

"end runs" around the workers' compensation system.

Whatever the merits and shortcomings of no-fault regimes, one might suspect that they do not have a rosy future. In the recent California election, a no-fault initiative was decisively defeated, and in legislatures, momentum for no-fault plans has virtually disappeared. The current political unpopularity of no-fault may be a short-term consequence of poorly designed no-fault systems and voter anger at insurers: often the public regards no-fault proposals as mere reductions

in accident victims' rights, i.e., nothing more than a boon for insurers and business.

Nevertheless, as the tort and insurance crises worsen, the possibility of defensible and workable no-fault programs must be taken seriously. A huge variety of no-fault plans exists. A careful analysis of the ways such plans can be structured, coupled with attention to the ethical and social goals they must serve, may show no-fault to be a plausible alternative to the present impasse.

— Alan Strudler

Is Advertising Manipulative?

One common charge brought against advertising is that it is manipulative: even when it is not outright fraudulent, it works on us somehow sneakily and inexorably, getting us to want what somebody else wants us to want, persuading us to buy what somebody else wants us to buy. But surely other people try to get us to want things all the time and exercise all different kinds of persuasive — not to mention coercive — power over us. What in particular is meant by the charge of manipulation, so that people are bothered when they feel they've been its victim? It is not easy to specify exactly what makes some sorts of advertising cross the line from morally acceptable persuasion to morally suspect manipulation. The charge of manipulation, we shall see, can be used to carry several quite different accusations, which may or may not be validly addressed to advertising.

Manipulation as Covert Persuasion

Sometimes we mean by "manipulation" any attempt at persuasion that is in some way covert, where the person doing the persuading wants to hide from its targets the fact that that is indeed what he intends. The manipulator doesn't lie about any actual facts about the external state of the world; instead he deceives others about the internal state of his own desires and intentions. A classic example here is Tom Sawyer's persuading his friends to take on his chore of whitewashing Aunt Polly's fence by pretending that he himself thinks whitewashing is glorious fun.

We might object to attempts at covert persuasion on two grounds. First, they might lead people to make substantively worse decisions and to take substantively worse actions than they would otherwise have done. Certain exceptions aside, covert processes in general are not as reliable as open attempts at persuasion. The suspicion will be ever present that if the program

someone is selling were so wonderful, she wouldn't have to resort to covert tricks to sell it. As often as not, one thinks, this suspicion will be well founded.

A second worry about covert persuasion is that it may make us feel that we have been led to undertake some action less than voluntarily. Tom's friends wouldn't have whitewashed the fence if they had known he wanted them to do it; they could claim, therefore, to have been misled about some crucial feature of the circumstances and so to have failed to give their full informed consent to the enterprise. But whether we think covert persuasion makes us act involuntarily depends on whether we think other people have an obligation to exercise persuasion overtly. If they've done nothing wrong by hiding their intentions from us, we can't complain that they've violated our autonomy in the process.

Do we want to condemn the deception involved in covert persuasion? One might think, after all, that deception about one's own desires and intentions is a more acceptable species of deception than deception about some external fact of the matter; we are not dealing here with the bold-faced lie. My own desires and intentions are paradigmatic of the private; isn't it my business whether or not I want to make them public?

Whether covert persuasion counts as morally wrong will depend in the end on the extent to which we think one has an obligation to be open and straightforward with others, on the degree to which transparency is expected in human relationships. The answer will vary according to the kind of relationship in question — intimate, friendly, business, frankly adversarial — and the presuppositions and assumptions that govern that kind of relationship.

Relatively little advertising counts as manipulative in this first sense. For one thing, most adults recognize advertisements for what they are: usually straight-

forward — indeed, blatant — attempts by manufacturers to persuade consumers to buy their products. (Many children, however, do not, raising special worries about advertising targeted at such a vulnerable audience.) For another, in commercial settings one would presumably have fairly minimal obligations to broadcast one's intentions to others. But if we are worried about advertising that deliberately and successfully conceals its persuasive intentions, we can take steps to address certain problematic practices.

Certainly some ads try to manipulate by dressing themselves up as something other than advertising, for example, by disguising themselves as magazine feature articles (a ploy undertaken frequently with travel ads) or as journalistic essays (a favorite advertising strategy for Mobil, which buys space for its ads on newspaper op-ed pages). Presumably readers apply more relaxed standards of scrutiny to straight reporting and opinion pieces than to advertising, a fact the advertiser hopes to turn to his own use. Here it seems reasonable to require explicit labeling of advertisements as such.

A related advertising technique involves disguising the commercial intent behind a message by feigning intimacy with the audience or invoking the consumer's genuine loyalties. This approaches the ridiculous in computer-personalized direct-mail appeals that mention the recipient's name a dozen times on a page. Celebrity endorsements belong in this category as well, for to the extent that viewers like and trust celebrities, they feel that these admired figures wouldn't be endorsing a product just to make money. We feel betrayed when we find out that Olympic champions don't endorse Wheaties out of a missionary zeal to share their training secrets with us, their fans — and indeed don't really eat Wheaties for breakfast at all. And would that nice, fatherly Bill Cosby say he liked Pepsi if it wasn't really truly his favorite soft drink? The proper remedy here would seem to be heightened educative measures to raise the level of consumer savvy.

Manipulation as Appeal to Emotion

A second account of manipulation starts with the idea not of covert persuasion, but of emotional persuasion, persuasion involving not deception, but distraction by powerful feeling. The charge of manipulation is leveled against an attempt to persuade someone to believe or do something that appeals to her emotion rather than to her reason.

It's difficult to make out a case, however, that emotion-based persuasion is any less likely to produce true beliefs and good desires than purportedly rational persuasion. Suppose, for example, that I'm trying to understand the problem of homelessness in America. I could study sociological data on the causes of homelessness and the demographic profile of this population. But I could also go to see a film that vividly portrays the day-to-day life of a family living in a squalid city shelter. That the latter appeals directly to my emotions, to my heart rather than my head, shouldn't make it count as manipulative in any moral-

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ly troubling way. In fact, it may very well be a superior vehicle for persuasion.

There is always the danger, of course, that emotion-based appeals can lead us astray or be invoked to distort the real and relevant issues. "Anecdotal evidence" may tug at our heartstrings while nonetheless putting forward a false and distorting view of the broader reality. But so-called rational arguments can mislead us in just the same way. They, too, can be partial and incomplete. Consider the ease with which one can lie with statistics and make numbers seem to say anything one wants them to say. Both rational and non-rational persuasion, then, can be legitimate means of influence and both can be manipulative.

Advertising uses both reason-based and emotional persuasion to capture its customers. That it tends to rely on emotion-based persuasion cannot in itself be used to mount a case against it. We have to judge advertising here by asking whether it uses image-oriented or informational ads to lead us to buy a product that we for whatever reason *shouldn't* buy.

It certainly seems that advertising can lead us to favor a product which there is no good reason to favor. For many categories of products, no objective difference exists among brands. One advertiser noted of beer brands, for example, that "The many competitive



brands are virtually identical in terms of taste, colour, and alcohol delivery, and after two or three pints even an expert couldn't tell them apart."

Two points can be made here. First, the kind of subjective difference introduced by advertising itself may well count as a legitimate reason to buy something. An advertising campaign can give a product an "aura" that it is not bizarre to consider in making a purchase. As Eric Clark notes in his recent book *The Want Makers*, in some cases the image that helps to sell the product now *is* the product. If Coke and Pepsi taste the same and cost the same and work in the same way to quench thirst, this doesn't make them the same if their image is different, for, Clark says, "Pepsi-Cola, like its arch rival Coca-Cola, is primarily its image."

Second, it's one thing to act without a good reason for acting where we are otherwise indifferent between two choices; it's quite another thing to act in the face of good reasons against so doing. After all, like Buridan's ass, standing thirsty in front of the pop machine, we have to buy *something*. Why not, on the basis of its advertising, buy a Pepsi? It's far more worrisome when advertising leads us to favor, not a virtually identical product, but an inferior product (or an equivalent product at a higher price — priced to cover its advertising costs!), or, worse still, a dangerous product, such as cigarettes.

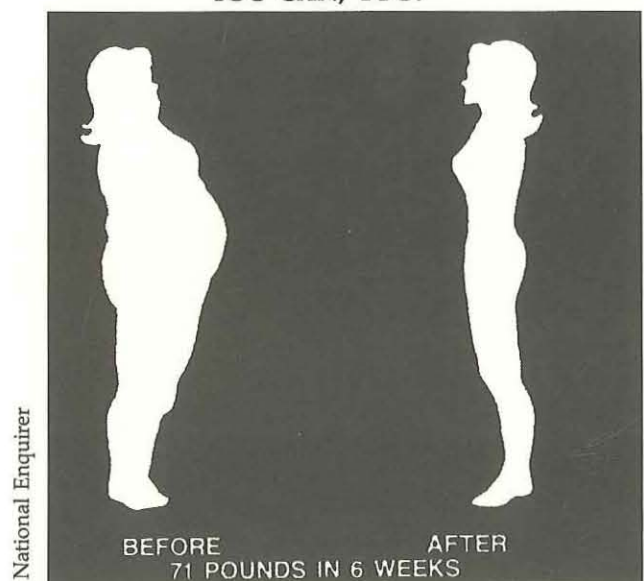
Manipulation as Playing on a Weakness

A third sense of manipulation involves playing not on emotions generally but on certain emotions or emotional states: for example, fear, lust, greed, sorrow, loneliness. Manipulation can involve playing on another's weakness, taking advantage of some kind of power one has over another. Numerous charges of manipulation, in this sense, have been brought against advertising for the extent to which it exploits the fears and anxieties of consumers, as well as their ignorance and gullibility.

It is not easy, however, to make out the idea of manipulation as playing on a weakness in some meaningfully narrow and specific way. How do you get anybody to do anything except by finding some button to push, some lever to operate? As an advertiser, how would I get anyone to buy anything without appealing to some want, some need, some hope, some longing, some lack that my product is claimed to remedy? We can hardly condemn any and all profiting from others' weaknesses. Surely what's wrong is not that I profit from a product designed to help others lose weight, correct bald spots, cure impotence, and so on; objections should arise only if I make an excess profit, more than I would on a product for which the need is not so desperate. Even here it's hard to know what counts as excess benefit without looking at what people are actually willing to pay for a product that speaks to their heart's yearnings.

At least some of what bothers us about advertising based on fears and vulnerabilities is that the products so advertised are often worthless. The weight-loss nostrum is not going to make pounds melt off in hours, nor is the special scalp cream going to regrow a full head of hair, nor is the aphrodisiac going to cure sexual impotence. But if we had a product that did indeed give

**"I LOST 71 POUNDS EATING OVER
3000 CALORIES A DAY...
YOU CAN, TOO."**



reliable results in weight loss, hair growth, and sexual potency, and these were advertised without undue exaggeration, our objections would be much diminished. Can an advertiser dwell on the misery of obesity, baldness, impotence? The answer here seems to be that whether or not she does this is immaterial. We don't need advertising to tell us that we don't want to be fat or bald or impotent. We knew that already. While advertising can contribute to a culture in which thinness, youth, and sexual prowess are made into fetishes, the desires to be thin and young and sexually attractive are more powerful than any advertising. We were searching for the fountain of youth long before there was a Madison Avenue.

Other ads, however, don't play on already existing needs and fears; they are charged with creating new ones. It has been suggested that concerns, say, with body odor and bad breath have been manufactured to a large extent by advertisers. We otherwise might have been content just to smell the way human beings smell. I myself doubt this: I think I would notice — and mind — body odor even if I hadn't been exposed to commercial after commercial for Sure, Ban, Right Guard, and the like. But it's safe to say that until advertisements for Wisk, no one ever dreaded the taunting jeer of

"Ring around the collar!" In any case, it seems that the creation of new fears to be played upon is morally worse than playing upon existing fears.

Conclusions

The charge of manipulation can mean many things. Here we have examined three: manipulation as covert persuasion, manipulation as persuasion based on emotion rather than reason, and manipulation as playing on another's weakness. Although much advertising does not seem to be subject to moral criticism on these grounds, it certainly can be manipulative in all three of these senses: we will want to be on our guard against advertising that conceals its persuasive intent, advertising that misleads through specious emotion-based or rational argument, and advertising that seeks to create and then to exploit consumer fears and weaknesses. Of course, this list does not exhaust the possibilities for moral and aesthetic objections to advertising — one might argue, for example, that it is a kind of cultural pollution, or that it contributes to the creation of a crassly materialistic culture. Here I have only sought to understand one common objection more clearly.

— Claudia Mills

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