

Overview:

Business ethics are moral principles that guides the way business should behave. The same principles that determine an individual's action's apply to business. Acting in an ethical way involves distinguishing between "right" and "wrong" and then making the "**right**" choice. A business should also follow relevant code of business practices. Many companies have created voluntary Business code of conduct that regulate practices in their industrial sector. These are often drawn up in consultation with governments, employees, local communities and other stakeholders.



Unethical behaviour is an action that falls outside of what is considered morally right or proper for a person, a profession or an industry.

Unethical behavior in the workplace can be defined as any action that does not conform with the standards of conduct established by the organization. It may be an individual employee, manager or the corporate governance indulge in unethical practices . So this classification can be sited in areas like:

❖ Unethical Behavior Among Individuals

- Stealing money from the petty cash drawer at work.
- Lying on your resume in order to get a job.
- Taking credit for work you did not do.
- Customer misusing the Buy back policy in retail Business
- Taking money out of your friend's wallet when he is sleeping.
- Using your position of power at work to sexually harass someone.
- Paying bribes to various stake holders, government sector etc.
- Selling a car and lying about the vehicle's accident history.

❖ Unethical Behavior Among Businesses

- Releasing toxins into the air in levels above what is permitted by the Environmental Protection Agency.
- Coercing an injured worker not to report a work injury to workers' compensation by threatening him with the loss of a job or benefits.
- Refusing to give an employee a final paycheck for hours worked after the employee leaves the company.

- Not paying an employee for all of the hours worked.
- Incorrectly classifying an employee as an independent contractor and not as an employee in order to reduce payroll taxes and avoid purchasing unemployment and workers' compensation insurance.
- Engaging in price fixing to force smaller competitors out of business.
- Using bait and switch or false advertising tactics to lure customers in or convince them to buy a product.
- Rolling back the odometer on a vehicle that is for sale.
- Refusing to honor a warranty claim on a defective product.

❖ Unethical Behavior by Professionals

- A dentist performs unnecessary procedures on a patient in order to receive the insurance payment.
- Using a patient as a teaching tool for students for long periods of time without the permission of the patient or patient's family.
- Misleading the customers on project efforts and Project Costing
- Using Pirated software's, educational software licenses for Business use.
- False promises made by HR manager during the interviews.
- A lawyer represents parties on both sides of a legal transaction.
- Doctors, dentists and lawyers dating their clients
- Corporates filling overtime, extra work hours for additional billing to clients.

❖ Unethical Behavior Among Politicians and the Government

- Using the Internal Revenue Service (IRS) to target groups that you do not like by auditing those groups or refusing to give them tax exempt status.
- Garbing the lands of the farmers by making false promises during the land acquisition and not fulfilling thereafter.
- Obtaining private tax information about your political opponents from the Internal Revenue Service and using that information in a campaign.
- Knowingly telling lies about your own political position or about the political position of your opponent just to get elected.
- Accepting excess campaign contributions that violate campaign finance laws.
- Using money that was donated to your campaign for personal, non-approved expenses.
- Using your position of power to coerce lobbyists into buying expensive gifts for you and for your wife.
- Using your position of power to close traffic lanes in order to intentionally create a traffic jam that affects residents of a city because residents in that city are not likely to vote for you in an election.

It is important to realize that what is unethical may not always be illegal (though sometimes it is both). There are many instances where businesses act within the law, but their actions hurt society and are generally considered to be unethical.

This article is to highlight few examples of unethical business practices of a giant MNC organization - Microsoft.



Example 1: \$11.6 Million Discrimination Verdict

When a Fortune 100 corporation pursues an office feud by an employee's ex-girlfriend, the company may get a harsh reprimand, as Microsoft did when a Texas jury found it liable for \$11.6 million for employment discrimination.

A civil jury in Austin, Texas, made the wrongful discharge award last week to a senior sales executive who was hounded in a two-year campaign launched by his boss - the ex-girlfriend and joined by the a Marketing Director, a Regional Sales Director, the National Sales Director and the Vice President of U.S. OEM Windows, Office and Server sales.

Wrongful termination is a growing legal claim that workers are using successfully to hold vengeful companies to account, such as Kraft Foods, Playboy and Staples. Specifically, management retaliation is the leading claim filed against employers, according to statistics by the U.S. Equal Employment Opportunity Commission.

Sex, sleepovers and betrayal: The Microsoft case was a David and Goliath matchup, with two sole practitioner lawyers Paul T. Morin and Roy A. Pollack of Austin, Texas, who did battle for three years in court against the software giant, which had \$77 billion in sales last year. The solos faced off against a 235-lawyer firm and a 45-lawyer firm. "The jury delivered a powerful message to Microsoft and the business world that such offensive conduct would not be tolerated in the workplace," Morin said.

The case involves sex, sleepovers and betrayal. **Microsoft has not responded to requests for comment.**

The target of the **corporate hostility** was Michael Mercieca, one of the company's top sales people in Austin, who had won a number of awards for sales, long service and customer service. A 17-year veteran of the company, he is a single dad who "lived, breathed and died" Microsoft, according to attorney Pollack.

That changed in 2007, when Lori Aulds became his direct manager as Regional Sales Director U.S. OEM. Previously, she had a sexual relationship with him for several years until he ended it. She told Mercieca, "You have ruined me for sex with my boyfriends," and commented at the office on her sexual relationships with her new boyfriends. According to trial evidence, she insisted that he get involved in her and her new boyfriend's relationship disputes - even though he told her several times that it made him uncomfortable.

The abuse begins: The vendetta started in 2009 when Aulds had a sleepover with Tracey Rummel, a marketing consultant whom Microsoft would soon hire. They hatched a plot where Rummel made a false charge that Mercieca had sexually harassed her. Rummel passed on the phony claim to her boss, National Sales Director David Tannebaum and then to his supervisor, Eddie O'Brien, a Microsoft Vice President.

But they didn't take formal action. Instead, the managers created a **hostile workplace**.

Mercieca noticed he was being treated differently at work -- people would scatter when he came to the water cooler and he was excluded from customer events and conferences. Aulds cut his expense budget, questioned his vacation requests and cut him off from customer communications. Tannebaum chastised him for missing a deadline by only three hours and criticized him for not doing his job well. He and VP O'Brien called Mercieca's customers trying to dig up dirt about him.

This was a sharp contrast to Microsoft's workplace depiction "**What it's like here**," which says "We also want you to feel valued and comfortable... Add to this our amazing people and lively atmosphere, and you can see why life at Microsoft is so rewarding."

"It became unbearable at work," attorney Pollock said. After five months of abuse, Mercieca in 2010 filed an internal complaint against his boss, the other managers and Microsoft's Human Resources department, charging them with harassment and discrimination.

The retaliation:

Management responded with fury. Microsoft conducted a bad-faith investigation that found his complaint "unsupported." While the investigation was still ongoing, National Sales Director Tannebaum demanded the investigation end before it was completed and before all of Mercieca's supporting witnesses were contacted, according to trial evidence.

Tannebaum demoted him, gave him the worst possible performance review and cut his bonus and stock options - even though Mercieca was a star salesman who hit all his sales numbers and was making millions for Microsoft. Meanwhile, Lori Aulds - his ex-girlfriend and manager - was promoted. But the worst was yet to come.

Only 18 days after Mercieca made his internal complaint, now-employee Tracy Rummel filed a formal sexual harassment charge against him. An HR worker who was in on the scheme helped her write the complaint. **Through legal discovery**, Mercieca's lawyers learned that she had conspired with Aulds to file the trumped-up charge. Finally, after 16 straight months of abuse,

Mercieca sent a letter saying Microsoft had constructively terminated him. Mercieca filed a defamation suit against Tracy Rummel in 2011, also charging Microsoft with wrongful discharge.

The aftermath:

The trial was highly contentious and lasted two weeks. After reviewing more than 600 documents, the jury found that he never harassed Rummel and that she had defamed him. It awarded Mercieca \$11,623,064.24 in back pay and benefits.

The case is a lesson in how not to manage employees and conduct company human resources. It goes to show that if employees can get their case before a jury, an individual and two solo lawyers can extract justice from a mammoth corporation.

Example 2: Collaboration with the NSA on Internet Surveillance

Microsoft was the first company to participate in **the PRISM surveillance program**, according to leaked NSA documents obtained by *The Guardian* and *The Washington Post* in June 2013, and acknowledged by government officials following the leak. The program authorizes the government to secretly access data of non-US citizens hosted by American companies without a warrant. Microsoft has denied the participation in such a program.

No company has allegedly done more to ensure that the NSA and GCHQ (UK Govt.) have access to private information than Microsoft. Under the PRISM surveillance program, Microsoft is said to have provided the NSA with “direct access” to personal metadata. Microsoft even helped the NSA circumvent encryption on Outlook and helped the FBI to “understand” how individuals remain anonymous on Outlook.

Microsoft also owns Skype, and it tripled the number of calls collected when it linked up with the NSA under PRISM. One should consider abandoning the Microsoft suite of programs. They should instead use not-for-profit, transparent and highly encrypted software platforms that do not hand data and metadata over to governments.

This ethical dilemma goes beyond ditching the Microsoft Office suite. It should cause us to completely reconsider the way information technology is set up. That includes the programs used to construct arguments to the networked systems used to distribute research findings to the for-profit **cloud services** used for data retention.

But practical or not, the NSA leaks should force us to do something to ensure that we are not compromising private information.

Information Security and Data Privacy, Spying are some serious threats under unethical practices which Microsoft has been involved.

Silicon Valley is currently in a state of remorse about its complicity in this global scandal but it is too little, too late. There is a need to follow India's government in attempting to cease the use of Microsoft's hotmail and Google's gmail for official communications.



Example 3: Labor practices

While Microsoft's permanent workers enjoy some of the best corporate treatment, a large part of Microsoft's labor pool exists outside this privileged class. This includes the use of **perma temp** employees (employees employed for years as "temporary," and therefore without medical benefits), use of **forced retention** tactics, where departing employees would be sued to prevent departure, as well as more traditional cost-saving measures, ranging from cutting medical benefits, to not providing towels in company locker rooms.

Historically, Microsoft has also been accused of overworking employees, in many cases, leading to **burnout** within just a few years of joining the company. The company is often referred to as a "Velvet Sweatshop", a term which originated in a 1989 *Seattle Times* article and later became used to describe the company by some of Microsoft's own employees. This characterization is derived from the perception that Microsoft provides nearly everything for its employees in a convenient place, but in turn overworks them to a point where it would be bad for their (possibly long-term) health. For example, the **kitchenettes** have free beverages and many buildings include exercise rooms and showers. However, the company has been accused of attempting to keep employees at the company for unreasonably long hours and working them too much. This is detailed in several books about Microsoft, including *Hard Drive: Bill Gates and the Making of the Microsoft Empire*.

A US state lawsuit was brought against Microsoft in 1992 representing 8,558 current and former employees that had been classified as "temporary" and "freelance", and became known as *Vizcaino v. Microsoft*. In 1993, the suit became a US Federal Class Action in the United States District Court Western District Of Washington At Seattle as No. C93-178C. The Final Settlement came in 2005. The case was decided on the (IRS-defined) basis that such

"permatemps" had their jobs defined by Microsoft, worked alongside regular employees doing the same work, and worked for long terms. After a series of court setbacks including three reversals on appeal, Microsoft settled the suit for US \$93 million.

A side effect of the "permatemp" lawsuit is that now contract employees are prevented from participating in team morale events and other activities that could be construed as making them "employees". They are also limited to one-year contracts and there after a gap of 100 days to return to the contract.

Microsoft is the largest American corporate user of H-1B guest worker visas and has joined other large technology companies like Google in recently lobbying for looser **H-1B visa** restrictions.

Example 4: Licensing Agreements & Monopoly

A common complaint comes from those who want to purchase a computer that usually comes preinstalled with Windows *without* a copy of Windows pre-installed and without paying extra for the license either so that another operating system can be used or because a license was already acquired elsewhere, such as through the MSDN Academic_alliance program. Microsoft encourages original equipment manufacturers (OEMs) to supply computers with Windows pre-installed by presenting their dominance in computer sales and arguing that consumers benefit by not having to install an operating system. Because the price of the license varies depending on discounts given to the OEM and because there is no similar computer that the OEM offers without Windows, there is no immediate way to find the size of the refund. In 2009, Microsoft stated that it has always charged OEMs about \$50 for a Windows license on a \$1,000 computer.

While it is possible to obtain a computer with no or free operating systems, virtually all large computer vendors continue to bundle Microsoft Windows with the majority of the personal computers in their ranges. The claimed increase in the price of a computer resulting from the inclusion of a Windows license has been called the "Windows tax" or "Microsoft tax" by opposing computer users. The Findings of Fact in the United States Microsoft antitrust case of 1998 established that "One of the ways Microsoft combats piracy is by advising OEMs that they will be charged a higher price for Windows unless they drastically limit the number of PCs that

they sell without an operating system pre-installed. In 1998, all major OEMs agreed to this restriction." Microsoft also once assessed license fees based on the number of computers an OEM sold, regardless of whether a Windows license was included; Microsoft was forced to end this practice due to a consent decree. In 2010, Microsoft stated that its agreements with OEMs to distribute Windows are nonexclusive, and OEMs are free to distribute computers with a different operating system or without any operating system.

Microsoft does not provide refunds for Windows licenses sold through an OEM, including licenses that come with the purchase of a computer or are pre-installed on a computer.

According to Microsoft's **End User License Agreement** for Windows 7 the ability to receive a refund for the operating system is determined by the hardware manufacturer.

By using the software, you accept these terms. If you do not accept them, do not use the software. Instead, contact the manufacturer or installer to determine its return policy. You must comply with that policy, which might limit your rights or require you to return the entire system on which the software is installed.

Older versions of Microsoft Windows had different license terms with respect to the availability of a refund for Windows.

By using the software, you accept these terms. If you do not accept them, do not use the software. Instead, contact the manufacturer or installer to determine their return policy for a refund or credit.

Based on the updated language, vendors refused to issue partial refunds for Windows licenses, requiring that the computer be returned altogether. **In some countries, this practice has been ruled a violation of consumer protection law.**

The foundation of Microsoft's monopoly is its operating system called "Windows" and office productivity suit called "Office". If it were simply the case that these two products were always the best examples of their kind and that customers chose this software in preference to competing products, for that reason, then we would see nothing especially unethical about the way in which Microsoft operates its business, although it would still be true that they have a monopoly, because this monopoly would exist for a legitimate reason. But that simply isn't the case.

This is where we come back to the issues of "bundling" and "standards". The reason that Microsoft spends a vast amount of resources unnecessarily creating competing (and even inferior) standards, is to establish dependence on those standards. This dependence is then propagated by the distribution of *equally* unnecessary bundles of free software, which is not designed to benefit the customer, but is just a delivery vehicle for these standards, which Microsoft can ensure exclusive rights to with the use of patents and copyrights. On the other side, there is Microsoft's network of partners (nearly the whole distribution channel), ensuring that *Windows* is bundled with nearly every computer ever built, and suddenly the big picture becomes very clear:

Microsoft maintains this monopoly is inherently unethical, since it has no basis on the quality of their products, but is instead enforced by this threat of failure, a threat that only exists because Microsoft created it in the first place. Microsoft are in fact engaged in racketeering, with all the angles sewn up so tightly that no competition can possibly be established against them. This of course, is no accident.

Example 5: TAX Evasion

“The taxes dodged by Microsoft over the last 17 years could have paid for Washington’s public education shortfall.” Legislators continue to favour corporate tax loopholes, while Bill Gates and Microsoft continue to intentionally shelter profits offshore in tax havens.

The fact many Microsoft profits are from public education is not lost on the WA BATs (Washington Badass Teachers Association). The fact that **Microsoft’s unethical business practices** lead directly to underfunded schools is not lost on WA BATs. Washington State public schools are now ***criminally underfunded***. Microsoft was reported of bullying taxes.

Last July, the Washington Badass Teachers Association organized a protest demanding Bill and Melinda Gates divest from corporate education reform.

Last year, according to the Seattle Post-Intelligencer, Chief Executive Officer Steve Ballmer told an audience of Eastern Washington University alumni: "Taxpayers in the state have to come to grips with the notion that we need to invest in higher education." It was a warning shot of sorts from the most influential CEO in the state. Ballmer had to know, however, that Microsoft wouldn't be footing much of the bill if taxpayers increased education funding. Seven years ago, Microsoft opened a small office in Reno, Nev., to collect the money it got from PC manufacturers that installed Windows and Office on the computers they sold. In the years since, Microsoft has sheltered more than \$60 billion in royalty revenue in Nevada, a state with no corporate income tax, costing Washington an estimated \$327 million in unrealized tax revenue.

Ballmer's remark wasn't the only time Microsoft has been hypocritical about taxes and education. In 1999, Senior Vice President and General Counsel Brad Smith raised the subject of lost state tax revenue in a press release promoting stricter state antipiracy laws. "To put in perspective the impact of software piracy on our taxes alone, consider that we've lost 41 times [\$41 million] the amount already donated to the John Stanford Book Fund—and could have purchased well over a million new books for our schools," Smith said.



Reference: <http://educatingthegatesfoundation.com/tag/microsoft-tax-evasion/>

Conclusion:

- Microsoft is a business, and the purpose of any business is to make money. There's nothing inherently wrong with that, indeed it is absolutely necessary in a developed society.
- Microsoft competes with other companies for business, in order to ensure their continued operations. Again, this is perfectly reasonable and expected. Competition is good and necessary, as it drives innovation, stems inflation, and facilitates choice.
- Microsoft advertises its products, so that potential customers will be aware of them, and subsequently buy them. This is also perfectly reasonable, ostensibly. However, advertising is open to abusive practices, such as false or misleading claims, or a more recent development variously called "guerilla" or "viral" advertising, where supposedly impartial recommendations aren't impartial at all, but are in fact paid sponsorship. This isn't ethical business, but it is a sadly common practice. Microsoft are more guilty of this behaviour than most, in fact they have refined it into an art form

Universities and researchers all over the world have a problem with Microsoft. It's not just that the company forces expensive and dated software on customers. Using products like Microsoft's email service Outlook is potentially in breach of the ethical contracts researchers sign when they promise to safeguard the privacy of their subjects. Microsoft has been confined to follow unethical business practices by:

- Channel and Partner racketeering (market saturation of Windows)
- Lock-in dependencies on proprietary software and standards
- Corporate guerilla terrorism using false advertising and skills
- Thuggish "enforcement" using bribery, blackmail and sabotage

The term **corporate** and **social responsibility** has now been closely with unethical practices in business. The organizations and individuals should try and cultivate an ethical behavior in their philanthropy