

Chapter 8

Morality, Money, and Motor Cars Revisited

Background

My 1990 article *Morality Money and Motor Cars* is, as many critics have pointed out strikingly at odds with the rest of my published work. How did I come to write such an anomalous piece? Both Kenneth Goodpaster and I were invited by Michael Hoffman and his colleagues to address the Eighth National Conference on Business Ethics at Bentley College in the fall of 1990. Goodpaster and I were to be on the program together and we jokingly referred to each other as the Minnesota Twins. However, I thought for this occasion I should differentiate myself from Goodpaster and indeed from most of the philosophers who were writing on business and/or environmental ethics. I decided to write a sort of pro Friedman like piece on the environment. I succeeded and to my amazement this piece may be the most anthologized piece that I have written.

Not surprisingly the article has been rather roundly criticized by my colleagues and friends. It would be easy to simply dismiss the article as an attempt to be provocative but not really a statement of my real position. However, I actually do believe much of what I said in that early article. Some claims need to be softened. Some of the arguments need to be tighter. This chapter represents my latest thinking on the ideas expressed in the original article and takes into account much of the critical scholarship surrounding the article. I also will explain and comment on the attempt by Marc Cohen and John Dienhart to change the orientation of the article so that it fits more naturally into my Kantian project in business ethics.

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Environmentalists frequently argue that business has special obligations to protect the environment. Although I agree with the environmentalists on this point, I do not agree with them as to where the obligations lie. In the original article I made the following rather bold claims that need to be softened. One of the more important ones was the following: “Business does not have an obligation to protect the environment over and above what is required by law; however, it does have a moral obligation to avoid intervening in the political arena in order to defeat or weaken environmental legislation.”¹ Even in the original article, I conceded that business may have an obligation to educate consumers about the environmental impact of the decisions they make. I now argue that for some companies there is a moral obligation to educate. To be credible, I also need to consider the practical aspects of my claim that companies should not lobby in order to defeat or weaken environmental legislation. In this article I will consider some moral constraints on such lobbying. Thus I do not think that all business attempts to lobby in order to weaken environmental legislation are wrong, but I do think there are moral limitations on the process of such lobbying.

Some readers of the original article thought that I was endorsing the principle, “If it’s legal, it’s ethical.” Nothing could be further from the truth. Indeed, Chap. 1 of this volume contains an update of my article, “Fair Markets” that shows convincingly that such a doctrine is inconsistent with what we know about legal decision making. In the original article business had a moral obligation with respect to lobbying that was more demanding –far more demanding–than its legal obligations with respect to lobbying. These moral obligations remain in this article although they are less restrictive than the obligations in the original article. I did argue then and I continue to argue here–with two important exceptions– that business has no moral obligation to go beyond the law with respect to the products they put in the market place. The exceptions are that business has a moral obligation to educate consumers about their environmental choices and that business is limited in the way they can lobby about environmental issues. What is the reasoning for this claim?

Distinguishing Special Obligations to the Environment from Other Moral Obligations

In developing this thesis, several points are in order. First, many businesses have violated important moral obligations, and the violations have had a severe negative impact on the environment. For example, toxic waste haulers have illegally dumped hazardous material, and the environment has been harmed as a result, One might argue that those toxic waste haulers who have illegally dumped have violated a special obligation to the environment. Isn’t it more accurate to say that these toxic

¹ Bowie, Norman E. (1990). “Money, Morality, and Motor Cars” in W.M. Hoffman, R. Frederick, and E.S. Petry (eds.), *Business Ethics and the Environment*. New York: Quorum Books, 89.

waste haulers have violated their obligation to obey the law and that in this case the law that has been broken is one pertaining to the environment? Businesses have an obligation to obey the law—environmental laws and all others. Since there are many well-publicized cases of businesses having broken environmental laws, it is easy to think that businesses have violated some special obligations to the environment. In fact, what businesses have done is to disobey the law. Environmentalists do not need a special obligation to the environment to protect the environment against illegal business activity; they need only insist that business obey the laws.

Business has broken other moral obligations besides the moral obligation to obey the law and has harmed the environment as a result. Consider the explosion and sinking of British Petroleum's (BP) Deepwater Horizon in the Gulf of Mexico in the summer of 2010. This event cost 11 lives and resulted in the worst environmental spill in American history. It was a true environmental disaster. Various investigations have cited lax safety procedures at BP as one of the causes. Moreover, BP had a long history of safety violations in the United States before the Deepwater Horizon explosion. A BP refinery explosion in Texas resulted in the largest fine ever levied at that time—21 million dollars. Moreover, BP had been cited for numerous safety violations even after the explosion—some 700 safety violations.²

A reasonable position in this matter is to claim that BP's policies were so lax that the company could be characterized as morally negligent. In such a case, BP would have violated its moral obligation to use due care and avoid negligence. Although its negligence was disastrous to the environment, BP would have violated no special obligation to the environment. But it would have violated a straight forward moral obligation to avoid being negligent.

Environmentalists, like government officials, employees, and stockholders, expect that business firms and officials have moral obligations to obey the law, avoid negligent behavior, and tell the truth. In sum, although many business decisions have harmed the environment, these decisions violated no special environmental moral obligations. If a corporation is negligent in providing for worker safety, we do not say the corporation violated a special obligation to employees; we say that it violated its obligation to avoid negligent behavior.

Why Business Has Few Special Obligations to Protect the Environment

The crucial issues concerning business obligations to the environment focus on the excess use of natural resources (the dwindling supply of oil and gas, for instance) and the externalities of production (pollution, for instance). The critics of business

² Lyall, Sarah. (2010). "In BP's Record, A History of Boldness and Costly Blunders," *New York Times*, July 12.

want to claim that business has some special obligation to mitigate or solve these problems. I believe this claim is largely mistaken. It is largely but not completely mistaken because there is an important exception to my general claim. If business does have a special obligation to help solve the environmental crisis, that obligation results from the special knowledge that business firms have. If they have greater expertise than other constituent groups in society, then it can be argued that, other things being equal, business's responsibilities to mitigate the environmental crisis are somewhat greater. Absent this condition, business's responsibility is no greater than and may be less than that of other social groups. What leads me to think that the critics of business are mistaken?

William Frankena distinguished obligations in an ascending order of the difficulty in carrying them out; avoiding harm, preventing harm, and doing good.³ The most stringent requirement, to avoid harm, insists no one has a right to render harm on another unless there is a compelling, overriding moral reason to do so. Some writers have referred to this obligation as the moral minimum. A corporation's behavior is consistent with the moral minimum if it causes no avoidable harm to others.

Preventing harm is a less stringent obligation, but sometimes the obligation to prevent harm may be nearly as strict as the obligation to avoid harm. Under what conditions must we be good Samaritans? Some have argued that four conditions must exist before one is obligated to prevent harm: capability, need, proximity, and last resort.⁴

The least strict moral obligation is to do good—to make contributions to society or to help solve problems (inadequate primary schooling in the inner cities, for example). I have argued elsewhere that corporations have imperfect duties of this sort.⁵ Although corporations may have some minimum obligation in this regard based on an argument from corporate citizenship, the obligations of the corporation to do good cannot be expanded without limit. An open-ended injunction to assist in solving societal problems makes impossible demands on a corporation because, at the practical level, it ignores the impact that such activities have on profit.

It might seem that even if this descending order of strictness of obligations were accepted, obligations toward the environment would fall into the moral minimum category. After all, the depletion of natural resources and pollution surely harm the environment. If so, wouldn't the obligations business has to the environment be among the strictest obligations a business can have?

Suppose, however, that a businessperson argues that the phrase "avoid harm" usually applies to human beings. Polluting a lake is not like injuring a human with

³ Frankena, William. (1973). *Ethics*, 2nd ed. Englewood Cliffs: Prentice Hall, 47. Actually Frankena has four principles of prima facie duty under the principle of beneficence: one ought not to inflict evil or harm; one ought to prevent evil or harm; one ought to remove evil; and one ought to do or promote good.

⁴ Simon, John G., Charles W. Powers, and Jon P. Gunneman. (1972). *The Ethical Investor: Universities and Corporate Responsibility*. New Haven: Yale University Press, 22–25.

⁵ Bowie, Norman E. (1999). *Business Ethics: A Kantian Perspective*. New York: Blackwell Publishers, Chapter 4.

a faulty product. Those who coined the phrase *moral minimum* for use in the business context defined harm as “particularly including activities which violate or frustrate the enforcement of rules of domestic or institutional law intended to protect individuals against prevention of health, safety or basic freedom.”⁶ Even if we do not insist that the violations be violations of a rule of law, polluting a lake would not count as a harm under this definition.

The environmentalists would respond that it would. Polluting the lake may be injuring people who might swim in or eat fish from it. Certainly it would be depriving people of the freedom to enjoy the lake. Although the environmentalist is correct, especially if we grant the legitimacy of a human right to a clean environment, the success of this reply is not enough to establish the general argument.

Consider the harm that results from the production of automobiles. In 2009 there were 30,797 deaths from automobile accidents in the United States.⁷ These deaths – or at least many of them—are avoidable. If that is the case, doesn’t the avoid-harm criterion require that the production of automobiles for profit cease? Not really. What such arguments point out is that some refinement of the moral minimum standard needs to take place. Take the automobile example. The automobile is itself a good-producing instrument. Because of the advantages of automobiles, society accepts the possible risks that go in using them. Society also accepts many other types of avoidable harm. We take certain risks—ride in planes, build bridges, and mine coal—to pursue advantageous goals. It seems that the high benefits of some activities justify the resulting harms. As long as the risks are known, it is not wrong that some avoidable harm be permitted so that other social and individual goals can be achieved. The avoidable-harm criterion needs some sharpening.

Using the automobile as a paradigm, let us consider the necessary refinements for the avoid-harm criterion. It is a fundamental principle of ethics that “ought implies can.” That expression means that you can be held morally responsible only for events within your power. In the ought-implies-can principle, the overwhelming majority of highway deaths and injuries are not the responsibility of the automaker. Only those deaths and injuries attributable to unsafe automobile design can be attributed to the automaker. The ought-implies-can principle can also be used to absolve the auto companies of responsibility for death and injury from safety defects that the automakers could not reasonably know existed. The company could not be expected to do anything about them.

Does this mean that a company has an obligation to build a car as safe as it knows how? No. The standards for safety must leave the product’s cost within the price range of the consumer (“ought implies can” again). Comments about engineering and equipment capability are obvious enough. But for a business, capability is also a function of profitability. A company that builds a maximally safe car at a cost that puts it at a competitive disadvantage and hence threatens its survival is building a safe car that lies beyond the capability of the company.

⁶ Ibid., 21.

⁷ <http://www.fars.nhtsa.dot.gov/Main/index.aspx>

The decision to build products that are cheaper in cost but are not maximally safe is a social decision that has widespread support. The arguments occur over the line between safety and cost. What we have is a classical trade-off situation. What is desired is some appropriate mix between engineering safety and consumer demand.

Let us apply the analysis of the automobile industry to the issue before us. That analysis shows that an automobile company does not violate its obligation to avoid harm and hence is not in violation of the moral minimum if the trade-off between potential harm and the utility of the products rests on social consensus and competitive realities.

As long as business obeys the environmental laws and honors other standard moral obligations, most harm done to the environment by business has been accepted by society. Through their decisions in the marketplace, we can see that most consumers are unwilling to pay extra for products that are more environmentally friendly than less friendly competitive products. Nor is there much evidence that consumers are willing to conserve resources, recycle, or tax themselves for environmental causes.

Since safety standards for automobiles has increased greatly, the main criticism of the automobile industry today is that it has not focused on manufacturing cars that give high gas mileage. Too many SUV's and trucks are produced, the critics argue. However, automobile manufactures simply respond to consumer demand. When gas prices rise substantially, consumers shift to more fuel efficient vehicles. When they decline, they go back to their old ways and buy more gas guzzlers. If an automobile company produces small fuel efficient cars when people want gas guzzlers it will go out of business. Now I agree with the environmentalists that these purchasing decisions are unsustainable and damaging to the environment. But whose fault is that? I would not blame the automobile companies so much as the consumers. After all these companies are just responding to consumer choice. I would place the moral obligation to protect the environment in this case on the consumers. If consumers would honor their obligation to buy more fuel efficient cars, automobile manufacturers will respond.

Some would say that we need to change people's attitudes toward the environment. Those with a liberal political philosophy have the right attitude toward the environment. However, liberals often do not act consistently with what they profess to believe. Liberals have consistently opposed having windmills, large solar panels, recycling plants, and mass transit in their neighborhoods.⁸ There has even been a backlash against bike paths.

It gets worse. In fact consumers sometimes frustrate and undo the good things that a company does to protect the environment. Frito Lay, which is owned by PerpsiCo, redesigned the packaging for all its Sun Chip products. The packaging was totally biodegradable and thus was extremely environmentally friendly. However, consumers complained bitterly that the packaging was too noisy. Sales fell precipitously

⁸ Rosenthal, Elisabeth. (2011). "Not in my "Liberal" Backyard," *The New York Times*, March 13, WK 3.

and Frito Lay went back to its old packaging for all but one of its Sun Chip products. Too noisy! Consumers won't even accept a little more noise to help the environment. Check out You Tube on the subject.⁹

Data and arguments of this sort should give environmental critics of business pause. Despite all the green talk, there is a lot of evidence that consumers, even liberal ones, will not make sacrifices to protect the environment. Many people will not even make minor sacrifices as we see with the biodegradable Sun Chips packaging. When consumers act in ways that protect the environment, companies will respond. In many cases, the moral obligation to protect the environment rests on the shoulders of the consumers.

An Environmentalist's Response: The Public Goods Aspect of Consumption

Nonetheless, these environmental critics of business are not without counter-responses. For example, they might argue that environmentally friendly products are at a disadvantage in the marketplace because they have public good characteristics. After all, the best situation for the individual is one where most other people use environmentally friendly products but he or she does not, hence reaping the benefit of lower cost and convenience. Since everyone reasons this way, the real demand for environmentally friendly products cannot be registered in the market. Everyone is understating the value of his or her preference for environmentally friendly products. Hence, companies cannot conclude from market behavior that the environmentally unfriendly products are preferred.

Suppose the environmental critics are right that the public goods characteristic of environmentally friendly products creates a market failure. Does that mean the companies are obligated to stop producing these environmentally unfriendly products? I think not, and I propose that we use the four conditions attached to the prevent-harm obligation to show why not. There is a need, and certainly corporations that cause environmental problems are in proximity. However, environmentally clean firms, if there are any, are not in proximity at all, and most business firms are not in proximity with respect to most environmental problems. In other words, the environmental critic must limit his or her argument to the environmental damage a business actually causes. The environmentalist might argue that Frito Lay ought to do something about its packaging; I do not see how an environmentalist can use the avoid-harm criterion to argue that Frito Lay should do something about acid rain. But even narrowing the obligation to damage actually caused will not be sufficient to establish an obligation to pull a product from the market because it damages the environment or even to go beyond what is legally required to protect the environment. Even for damage actually done, both the

⁹One example can be found at http://www.youtube.com/watch?v=FQb7ULO_17c

high cost of protecting the environment and the competitive pressures of business make further action to protect the environment beyond the capability of business. This conclusion would be more serious if business were the last resort, but it is not.

The Obligation Not to Lobby Against Environmental Legislation

Before dealing with the obvious practical difficulties in making a suggestion that business has an obligation not to lobby against environmental legislation, let me lay out the theoretical case for an obligation not to lobby.

Traditionally it is the function of the government to correct for market failure. If the market cannot register the true desires of consumers, let them register their preferences in the political arena. Even fairly conservative economic thinkers such as Milton Friedman allowed government a legitimate role in correcting market failure.¹⁰ Perhaps the responsibility for energy conservation and pollution control belongs with the government.

Although I think consumers bear a far greater responsibility for preserving and protecting the environment than they have actually exercised, let us assume that the basic responsibility rests with the government. Does that let business off the hook? No. Most of business's unethical conduct regarding the environment occurs in the political arena.

Far too many corporations try to have their cake and eat it too. They argue that it is the job of government to correct for market failure and then use their influence and money to defeat or water down regulations designed to conserve and protect the environment. They argue that consumers should decide how much conservation and protection the environment should have, and then they try to interfere with the exercise of that choice in the political arena. Such behavior is inconsistent and ethically inappropriate. Business has an obligation to avoid intervention in the political process for the purpose of defeating and weakening environmental regulations. Moreover, this is a special obligation to the environment since business does not have a general obligation to avoid pursuing its own parochial interests in the political arena. Business need do nothing wrong when it seeks to influence tariffs, labor policy, or monetary policy. Business does do something wrong when it interferes with the passage of environmental legislation. Why?

First, such a noninterventionist policy is dictated by the logic of the business's argument to avoid a special obligation to protect the environment. Put more formally:

1. Business argues that it escapes special obligations to the environment because it is willing to respond to consumer preferences in this matter.
2. Because of externalities and public goods considerations, consumers cannot express their preferences in the market.
3. The only other viable forum for consumers to express their preferences is in the political arena.

¹⁰Friedman, Milton. (1982). *Capitalism and Freedom*. Chicago: University of Chicago Press, 30–32.

4. Business intervention interferes with the expression of these preferences.
5. Since point 4 is inconsistent with point 1, business should not intervene in the political process.

The importance of this obligation in business is even more important when we see that environmental legislation has special disadvantages in the political arena. Public choice theory reminds us that the primary interest of politicians is being reelected. Government policy will be skewed in favor of policies that provide benefits to an influential minority as long as the greater costs are widely dispersed. Politicians will also favor projects where benefits are immediate and where costs can be postponed to the future. Such strategies increase the likelihood that a politician will be reelected.

What is frightening about the environmental crisis is that both the conservation of scarce resources and pollution abatement require policies that go contrary to a politician's self-interest. The costs of cleaning up the environment are immediate and huge, yet the benefits are relatively long range (many of them exceedingly long range). Moreover, a situation where the benefits are widely dispersed and the costs are large presents a twofold problem. The costs are large enough so that all voters will likely notice them and in certain cases are catastrophic for individuals (e.g., for those who lose their jobs in a plant shutdown).

Given these facts and the political realities they entail, business opposition to environmental legislation makes a very bad situation much worse. Even if consumers could be persuaded to take environmental issues more seriously, the externalities, opportunities to free ride, and public goods characteristics of the environment make it difficult for even enlightened consumers to express their true preference for the environment in the market. The fact that most environmental legislation trades immediate costs for future benefits makes it difficult for politicians concerned about reelection to support it. Hence it is also difficult for enlightened consumers to have their preferences for a better environment honored in the political arena. Since lack of business intervention seems necessary, and might even be sufficient, for adequate environmental legislation, it seems business has an obligation not to intervene. Nonintervention would prevent the harm of not having the true preferences of consumers for a clean environment revealed. Given business's commitment to satisfying preferences, opposition to having these preferences expressed seems inconsistent as well.

The Cohen-Dienhart Perspective¹¹

The argument above for an obligation not to lobby on environmental matters is based primarily on certain economic facts. Issues of neighborhood effects drive the analysis. In a recent article, Marc Cohen and John Dienhart have provided a moral

¹¹ Cohen, Marc A. and John C. Dienhart. (2012). "Citizens, Kant and Corporate Responsibility for the Environment" in Denis G. Arnold and Jared Harris (eds.), *Kantian Business Ethics: Critical Perspectives*. Cheltenham: Edward Elgar Publishing.

argument based on Kantian ethics—an argument that fits well with my larger project of bringing Kantian ethics to bear on issues of business ethics.

Cohen and Dienhart begin by endorsing the idea of Mark Sagoff that we should distinguish between our preferences as consumers and our preferences as citizens. In a series of brilliant articles,¹² Sagoff shows how we are often at two minds on environmental issues. As consumers we might want more ski slopes and theme parks, but as citizens we might want more regulations that could prohibit these kinds of things when they destroy pristine raw beauty or bring commercial activities into historically sacred areas. If applied to my argument, a corporation should not interfere with the rights of citizens to express their preferences as citizens. Kant never talks about the rights of consumers, but in his political philosophy, he does talk about the rights of citizens.

Cohen and Dienhart point out that this line of argument might show that business has obligations to individuals and he points to two Kant scholars who take such an approach—Onora O’Neill¹³ and Allen Wood.¹⁴ Suppose both those accounts are correct. They would show that there is an obligation to protect the environment that is derivative on protecting the rights of citizens, but it might not show that business has an obligation to the environment per se. Cohen and Dienhart expand on a remark by Wood that persons and institutions should not interfere with a citizen’s autonomy as citizen. Cohen and Dienhart put it this way:

But in the context of Bowie’s work, in the context of the political process, interference by business could also compromise autonomy, it could compromise the freedom persons have to make decisions about the environment and the common good. Put another way, by interfering with the social contract and the political process, business fails to treat persons as ends, and business therefore has a Kantian obligation to stay out of the political process. Bowie’s proviso, therefore, understood in terms suggested in the previous section, as protecting citizens’ ability to shape the social order and business practice with respect to the environment, has a fully Kantian justification. In other words, there is still no direct obligation on the part of business to protect or repair the environment, though there is a positive duty to permit citizens the space to do so. This line of thought follows the strategy Wood suggests.¹⁵

I fully endorse this argument but there is more. Cohen and Dienhart also contend that a similar argument can be based on the requirements for property rights. They argue as follows:

For Kant property rights in an object limit the freedom of others who might have some interest in that object; so holding property is a matter of consensus. Market transactions

¹²Sagoff, Mark. (1981). “At the Shrine of Our Lady of Fatima, or Why Political Questions Are Not All Economic,” *Arizona Law Review*, 23, 283–1298, and Sagoff, Mark. (2000). “At the Monument to General Meade, or on the Difference Between Beliefs and Benefits,” *Arizona Law Review*, 42, 433–462.

¹³O’Neil Onora. (1998). “Kant on Duties Regarding Nonrational Nature-II,” *Proceedings of the Aristotelian Society, Supplementary Volumes 72*, 211–228.

¹⁴Wood, Allen W. (1998). “Kant on Duties Regarding Nonrational Nature-II,” *Proceedings of the Aristotelian Society, Supplementary Volumes 72*, 189–210.

¹⁵Cohen and Dienhart, op.cit., 106.

depend on such rights, and therefore on consensus, but consensus will not be possible when there are costs that are externalized—the party bearing those costs will not participate in the scheme of property rights, it would not be rational to permit others to benefit while bearing an externalized cost. Guyer emphasizes this point: “a system of property rights can be freely agreed to by rational beings only if it is equitable to some suitable degree” (2000, p. 251). An economic system with externalities would violate this requirement. So the system of property and the market depend on eliminating externalities, and business must stay out of the process by which this is done.¹⁶

Again, I fully endorse the Cohen Dienhart approach and I am most appreciative of an analysis that supports my larger Kantian project and brings the original, “Money, Morality, and Motor Cars” more into line with my overall position. We now have three arguments on behalf of an obligation on behalf of business to avoid lobbying against environmental legislation. There is an argument based on economic analysis that shows that business would be acting inconsistently if it lobbies in that way and there are two Kantian arguments that I adopt from Cohen and Dienhart. (I will not develop the idea that the inconsistency argument may ultimately be Kantian as well.)

Dealing with Practical Realities

The extent of this obligation to avoid intervening in the political process needs considerable discussion by ethicists and other interested parties. As stated, there is no practical way that a moral norm prohibiting business from lobbying on environmental issues would be accepted. There are even some reasonable arguments that business could make against such a moral norm. Businesspeople will surely object that if they are not permitted to play a role, Congress and state legislators will make decisions that will put them at a severe competitive disadvantage. For example, if the United States develops stricter environmental controls than other countries do, foreign imports will have a competitive advantage over domestic products. Shouldn't business be permitted to point that out? In theory business people have a point, but the reality is that many industrial nations have stricter environmental regulations than the United States. This is particularly true in Europe. Even China, which is often maligned over pollution, is doing more than the United States. It is just that in China, the growth of the economy has been so rapid, environmental issues that result from rapid growth are overwhelming the progressive steps the Chinese have or are taking. (What is so disturbing about China's response to the environmental crisis is that they are not honest with their own citizens about how serious the situation is. I recall vividly when I visited China in 2008, the sun appeared as a red globe through a haze. You could actually briefly look at the sun. My hosts thought that this experience was normal. They did not realize the sky is supposed to be blue.)

¹⁶Ibid., 106–107. The Guyer book cited in the quotation is *Kant on Freedom, Law and Happiness*. New York: Cambridge University Press.

The current political climate in the United States seems to indicate that the United States is likely to fall further behind other countries with respect to environmental regulations. Business concern on this competitive issue seems quite out of place.

Other arguments focus on issues internal to the United States. For example, the fact that any legislation that places costs on one industry rather than another confers advantages on other industries. The cost to the electric utilities that primarily use coal from regulations designed to reduce the pollution that causes acid rain will give advantages to natural gas and perhaps even solar energy. Shouldn't the electric utility industry be permitted to point that out?

These questions are difficult, and my answer to them should be considered highly tentative. I believe the answer to the first question is "yes" and the answer to the second is "no." Business does have a right to insist that the regulations apply to all those in the industry. Anything else would seem to violate norms of fairness. Such issues of fairness do not arise in the second case. Since natural gas and solar do not contribute to acid rain and since the costs of acid rain cannot be fully captured in the market, government intervention through regulation is simply correcting a market failure. With respect to acid rain, the electric utilities do have an advantage they do not deserve. They are imposing a cost on society without compensating society for that cost. Hence they have no right to try to protect it. But try and protect it they will.

Although the theoretical arguments based on a combination of economic and ethical analysis provide a powerful argument for a moral rule that forbids companies from lobbying, such a rule is not practical in the United States where the current legal environment is to give corporations the same free speech rights that fall on individuals. Legally the right to free speech trumps any moral obligations that prohibit lobbying. This is especially true after the United States Supreme Court decision in *Citizens United v. Federal Election Committee*.

Before tackling the no prohibition argument directly, I should point out that my analysis would not prohibit all lobbying. It would only prohibit lobbying for laws which would give a firm or industry an unfair advantage. This limitation of the no lobbying rule is a restriction on the broader moral norm against lobbying that I made in the original article.

The new moral rule is as follows: Firms are prohibited from lobbying against environmental legislation and regulations that would give those firms an unfair advantage in the market place. If a firm or industry reasonably believes that proposed legislation or regulations will put it or them at an unfair disadvantage and the proposed legislation is not correcting a negative externality that the firm or industry has benefited from, then there is no absolute moral prohibition on their lobbying against it.

Even in those cases, there are constraints on the kind of lobbying that can be done. Using campaign contributions to gain access- a device that many of my foreign students see as bribery- would not be morally permitted. Also the lobbying must be based on scientifically verifiable evidence. Working on the government relations chapter with my co-author Meg Schneider for *Business Ethics for Dummies* resulted in some additional moral constraints on lobbying. In that work, we focused

on the concept of fairness as the central value. We argued that lobbyists and government affairs officers had to play fair.

“In government relations, playing fair means avoiding behaviors and situations that give you an unfair advantage over other people—who also are trying to get their voices heard in the halls of power. Unfair advantages can come in the form of personal relationships (such as former lawmakers who become lobbyists and try to capitalize on their earlier relationships with people in elected or civil service positions) or misuse money and gifts.”¹⁷

In addition to the exhortation to play fair, we have some specific suggestions as to what fairness in the context of lobbying would require:

1. Accurately represent the company’s interests and concerns
2. Truthfully disclose relationships with the represented client
3. Recognize and accurately report alternative viewpoints
4. Give fair consideration to diverse needs and wants.
5. Consider the common good.¹⁸

To that list I would emphasize again the requirement that the lobbyist’s appeal must be based on scientifically verifiable evidence.

However, even in the lobbying arena, the moral obligations to play fair do not fall solely on corporations. They fall on government as well. Legislators should neither propose nor oppose environmental legislation simply because powerful people in their districts support or oppose it. Indeed they should not support or oppose legislation simply because of the positive or negative impacts it might have in their districts. The common good must be taken into account. Moral demands of fair play fall on legislators and regulators as well as on corporations. Legislative bodies and regulatory agencies need to expand their staffs to include technical experts, economists, and engineers so that the political process can be both neutral and highly informed about environmental matters. The requirement that decisions on the environment be made on scientifically verifiable grounds applies as much to legislators and regulators as it does to corporations. And many believe that our legislators and regulators have not done well in that regard. To gain the respect of business and the public, performance needs to improve.

One of the main criticisms of environmental regulation at present is the fact that the two parties are in a virtual war about the environment. As a result whenever there is a change of political power in the White House or in Congress, the rules change. This creates great uncertainty and many businesses would rather have an environmental rule that it finds unfair than have uncertainty. It would be my hope that more scientific evidence and less politics would lead to better laws which would in turn lead to more certainty for business. Of course the Republican Party will have to rediscover the value of science.

¹⁷ Bowie, Norman E. and Meg Schneider. (2011). *Business Ethics for Dummies*. Hoboken: Wiley Publishing Inc., 115.

¹⁸ Ibid. The first four in the list are on p. 115. The fifth is extracted from the material on 117–118.

Some believe that in the struggle among interest groups each vigorously lobbying government and bound by few constraints, the best environmental legislation will emerge. I see no evidence that such a claim is true. Given all the externalities that surround environmental issues, I see no more reason to trust the invisible hand in the marketplace of ideas than I do in the normal marketplace. The law of the jungle will not produce the best results. Political activity like business activity needs moral constraints.

The Obligation of Business to Educate Consumers

Ironically business might best improve its situation in the political arena by taking on an additional obligation to the environment. Businesspersons often have more knowledge about environmental harms and the costs of cleaning them up. They may often have special knowledge about how to prevent environmental harm in the first place. In other words it is often the case that there is rather heavy information asymmetry between the public and business with respect to potential harm to the environment. In the original paper, I argued that perhaps business has a special duty to educate the public and to promote environmentally responsible behavior. In making that point, I recognized that I was making an exception to my claim that business has no special obligation to protect the environment. In this revised paper, I make a much stronger claim. I believe that business does have a moral obligation to educate the public when the following conditions obtain.

1. The business has a set of products some of which are more environmentally friendly than others.
2. Consumers disproportionately choose the least friendly environmental products
3. Because of information asymmetry, consumers are not aware of the adverse environmental impact of their choices.

When these conditions are met, businesses have a obligation to educate consumers about the adverse consequences of their choices on the environment. This obligation may be more robust than it seems. For example, if a manufacturer of fertilizers manufactures both a traditional fertilizer and a biodegradable fertilizer and consumers favor the traditional fertilizer because of its lower cost, the manufacturer should focus its research and development dollars on manufacturing a cheaper biodegradable alternative.

Business has no reticence about leading consumer preferences in other areas. Advertising is a billion-dollar industry. Rather than blaming consumers for not purchasing environmentally friendly products, perhaps some businesses might make a commitment to capture the environmental niche. I have not seen much imagination on the part of business in this area. Far too many advertisements with an environmental message are reactive and public relations driven. Recall those by oil companies showing fish swimming about the legs of oil rigs. And BP's Beyond Petroleum mantra rings hollow after the Deepwater Horizon disaster. An educational campaign that encour-

ages consumers to make environmentally friendly decisions in the marketplace would limit the necessity for business activity in the political arena. Voluntary behavior that is environmentally friendly is morally preferable to coerced behavior. If business took greater responsibility for educating the public, the government's responsibility would be lessened. An educational campaign aimed at consumers would likely enable many businesses to do good while simultaneously doing very well.

In addition to the obligation to educate under certain conditions, I add an additional obligation. When a business has at least two products where one is more environmentally friendly than the other but the least environmentally friendly product is cheaper, business has an obligation to try to bring the costs of the more environmentally friendly product down. For example, in the firm's research and development efforts, more money and effort should be spent in reducing the cost of the more environmentally friendly product rather than the less environmentally friendly product.

Concluding Thoughts-An Expanded Set of Moral Obligations for Business with Respect to the Environment

How far does my current thinking deviate from my thinking in the original "Money Morality and Motor Cars?" I continue to maintain that a lot of harm business does to the environment violates straightforward general ethical obligations of any business. It just happens that some violations of these obligations harm the environment. I also continue to place a lot of responsibility for protecting the environment on consumers. In many cases, action by consumers would be the quickest way to change business behavior. However, the wide-ranging existence of externalities, complicates the analysis. On both economic grounds and grounds of consistency, there is an argument that business should not lobby against environmental regulations. This original argument is buttressed by the citizenship and autonomy arguments of Cohen and Dienhart. However, in the original article I did not even consider the practical issues that stand in the way of the adoption of this ethical obligation. Nor did I consider the special nuances involved. In this chapter, I recognize that the moral ban on lobbying needs to be restricted to a special case. **Firms are prohibited from lobbying against environmental legislation and regulations that would give those firms an unfair advantage in the market place.** The unfair advantage I am speaking of occurs, when a firm or industry imposes a negative cost on the environment without the market having any way to compensate for this cost. In the absence of that unfairness, lobbying is permitted. Specifically, if a firm or industry reasonably believes that proposed legislation or regulations will put it or them at an unfair disadvantage and the proposed legislation is not correcting a negative externality that the firm or industry has benefited from, then there is no absolute moral prohibition on their lobbying against it. I have also imposed some other fairness conditions on lobbying, but these conditions would apply to all lobbying and not just to lobbying about environmental regulations.

In the original article I suggested that business may have an obligation to educate consumers about environmental issues. Here I have specified that under certain conditions business does have such an obligation. In addition I have added an additional obligation—an obligation to reduce the costs of products that benefit the environment rather than the costs of products that harm the environment, wherever possible.¹⁹ Thanks to my critics this revised version of “Money, Morality and Motor Cars,” is a better fit with my overall philosophy of business ethics. It does impose more robust moral obligations on business. But it maintains the insight that the moral obligations do not rest on business alone. All stakeholders have a responsibility to act in an environmentally friendly way.

¹⁹When a firm has no competing products that it produces, it is always in the firm’s interest to lower costs when it can increase profits by doing so.