charter describing the principles, ethics and rules of conduct for research and development, marketing and communication concerning products implicitly or explicitly described as health-enhancing?
2. Compliance rules: Does the document include regulations and procedures to enforce rules of conduct, control compliance and apply sanctions accordingly?

The other three chapters follow the structure suggested by the Food Ethics Council (1999). This brings together three major currents in ethical thought:

- The consequentialist (utilitarian) approach, which is covered here in “Well-being” for the greatest number, including those who purchase and consume the product in question;
- The deontological (responsibility and duty) school, which, in accordance with the Food Ethics Council’s approach, is covered by “Autonomy” of choice for consumers; and
- The Rawlsian (social and economic justice) approach, which is covered in “Affordability” of the product.

We are responsible for the choice of items.

Well-being

We propose five items:

3. Safety: Has there been compliance with the principles of sound science in accordance with legislation and in order to ensure the direct safety of the product under conditions of real use?

4. Obesity (context-dependent item): Have the products and range of sizes been designed with care (ingredients, recipes, etc.) so as not to contribute to the obesity epidemic?
5. Social stakes in the promise: Is the benefit resulting from consumption of the product real, tangible and socially useful for a significant part of the population?
6. Individual stakes in the promise: Is the benefit resulting from consumption of the product real, tangible and individually useful for clearly identified classes of consumers?
7. Corporate social responsibility: Beyond the product and its complete range, has the company a more general plan to improve well-being and health in society?

Freedom (liberty/choice)

We propose four items:

8. Promise kept: Is it certain that the consumer will obtain the benefit? Has this been verified using appropriate and recognized scientific procedures?
9. Product development: Do the products offered for sale and consumption respect the consumer's freedom of choice? In particular, does the product predetermine a rate of consumption owing to its presentation (portion size, type of packaging, etc.)?
10. Communication: Does the company comply with the self-regulatory rules adopted by the profession (e.g., EASA Member Rules), particularly those relating to communication concerning products for which health claims are made. Are consumers and their freedom to choose respected in product-related communication (advertising, labelling, etc.) or do consumers run the risk of lacking relevant information (information asymmetry) and thereby making a purchase and engaging in consumption inappropriate for their purposes?
11. Communication with respect to children and vulnerable people: Does the company engage in special reflection on communication targeting people who are psychologically vulnerable, particularly children, and are appropriate decisions made?

Economic and social affordability

This chapter contains only one item:

12. Economic and social affordability: Are the product and its marketing (e.g. price) going to exacerbate the widening gulf between the health status of richer and poorer sectors of society?

This 12-item managerial grid can be adapted to every company in accordance with internal reflection, the socio-economic situation and the company's line of business.

Conclusion and discussion

This article is at the convergence of two lines of thought. One concerns development of the health-enhancing food market and related marketing, while the other concerns the development of codes of ethics in industries and companies.

Much is at stake in moralising this market for government, civil society and companies. There are many sources of inspiration for ethical thinking in companies, and we have presented some of the lines of thought by category, while noting that today *applied* ethical thought is essentially *procedural*, in other words, "based on confidence in discussion, deliberation and argumentation in good faith by individuals who come together to identify just criteria." (BVP 2005, p.75 [our translation]) However, we have suggested using four main concerns to structure the reflection: the need for norms and sanctions, well-being, autonomy and social and economic justice.

We have noted that tensions arise naturally in companies because every R&D and marketing decision has both an economic and an ethical aspect. We have given examples of common cases of such tension. We have also described our findings from analysis of the corporate and specialized codes of ethics of a few major companies in the health-enhancing food industry. Finally, we have proposed a managerial grid with four chapters and twelve items for use by professions and companies.

This article has at least two limitations:

- The examples studied concern major multinationals and not SMEs. The reasons for this are that it is much easier to obtain the documents of major companies, such companies make good examples because they are extremely powerful and representative of the market, and formal ethical documents are more often found in large companies than in small ones. The last point is consistent with the fact that large companies have public shareholders and have to meet the requirement of corporate

social responsibility. Finally, competition is much harder on small enterprises than on large companies. Indeed, it is sometimes intolerable, which may be why most public observers find more transgressions among small undertakings.

- The article contains nothing on real ethical practices in companies that have adopted codes of ethics. This is a real lack and certainly suggests a topic for further study, particularly with respect to health claims.

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Appendix

A selection of organizations and web sites dealing with professional ethics

1. Information and research centres

Canada	<ul style="list-style-type: none"> - Ethics in Action – www.ethicsinaction.com/index.html, an information centre, including websites addresses of the main Canadian sites, and some US sites (Business for Social Responsibility (BSR): http://www.bsr.org/) and European sites (CSR Europe: http://www.csreurope.org/). Among Canadian centres, let us point out: <u>CCECP</u> (Canadian Center for Ethics and Corporate Policy – www.ethicscentre.com).
USA	<ul style="list-style-type: none"> - Ethics Resource Center - http://www.ethics.org/resources/links.cfm Link to ethics sites worldwide in categories such as anti-corruption, social responsibility, and technology. - The University of Illinois at Champaign, an major north-American academic research centre on professional ethics http://www.research.uiuc.edu/ethics/business.asp#centers Among US centres, let us point out: <u>CEBC</u> (Center for Ethical Business Cultures) <u>CEBC Program</u>

2. General business ethics

Canada	<ul style="list-style-type: none"> - <u>CCECP</u> (Canadian Center for Ethics and Corporate Policy) <u>Codes of Conduct & Publication2005</u> (ethics & culture, corporate citizenship) - <u>BSR</u> (Business for Social Responsibility)
USA	<ul style="list-style-type: none"> - <u>EOA</u> (Ethics Officer Association) - <u>CEBC</u> (Center for Ethical Business Cultures) <u>CEBC Program</u>
Brazil	<ul style="list-style-type: none"> - <u>Prêmio ECO</u> (created by the local branch of the American Chamber of Commerce) - <u>The Ethos Institute</u> (Instituto Ethos de Empresas e Responsabilidade Social)
China	<ul style="list-style-type: none"> - <u>Hong Kong Ethics Development Centre</u> - <u>Independent Commission Against Corruption</u>
Australia	<ul style="list-style-type: none"> - Australian Government : The Treasury - <u>ABEN</u> (Australian Business Ethics Network)

3. Marketing ethics

USA	- <u>AMA</u> (American Marketing Association)
Japan	<ul style="list-style-type: none"> - <u>JMRA</u> (Japan Marketing Research Association) - <u>JMA</u> (Japan Marketing Association)

4. Advertising and communication ethics

EUROPE (Members of European Advertising	France	<u>BVP</u> (Association des professionnels pour une publicité responsable)
	Belgium	<u>JEP</u> (Jury d'éthique Publicitaire)
	Switzerland	<u>Commission Suisse pour la Loyauté</u>

Standards Alliance)	United Kingdom	- <u>ASA</u> (Advertising Standards Authority limited) - <u>BACC</u> (Broadcast Advertising Clearance Centre)
	Ireland	<u>ASAI</u> (Advertising Standards Authority for Ireland)
	Italy	<u>IAP</u> (Istituto dell' Autodisciplina Pubblicitaria)
	Spain	<u>Autocontrol Asociacion para la Autoregulacion de la Comunicacion Comercial</u>
	Netherlands	<u>Stichting Reclame Code</u>
	Turkey	<u>ROK</u> (Reklam Ozdenetim Kurulu)
	Romania	<u>RAC</u> (the Romanian Advertising Council union)
	The Czech Republic	<u>RPR</u> (Rada Pro Reklamu)
	Denmark	<u>Association des publicitaires danois</u>
North America	Canada	- <u>EASA</u> : Canada is a Non-European EASA Member
	USA (USA are a Non-European EASA Member)	- <u>NARC</u> (National Advertising Review Council), from the Council of <u>Better Business Bureau</u> (equivalent to the European EASA) - <u>AMA</u> (American Marketing Association) - <u>EOA</u> (Ethics Officer Association) - <u>CEBC</u> (Center for Ethical Business Cultures) <u>CEBC Program</u>
Japon	- <u>JARO</u> (Japan Advertising Review Organization)	

5. Food / health foods ethics

United Kingdom	- <u>JHCI</u> (the Joint Health Claim Initiative) " <u>Health claims for food</u> " - <u>Food Ethics Council</u> (see document "Ethical evaluation of functional foods")
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