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Efficiency and Ethically Responsible Management

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Abstract One common justification for the pursuit of profit by business firms within a market economy is that profit is not an end in itself but a means to more efficiently produce and allocate resources. Profit, in short, is a mechanism that serves the market's purpose of producing Pareto superior outcomes for society. This discussion examines whether such a justification, if correct, requires business managers to remain attentive to how their firm's operation impacts the market's purpose. In particular, it is argued that the value of efficiency, despite views to the contrary, cannot be fully separated from the planning and intentions of business managers as long as those managers direct their firms in an ethically responsible fashion. This position is inspired by, and serves as a supportive clarification of Joseph Heath's so-called "market failures approach" to business ethics.

Keywords Efficiency · Ethics and competition · Heath · Implicit morality · Division of moral labor · Markets · Market failures · Profit

One moral justification for the pursuit of profit by business firms is that profit is not an end in itself but a means to more efficiently produce and allocate resources. Profit-seeking, in short, is a mechanism that serves the market's purpose of producing Pareto superior outcomes for society. Baumol (1991), for instance, notes that in competitive markets profit-seeking firms adapt their "output combination" to the preferences of consumers and use available resources "with maximal efficiency" to produce these outputs. Joseph Heath (2004) argues that the central "rationale" for profit-seeking firms "is to establish competition" that "drives prices toward market-clearing levels" thereby leading society to a "more efficient allocation" of its resources and labor. Jensen (2001, 2002) similarly maintains "that 200 years' worth of work in economics and finance" indicate that we will "get the most out of society's limited resources" when every firm in the market operates with the primary goal of enhancing its profit levels (2002, p. 239).

For now I set aside the assumptions and evidence standing behind this line of thought (see Hussain 2012; Jones and Felps 2013; Stout 2012). I wish to focus instead on a common corollary of this position, which is that managers charged with directing profit-seeking activity have no obligation to contemplate this outcome in the course of their day-to-day business decisions. Efficiency at the social level should neither be a manager's immediate motivation nor an intention that guides her decisions. This idea expresses the classical notion that the distinctive feature of a competitive market is that its outcomes are actually better secured by allowing business managers to neglect efficiency and remain focused on profit.[1]

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[1] I recognize that many will find it objectionable to maintain that standards of ethical business conduct can be given a complete normative foundation merely in the behavioral requirements needed to assure efficiency in the market. I will assume, following Heath, that we can identify the market's purpose (or aim) as efficiency. This is admittedly contentious. The market has been supported on a variety of grounds unrelated to efficiency and to suppose without argument that there is one definitive end of the market does not do this literature justice (Miller 2010; Norman 2013; Sen 1985; Matthews 1981).

A version of this corollary has been recently put forth by Heath whose "market failures" approach to business ethics provides us with an important part of departure for the remainder of this discussion. Ethically responsible business conduct, for Heath, amounts to conformity with certain behavioral requirements that are part of the "implicit morality of the market" and obligate managers to not exploit structural failures in actual markets (McMahon 1981; Heath 2006a, b, 2014; compare with Sen 1993); these requirements function as generalizable rules that normatively constrain behavior within the market so as to assure that profit-seeking remains conducive to efficiency. Business ethics, in this respect, functions as a social mechanism that assures that actual market activity serves the market's "point," or ideal purpose. But, Heath emphasizes:

> [T]o say that efficiency is the implicit morality of the market, and should provide the guiding idea in business ethics, is not to say that managers should always be asking themselves, before engaging in a particular course of action, whether it is likely to be Pareto-improving or not. (Heath 2014, p. 198)

He continues in the same passage by stressing that the "ideal" of the market—efficiency—is best pursued indirectly through competition "where none of the parties are actually obliged to intend that outcome." This conveys the idea that there is an important normative difference between what a business manager allowably *intends* as a market actor and what her activity ultimately *succeeds* in accomplishing (Koslowski 2004; see also Buchanan 2009).

My primary aim in this discussion is to evaluate this presumed separation between *managerial intentions* and the *market's purpose* if we follow Heath and hold that the behavioral requirements standing behind ethically responsible business activity rest on efficiency. The argument herein will serve as a clarification of positions that support the separation between what should concern business managers in the operation of their firms (constrained profit-seeking) and what should concern policy makers or regulators in the design of the market arrangements (efficiency). I will examine whether, and to what extent, business managers should direct a firm's operation with the market's purpose in mind and whether there are sound reasons for a well-ordered market to license neglect on the part of management as to whether their firm's operation is consistent with efficiency. The matter occupying my attention in this discussion, thus, concerns the intentions of managers as they relate to the market's purpose of efficiency: does the institutional logic of the market warrant the conclusion the managerial intentions may (or ought to) remain centered exclusively on profitability and not efficiency?[2]

My answer, in brief, is that the market's aim of efficiency cannot be completely divorced from the intentions of business managers *if* those managers are prepared to conduct business in an ethically responsible fashion. In this answer, I aim to offer a supportive clarification of Heath's position on the separation of intentions and outcomes that will provide additional insight in to his larger theoretical approach. I argue below that an effective application of the behavioral requirements "implicit" in the market requires that ethically responsible business managers remain thoughtfully aware of what end the requirements serve. This means that at key moments important dimensions of the value of efficiency actually become a practical concern of ethically responsible management. This argument will help to clarify the contours between, first, what we ought to expect *of markets*, as institutional arrangements, and second, what we ought to expect of managers as actors *within markets*.

The first part of this discussion will motivate Heath's "market failures" approach to business ethics and highlight what I take to be its distinctive elements. The second part will be dedicated to an extended discussion of an important idea that stands behind Heath's project, which is that modern societies require a "division of moral labor" between the values served by different social institutions. This notion plays a significant role in explaining why we should find the separation of managerial intentions from the market's objective plausible. Thereafter, the third and fourth parts will develop the central argument of this discussion, which is that the market's ideal objective—efficiency—is a value that cannot be completely divorced from

[2] I will assume throughout this discussion that this problem can be examined by understanding "efficiency" as Pareto efficiency, i.e., states of production and allocation that lead to welfare gains without concurrently producing any losses. I do this largely because Heath's own project is built upon a similar premise. It is possible to consider alternatives to this assumption. One could define efficiency in terms of Kaldor-Hicks efficiency, which conceives of efficiency as those changes in production and allocation that result in a range of welfare gains *and* losses but any losses could be hypothetically offset through compensatory transfers that result in a Pareto efficient outcomes. Kaldor-Hicks efficiency has the advantage of implicitly recognizing that any particular change to the production and allocation of goods in an economy rarely leads to a Pareto efficient outcome without other accompanying changes to the distribution of the welfare gains produced by the change (cf. Coleman 1980). Whether efficiency is understood as Pareto efficiency or some other variant (such as Kaldor-Hicks) will not impact the substance of the argument in this discussion because efficiency, however defined, is not a consequentialist standard that any one market actor can reasonably use to evaluate different courses of action. Heath himself interprets Kaldor-Hicks efficiency as "a commitment to Pareto efficiency, modulated by a 'realistic' accommodation of the fact that literal Pareto improvements are few and far between" (Heath 2014, p. 198n).

the planning an intentions of business managers even if there is some license to do so under typical circumstances.

Requirements Implied by the Market

Those who support a separation between the market's ideal and the intentions of responsible management readily admit that profit-seeking by a firm is subject to all sorts of limitations that *are* grounded in the value of efficiency. Simply put, not all profit-seeking results in efficiency and the goal of efficiency may warrant forms of oversight and constraint that preserve the market's purpose.

Heath's "Market Failures" Approach

Heath maintains that the market is a special domain of action in that its rules of conduct are structured to permit competition between firms in the production and exchange of goods and services. Profitable business firms attract investment capital by, among other things, creatively developing new product lines, improving labor productivity, implementing new technologies, and streamlining their supply chain in order to gain an advantage other firms. In this manner, competitive production and exchange in a marketplace aligns profit-seeking with greater levels of efficiency because successful firms enhance preference satisfaction through new products, improved product quality, lower prices, or some combination of thereof.

Heath stresses that actual competition in the market does not guarantee this result. Businesses in real markets often need to be constrained in their activities in order for a more efficient production and allocation of resources to result. Business firms that engage in fraud, deception, or coercion in order to gain advantages in actual markets may enhance their profitability but do so at the expense of the welfare of other individuals. Firms may actually find advantages through the exploitation of structural failures in the market or through "non-market means." These strategies, however, preserve a firm's competitive position through an inefficient production and allocation of society's resources. Heath therefore maintains that competition in actual markets necessitates a set of behavioral requirements that might otherwise be unnecessary if an ideal level of competition was present. These requirements include: a respect for voluntary and fair contracting, broadly understood; a commitment to compete only on price and quality; the requirement to treat prices as "exogenously" determined; the prohibition on seeking "tariff or trade protections"; the avoidance of rent-seeking behavior, such as political lobbying to gain favorable treatment under the law; compliance with efficiency-enabling regulations; a rejection of overly "opportunistic" transacting; and, importantly, a commitment not to "exploit" standard market failures, which, for example, proscribe taking advantage of significant information asymmetries, negative externalities, and low levels of competition for the sake of enhancing profit (Heath 2004, p. 84; Heath 2006b). In a world where the market is only imperfectly competitive, thereby allowing firms to take advantage of profitable yet inefficient opportunities, responsible profit-seeking firms will operate under the direction of managers who "behave *as though* market conditions were perfectly competitive" (Heath 2014, p. 37). The market's behavioral requirements, thus, are regulative norms that structure how firms should conduct business within the market, if the market's overarching purpose of efficiency is to be served.

In this light, Heath's position reflects an underlying notion that behavioral requirements in business should be understood as institutional constraints that direct market activity toward mutually beneficial social action (cf. Williamson 2005). How these requirements are instituted, in practice, can take various forms. Civil and criminal law, administrative rule-making, industry-wide efforts to "self" regulate or move "beyond compliance," professional standards of conduct and the recognition of authority within firms are candidates for mechanisms that lead to business conduct that is consistent with the market's implicit behavioral requirements (Heath 2006a; Martin 2013; Baumol 2016; Buchanan 1996; Macey 1991). Key for Heath is the recognition that ethically responsible conduct within and between businesses can also be an important mechanism that can assure that competition under non-ideal circumstances proceeds in a manner consistent with the implied requirements of the market and thereby oriented toward efficiency. The important difference, however, is that governance of the market through ethically responsible business conduct involves *internal* restraint on the part of managers to conform to the market's implicit rules of behavior. While other mechanisms to ensure efficiency-oriented competition function as externally imposed constraints on managerial action, ethics characteristically involves the internalized acceptance of the market's behavioral rules on the part of business managers. Kenneth Arrow (1973) expresses a core feature of this institutional understanding of business ethics by noting that to "experience an obligation" is simply to "accept" the behavioral limitations "embodied in some definite social institution." Steen Thomsen (2001) maintains that "ethical business codes…can be regarded as [a set] of principles which govern (influence) the company's behavior." He continues by referring to "ethics as an economic institution" to the extent that it can serve as a

means to efficiency when other options do not effectively "achieve a social optimum" (p. 156). Ethical standards observed and instituted by business managers, thus, are simply another alternative available to *internally* direct commerce and forestall activity that is inimical to efficient outcomes (Norman 2011; Hausman and McPherson 1993).

Heath remains clear that the requirements that define acceptable behavior in the market do not call for business managers to take an overt concern in efficiency. They are designed to align the intended goals of business managers with the overarching purpose of the market; nevertheless, as noted in the introductory quotation, this does not mean that business managers should actually contemplate or deliberate with this purpose of the market in mind, but only that their actions ought to be consistent with its purpose. Elsewhere Heath notes that his

> central claim…is subtle: [m]anagers *need not intend the greater social good*; they may adopt competitive strategies with an eye only toward the maximization of profit. However, the strategies that they adopt in order to obtain profit *must be consistent with the greater social good* that serves as the "purpose" of the market economy, viz. efficiency in the production and allocation of goods and services. (emphasis added, 2006b, pp. 371–372).

Properly constrained profit-seeking in competitive markets will have a "byproduct effect" of maximizing the number of "efficiency-promoting" exchanges thereby improving the standing of an array of stakeholders (Heath 2014, p. 11). This indirect effect, however, is not a deliberate intention of managers. This echoes what Boatright (2006) terms the "task" of management. He, like Heath, concedes that market arrangements are justified largely because profit-centered management will tend to improve the welfare of all of a business's stakeholders. It is mistaken to infer, however, that the welfare of all stakeholders therefore becomes the objective of management. Such an inference commits the fallacy of "passing from the true premise that [businesses] ought to serve the interests of every stakeholder group to the false conclusion that this is the task of management" (p. 107).

Institutional Comparisons

Heath, following Arthur Applbaum, maintains that one of the unique features of competitive, or adversarial, social institutions is that there are narrowly tailored, "special exemptions from particular moral obligations" that allow for the use of "tactics that would otherwise be wrong" in non-competitive institutional settings (Applbaum 1999, p. 115). These special exemptions are allowable "all things considered" because of the moral benefits that accrue from the exemption (Heath 2014, p. 103). I take a prime example of one such allowance to be business managers' exemption from considering the larger welfare-related outcomes of their intention to secure profit. This exemption bears a similarity with other adversarial institutions. Heath notes, for example, that the attitude of *winning* is necessary in order to foster athletic excellence within the institution of competitive sports. Winning at all costs, however, can undermine athletic excellence by creating desires to break rules that are necessary for the event to be a sporting exhibition of athletic performance. Participants may use banned drugs to enhance performance. They may pay off referees to favor their team. Clear rules preserving the purpose of sport therefore need to be developed so that the attitude to win is properly constrained. Yet athletic excellence is best served when the primary intentions of competitors in a sporting event have as their objective winning. Rules need to be recognized and observed, but the purpose they serve can—and should—remain distinct from the intentions of participants who excel athletically when they focus their intentions on winning within the bounds of the rules.

We can understand the legal profession along similar lines (cf. Heath 2006b). Attorneys utilize all available means to vigorously defend clients even though they may have intimate knowledge regarding the true nature and extent of their client's crime. The institutionally defined purpose of the criminal justice system, i.e., retributive justice, is not an aim that necessarily guides the day-to-day decisions of criminal defense attorneys. Their role as an advocate for their client sometimes relies on responsibilities—such as client confidentiality to prevent the disclosure of guilt-confirming statements—that have distinct objectives from that of the criminal justice system. Systems of criminal justice are structured along adversarial lines because aggressive defense of those accused of crimes is thought to be the best arrangement to serve justice. The process of criminal defense, thus, is a highly regulated by procedural norms, jury selection, judges, standards of evidence, and importantly, norms of professional conduct for defense attorneys (see Wasserstrom 1975). Within those constraints, however, an attorney should use all acceptable means to shield her client from punishment. That is her institutionally defined role (Atkinson 1992). Whether justice is ultimately served, i.e., whether punishments proportionately reflect the *actual* guilt of those accused, is not narrowly understood to be an objective of the attorney but an outcome of a well-designed adversarial system of criminal representation. Here we are reminded of John Rawls's important distinction between standards that provide an internal justification of the conduct of actors within a practice and the standards that provide an external

justification of the practice as a whole (Rawls 1955; cf. Applbaum 1999, pp. 89–91). The professional requirements of criminal defense attorneys are standards of conduct that—from the perspective of the attorney—regulate their conduct but are not necessarily anchored in any deliberative concern for a just system of criminal punishment.

In democratic politics, competitive electioneering is a way that candidates' ideas and party platforms can be conferred legitimacy (Lipsitz 2011). The virtue of competition in the democratic process is that candidates and parties will aggressively communicate ideas and adjust their positions to differentiate views on various issues thereby providing citizens a clear choice (Gutmann and Thompson 2011). Electioneering rules, however, are necessary to prevent distortions to this process. Well-structured public debates and a respect for argumentation help assure that candidates adequately defend their views. Rules may be needed to prevent vote buying and other forms of corruption so that electioneering activities remain accountable to citizens' interests. Democratic authority is established (in part) through competition but as long as the competition is well-regulated, then its participants can act within those rules with the single-minded objective of campaigning to win an election without necessarily concerning themselves with the larger structural matter of whether their election victory enhances overall levels of legitimacy.

In all of these cases, a similar theme emerges. There is supposedly an important difference between what institutional actors intend in their actions within a particular social role and what purpose their actions ultimately serve within that institution. Just as the intentions of competitors in sport, criminal defense attorneys and political candidates can remain practically disconnected from the outcomes of athletic excellence, retributive justice, and political legitimacy, respectively, Heath maintains that the goals of business managers can remain separate from the outcome of market activity. The institutions that "house" competitive social interaction can be suitably developed to steer competition toward the desired end without that end becoming recognized and endorsed by participants as an action-guiding practical objective.

Internalizing the Market's Requirements

There are undoubtedly many typical situations where the purpose of competitively structured institutions is not—and need not be—part of the intentional pursuits of its actors. But, depending on the institution under examination, these situations may be more or less pronounced. What this fact means for Heath's position will occupy my attention in the next two sections. I will begin in this section by trying to further motivate Heath's view and then move in the next section to a critical review of the moral separation of managerial objectives from the purpose of the market.

Division of Moral Labor

Heath's claim that the value of efficiency need not be part of the objectives of an ethically responsible manager relies on a separation of the standards by which we evaluate the conduct of ethically responsible managers from the standard by which we evaluate market arrangements as a whole. Upon first glance, this separation shares something in common with a more general idea within contemporary political theory often referred to as the *division of moral labor*. Nagel (1995) provides an important discussion of this notion in *Equality and Partiality*. His idea is that the moral standards that pertain (or apply) to private, individual conduct are distinct—and normatively separate—from the standards that pertain (or apply) to public, collective action organized through institutions. There are some standards that uniquely regulate institutions and it is not morally incumbent upon individuals or private associations to directly apply those same standards in to their day-to-day conduct. Nagel stresses that certain values belong to the "personal standpoint" and others belong to the "impersonal standpoint," both of which are "irreducible components" of an individual's perspective on moral life (Porter 2009, p. 174). While some values form the basis of a person's private moral concerns, there are some values—most notably justice—that "transcend the arena of small-scale interpersonal relations" and are more appropriately placed within the purview of public, large-scale relations, governed by institutions (Scheffler 2005, p. 233). A variant of this position is often attributed to Rawls (1971, 2001) because he emphasizes that his two principles of justice are applicable to the activities organized within society's "basic structure," i.e., its most basic economic, legal, and political institutions, but not to private associations. "The principles of justice for institutions must not be confused with the principles which apply to individuals and their actions in particular circumstances. These two kinds of principles apply to different subjects and must be discussed separately" (Rawls 1971, pp. 54–55; cf. Rawls 2001, pp. 52–56). In this narrow respect Rawls is a "pluralist" about justice in that he does not construe his principles as relevant to entire range of interpersonal actions and associations that moral theory often encompasses (Murphy 1999). "Rawls presents his principles as having limited scope; they are framed so as to apply to major social institutions and do not constitute principles for the general regulation of groups, associations, and individuals" (Scheffler 2006, p. 103; cf. Cohen 1997).

The division of moral labor is thought to resolve an inevitable tension that can arise between what an individual understands that they should do as private matter and what they are required to do in order to uphold just forms of social cooperation. One could easily imagine a situation where the value of justice, if it were categorically applicable to individuals' private lives or other voluntary associations, could require individuals or private groups to alleviate poverty through their own planning and conduct. Such a demanding obligation can create a conflict with an individual's other projects and commitments, including those that express other basic values such as loyalty, commitment to family, and self-determination. The moral cost of sacrificing one's personal commitments for the sake of justice, and vice versa, can be quite high. The division of moral labor is thought to create space to resolve this tension by holding that the value of justice should be appropriately thought of as a value guiding the design and organization of institutions rather than a value that comprehensively applies to the exercise of individual discretion in how to act privately. As Scheffler (2005) puts it:

> the idea of a division of moral labour represents an attempt to accommodate the multifaceted character of our own values: to make room for the irreducibly heterogeneous character of the evaluative concerns that move us. The aim is to accommodate these different values by allowing them regulative authority over different aspects of our lives and arrangements (p. 251).

This is not to say that identifying justice as an institutional rather than individual value absolves individuals from having any justice-related obligations at all. A division of moral labor on the matter of justice allows for individuals to have obligations to support those institutions that have been tasked with securing justice. I may, for example, have an obligation as a citizen to pay taxes in order to support a system of income redistribution. Or I may have an obligation in my own small business to avoid making employment decisions on the basis of an applicant's race. These obligations may constrain my individual decisions but their context of application is *clearly defined* and meeting them "fully discharges" my obligations with regard to justice without requiring any thought or discretion on my part as to how the overarching value of justice is served (or not) through my conduct (Porter 2009); more importantly, the division of moral labor allows me to show proper respect for the value of justice alongside the other values that guide my "small-scale, interpersonal" life. It "restructures" our lives into different domains of concern so that "situations in which there would otherwise be a tension" between personal and impersonal values no longer arise because institutions, not individuals, are the primary locus of action geared toward securing justice (Porter 2009, p. 177).

Heath explicitly states that his market failures approach to business ethics relies on "a division of moral labor within our institutions" where markets are "special-purpose institutions designed to promote efficiency" giving rise to special moral responsibilities among those who participate in the market (Heath 2014, p. 10). This claim, in combination with the preceding review of the division of moral labor, suggests an initial reading of how Heath understands the moral division of labor to function within his "market failures" approach to business ethics. Just as we might institute the value of justice through well-defined requirements that regulate matters such as taxation and discrimination in employment, thereby allowing individuals the space to support justice while pursuing other private aims, we might also institute the value of efficiency through well-defined requirements that regulate the terms of competition in the market, thereby allowing their managers the freedom to support efficiency while remaining focused on the pursuit of profit. In both cases, some value pertaining to a dimension of large-scale cooperation (justice and efficiency, respectively) is instituted in a manner that avoids pronounced conflict and allows for private actors to pursue their own aims in a manner that is consistent with that value.

The problem here is that Heath's use of the division of moral labor is noticeably different than this parallel suggests. His primary concern, unlike Nagel and Scheffler, is not to address the tension between "personal" values (i.e., values associated with private, "small-scale" interpersonal relationships) and "impersonal" values (i.e., values associated with public, large-scale institutions). Instead, the division of moral labor in Heath's normative theory is designed to separate the moral objectives of different institutions; he maintains that different social institutions should be assigned different moral objectives—resulting in a different distribution of moral requirements—and this turns out to be the most effective way to satisfy an array of "morally important social values" that may impose pragmatically confounding obligations on the same actors (McMahon 1995). The tension that Heath seeks to resolve is not a tension between personal and impersonal values per se, but instead the tension that exists between the *values* that support the design of different institutions. He is particularly concerned with avoiding tradeoffs and conflicts between the obligations derived from the values of efficiency and justice. The market's normative requirements allow businesses to focus on constrained profit-seeking under conditions of competition in order to best serve efficiency. And in virtue of their identity as market actors businesses are allowed to focus on this constrained profit-seeking without dedicating special thought to the value of justice. The function of securing justice resides with other well-developed legal, political, and economic institutions, not the market itself, which may all impose

additional constraints on business *beyond those implied* by efficiency. In this manner, the tensions that may arise between constrained profit-seeking and the demands of justice, e.g., between the ability of businesses to pay market-based wages and the right of citizens to a basic income, can be eliminated.

On Heath's proposed division of labor, thus, there is no need for business managers to be discretionary agents of justice because their institutionally specified role is to act in ways consistent with efficiency. In virtue of acting within markets, business managers have only limited responsibilities to conform to the externally imposed legal requirements that support justice. Conformity with those requirements fully discharges their obligations with respect to justice, they bear no responsibility to take it upon themselves to deliberately plan how their activities can bring about just outcomes. Heath emphasizes:

> [I]t is only when embedded within the broader context of a welfare state, which engages in both market-complementing and redistributive policies, that capitalism as a whole can claim to be just. At the same time this does not mean that market actors are accountable to the same moral demands that the system as a whole must satisfy. [Managers] are given license to maximize profits for the narrow reason that, in a reasonably competitive market, this is the best way to get prices that reflect social cost. In order to achieve this, [managers] must be given a fairly broad exemption from norms of equality or fairness in the organization of their interactions (2014, p. 10).

This move effectively divides labor between business managers as market actors from, say, legislators or regulators who presumably do bear a responsibility to deliberately consider how equality or fairness should be achieved through the development of public policy. The point to underscore is that Heath's explicit use of the division of moral labor is framed as a way to divide moral labor between different institutional actors not a way to divide moral labor between personal and impersonal spheres of action.[3]

[3] This section's discussion of the division of moral labor was developed in response to an insightful set of comments and recommendations offered by an anonymous reviewer. It should be noted that a case can also be made that Rawls's use of the division of moral labor is more accurately a basic recognition that different institutions serve different moral tasks. A division of labor among institutions is not the same as a division between personal and impersonal spheres of action. Scheffler (2005) and Porter (2009) maintain that Rawls subscribes to an institutional division of labor but not necessarily a division of moral labor in the sense put forth by Nagel. This is highlighted by the fact that Rawls includes the institution of the family within the "basic structure," which is arguably a private association that may nonetheless be subject to the principles of justice. See Rawls (2001, pp. 162–166) and Cohen (1997).

Intending Efficiency

Note another important distinction. A division of moral labor between institutions tasked with serving efficiency and justice is conceptually distinct from a division between the intention to profit through constrained competition and the intention to improve levels of efficiency. The former division is a division between the *moral tasks across different institutional actors* and the latter is a division of an institutional actor's *moral motives from the institution's purpose*. The internal division of the market between the intention of adhering to behavioral requirements and the intention to realize efficiency can neither be explained nor justified simply by the need to divide moral labor among the institutions supporting efficiency from those supporting justice. It is therefore important to examine in more detail why Heath stresses that business managers bear "no obligation to intend" efficiency.

Nagel and Scheffler put forth a division of moral labor in order to resolve the inevitable tensions that arise between personal and impersonal values. The resolution of these tensions is accomplished by clearly defining the scope, context, and manner in which impersonal values—like justice—are applicable to individual decisions. This clarity, however, does not eliminate justice as a motivating value or consideration within the moral outlook of a responsible individual; rather, the clarity simply allows for individuals to avoid the paralyzing consequences of understanding themselves as the primary agents for justice. This, in turn, allows them to uphold justice indirectly by supporting just arrangements through obligatory actions at specified moments in time. By dividing the task of justice among institutions and individuals—placing it primarily "in the hands" of certain institutions—the division of moral labor allows for "small-scale, interpersonal values" to remain important without having to constantly tradeoff with the demands of justice.

A morally responsible individual can nevertheless recognize justice as morally important in its own right, even if we divide moral labor between private and public values; that is, they can concurrently respect personal values and justice even if institutions are the primary site where justice is assured. Not only does the moral division labor allow for the possibility that individuals endorse justice as an important value, but it may even also rely on this endorsement in order for ongoing support for just institutions to be forthcoming.

It is an open question whether this type of link between an institution's moral purpose and the requirement to act in support of the institution is available to Heath. In the passages noted above, Heath stresses that efficiency is not an outcome that business managers obligated to intend

when determining how to conduct business. Business managers must simply act in ways that are "consistent with" the behavioral rules that assure more efficient outcomes. One interpretation of Heath's position is that it leaves open whether business managers need to conceive of responsible business conduct as supporting the value of efficiency; managers could understand their responsibilities purely in terms of adherence to the rules set forth in the institutional arrangements that make up the market. Efficiency on this interpretation is not itself necessarily a value endorsed by the responsible business manager. While I argued above that a division of moral labor to institute justice may allow for—and even require—individual actors to recognize and endorse the importance of justice, this interpretation of Heath's position asserts that the license he grants to business managers neglect efficiency, i.e., to "not intend" it, is also a license not to endorse or show moral concern for the *value* of efficiency. The only responsibility that an ethical business manager has is to show proper respect for the requirements that make up the normative scaffolding of the market, not necessarily the value standing behind that scaffolding.

Alternatively, what Heath may mean is that managers need not intend efficiency in their conduct because there are *pragmatic limitations* that make efficiency difficult to realize through deliberate acts. Two such difficulties stand out. The first is that any one action taken by a market actor is not likely to produce more efficient outcomes. Heath stresses this on multiple occasions when he notes, "no single instance of [competitive behavior] will be Pareto-improving" (2014, p. 198). The behavioral requirements implicit in the market are requirements that—over time—move production and allocation toward more efficient arrangements. There is nothing in any one pricing decision or any single expansion of manufacturing output, for instance, which will necessarily guarantee greater levels of efficiency. Heath's characterization of the behavioral requirements of the market as "deontic" rules reinforces this first practical challenge (2014, p. 33). The deontic rules of the market are simply those rules that *generally* tend to steer market activity toward the goal of efficiency. It is necessary to appeal to such deontic rules because it is much too complicated to treat efficiency as a single consequentialist standard. Not only is it difficult to assess how particular actions in the marketplace contribute to—or detract from—the goal of efficiency, broadly construed, but it is also even more difficult to imagine that market actors have the time or skill to engage in such determinations.

The theoretical convenience of viewing the presuppositions of the market as mid-level, deontic constraints that make no reference to efficiency is attractive. It moves efficiency away from being an action-guiding principle to a functioning as a regulative outcome. In turn, this regulative outcome, combined with certain social scientific claims about how markets function, provides indirect practical guidance in the form of generalizable rules that are regulative in nature but nonetheless remain a separate concern from the ideal of efficiency that underwrites the market's legitimacy.

A second problem with trying to "intend" efficiency through business decisions harkens back to the special nature of a competitive market. It is precisely the neglect of efficiency by market actors that actually turns out to promote efficiency. The price system performs its function when firms vigorously compete on self-interested terms. Efficiency is best realized when firms seek to enhance profitability within a well-regulated competitive market—by lowering prices, improving product quality, or otherwise expanding market share—rather than by having firms attempting to improve efficiency deliberately. Efficiency is "a byproduct of competitive behavior" not an intention of the managers of competitive firms (Heath 2014, p. 198). A well-governed market "institutionalizes an indirect strategy for promoting Pareto efficiency in the form of rules that specify the terms of…competition." (Heath 2014, p. 11).

These pragmatic limitations—that no single business decision can be assessed with respect to efficiency and efficiency is actually an indirect byproduct of competition, not an objective of competitors—yield a second way of interpreting Heath's assertion that business managers need not "intend" efficiency. Managers may permissibly refrain from intending efficiency either because: (a) intending efficiency is impractical given the difficulties of tying any one competitive "move" in the market with an improvement to efficiency or (b) intending efficiency actually diminishes a firm's competitive position, which is actually needed to assure an improvement to efficiency. This second interpretation maintains that Heath licenses the neglect of efficiency on the part of business managers because efficiency has to be decoupled from any deliberate efforts to bring it about by business managers. Put differently: the implicit deontology of the market requires that we draw a distinction between, on the one hand, setting the overarching purpose of an institution as the ultimate decision-making criterion for actors within the institution and, on the other, the mid-level rules of behavior designed to support the institution's overarching aim. It is plausible to think that responsible business managers could have discreet motives and intentions anchored in a commitment to uphold the mid-level rules without necessarily having any motives or intentions explicitly anchored in a commitment to uphold the regulative ideal of efficiency.

It is important to stress that this second interpretation does not eliminate the possibility that responsible business

managers, while they cannot be expected to directly plan how to produce efficient outcomes in the market, may nonetheless have reasons to generally recognize the value of efficiency. The actual difficulties of deliberately planning for efficiency do not automatically displace the reasons that responsible business leaders have to support it as a value.

Rawls's "basic structure" restriction in his theory of justice is once again instructive. One of the reasons that his principles of justice do not apply to the actions undertaken by individuals or other private associations is, for Rawls, that justice is most effectively secured when there are "background conditions" in place that assure that justice is met, no matter what decisions or actions are made by individuals privately or within smaller scale associations (Rawls 2001, p. 54; Murphy 1999). Here, like the argument made above about the division of moral labor, Rawls admits that there are obligations for individuals to support just institutions; but the main work in securing justice is performed by large-scale institutions that allow for individuals and private associations to engage in their own projects while specifying certain regulative constraints that ensure a just society. So, while it is true that individuals and private associations can focus their attention on making sure they support justice through compliance with various institutional requirements, there is nothing that would necessarily preclude a concurrent recognition that justice remains an important social value in its own right. Indeed Rawls's own discussion of the need to cultivate a "sense of justice" among citizens can be read as a acknowledgment that individuals and private associations must have a full respect for the value of justice in order to assure the type of compliance with, and support of, institutional arrangements that make up a stable, just society (1971, p. 474).

A similar move might be made on behalf of Heath. It is conceptually possible that ethically responsible business managers need not give up an underlying recognition or endorsement of the value of efficiency even though the obligations that structure their decisions in the market are only narrowly specified by the deontic requirements presupposed by the value of efficiency. Such a recognition and endorsement of efficiency need not be expressed or deliberately sought out, in most day-to-day business decisions. The exemption that Heath provides to ethically responsible managers do not intend improvements to efficiency, hence, has its basis in the nature of a competitive price system that most effectively secures efficiency "as a byproduct" of focused, constrained profit-seeking, and not on the basis of an inherent incompatibility of placing value on efficiency alongside of constrained profit-seeking. Managers may recognize reasons to value efficiency through an underlying commitment to respect the market's deontic presuppositions but still not intend efficiency as an outcome or hold efficiency out as an objective in their deliberations about how to conduct business. An institutional division of moral labor between the market and institutions that secure justice does not rule out that business managers, as market actors, can remain committed to the value of efficiency, despite the unique fact that efficiency is often best realized when business managers focus their intentions on constrained profit-seeking rather than on brining about improvements to efficiency.

Why Efficiency Matters as a Value

Thus far I have argued that Heath's use of the division of moral labor provides, at best, only an incomplete explanation as to why he is inclined to separate the intentions standing behind ethically responsible profit-seeking from the outcome served by that activity; moreover, I have argued that on one reasonable interpretation of Heath's claim that business managers are not "obligated to intend" efficiency, the value of efficiency need not be something that is entirely neglected or ignored by responsible business managers. Indeed there are two added reasons why a recognition of the importance of efficiency may remain quite important for responsible business managers. The first has to do with the motivational strength that the implicit morality of the market supplies business managers and the second has to do with the inevitable problems that emerge in applying the implicit morality of the market in actual circumstances. These will be taken up in turn in the remainder of this part before concluding.

Internalizing Efficiency

In order for the market's ethical requirements to effectively serve as a mechanism to assure efficiency, it is not enough that managers are merely constrained about their business decisions. Ethical responsibility in business means that managers *restrain* their activities by internalizing a commitment to adhere to the market's implied behavioral requirements.

Now, as noted in the first interpretation of Heath's project outlined above, it might be said that what is internalized by an ethically responsible manager is not the underlying value—efficiency—that the market's requirements serve, but, rather, simply a duty to comply with the deontic rules presupposed by efficient markets. The motivation to conduct business in a manner consistent with the requirements arises from the mere motive of compliance with the institution's implied norms of behavior. What is internalized is the *duty to conform* to the institution's rules of conduct and not necessarily the value that underwrites the rules (Schultz 2001).

This move, while highlighting an important difference in what can motivate ethical management, leaves us with a deficient account of how the market can be offered effective oversight by managers internalizing the behavioral requirements of the market. The duty to comply with the rules of the market is only as strong as the perceived reasons standing behind the requirements. This is especially true when the pressures and incentives associated with profit-seeking can easily overwhelm any commitment to be dutiful for duty's sake (Baumol 2016). One could easily imagine a manager who finds tremendous advantages in violating the market's rules and engaging in various forms of rationalization that minimize or obscure the rules from consideration when deciding how to conduct business. Unless the manager assigns some independent value at key moments in time to the rules that justify her duty to comply, it is difficult to imagine that the market's implied deontology can be an effective, independent mechanism to preserve efficiency when opportunities are ripe to skirt the rules of the market. Internalizing a duty to follow the market's rules lacks the motivational depth and robustness of internalizing the value that the rules support. It is therefore important for effective, internalized restraint to be motivated by recognition of the value of efficiency.

The Challenge of Application

Another problem with remaining steadfast in the belief that the market's efficiency aim can remain fully separate from the objectives of ethically responsible business managers is that deontically sound decisions involve case-specific choices about how to conduct business. Mid-level deontic rules, while sufficiently action guiding in many situations, are sometimes incomplete guides to action in novel and complicated cases. Ethically responsible conduct in business therefore requires an appeal to resources other than deontic rules to provide practical guidance. Heath argues that ethical managers will undertake efforts to act in *actual* markets according to the behavioral norms implicit in *ideal* markets. But as long as the circumstances in actual markets cannot be reliably mapped out and predicted by ideal markets, we should expect ethical managers to draw upon the value of efficiency to guide their decisions.

There are three ways that mid-level rules may be practically incomplete in the manner suggested. The first is that deontic rules stand in need of interpretation. Take the rule that business managers should not "engage in opportunistic behavior toward customers or other firms." What counts as an instance of opportunistic behavior? There is no bright line dividing opportunism from behavior that acts upon some advantage in the marketplace. For example, does a bank that lends money on risky terms to a poor, financially disenfranchised borrower engage in opportunism? Does it matter that the bank fully discloses the risks and diligently honors the terms of the contract with the borrower? At what point, if at all, does the acceptance of those terms by the borrower mean that the lender has not engaged in opportunism? What if the loan in question meets the lending standards set forth under current law? These and other related questions immediately raise a host of interpretative queries that the deontic proscription against opportunistic behavior cannot, by itself, answer. Other deontic requirements of the market's implicit morality illustrate the same point. The requirement to minimize negative externalities obviously demands that business managers interpret what it means to "minimize" such costs, as opposed to avoiding altogether or simply reducing such costs.

An ethically responsible manager will therefore need to explore what a behavioral requirement *means* and whether certain applications of it are *appropriate*. The proscription against opportunism illustrates that an ethically responsible manager needs to interpret what opportunism is, across a range of cases, and whether specific actions undertaken in the course of business violate the rule. This norm is particularly challenging because opportunism is a concept that requires further analysis; whether an act is opportunistic, or not, is a matter determined relative to other norms of conduct. Opportunism can be defined as behavior that takes advantage of a chance to deceive or mislead another party. Or, as in the above lending example, opportunism might signify behavior that takes advantage of another party's lack of autonomy. In still other instances, opportunism is used to refer to actions that exploit an asymmetry in information between two parties. In all of these contexts, however, *whether* an action counts as opportunism—and therefore *whether* the action is proscribed—requires a nuanced understanding of the meaning of deception, autonomy, and asymmetric information, respectively, something that the behavioral requirements themselves do not provide.

A second type of incompleteness is that some deontic rules involve tradeoffs with one another in less-than-ideal circumstances. The norm to "minimize negative externalities," for instance, may be affected by the norm to "compete only through price and quality." Competition on the basis of price often involves decisions about how to best manage the costs of production. In an attempt to lower prices, a firm may find that lower production costs can be obtained only through means that fail to fully internalize the costs of production. Or, to take another example, recent business history in the United States is replete with examples of firms who have sought legislative protection against foreign firms that operate in areas without the operational costs associated with environmental or labor regulations. The norm to refrain from seeking "tariff or

other protectionist measures," however, would seem to proscribe such efforts even though legislative support in these cases is sought to eliminate some degree of imbalanced competition between firms, even within liberalized trade regimes. When such measures are legislatively appealing because they reduce environmental externalities or improve the fairness in the employment relationship, the matter becomes even murkier.[4]

The point of all of this is simply to underscore the fact that adherence to the presupposed requirements of an ideal market is not a straightforward matter when different requirements are simultaneously applicable in a particular situation. When Heath suggests that we "imagine a deontically perfect world" as one where business managers "comply with all moral requirements" we need to add that the duties derived from an ideal market may, at some moments, require judgment. Finding a suitable compromise between the deontic requirements of the market requires more than just appealing to the general rules that tend toward efficiency; it involves a decision as to how to institute each requirement in light of the other. So, to take the above example, acting upon the norms to minimize negative externalities and to compete on price involves a decision about how the general action types expressed in the norms interact with one another in concrete situations to yield a judgment about how (and whether) reducing the costs of production is a legitimate means to improve price competitiveness. And, in the second case, the importance of avoiding legislative action to promote a level playing field demands that a business manager think carefully about the relative weight of each requirement and determine whether the support of favorable trade legislation may be warranted if it enhances the overall level of competition within an industry that operates in an international marketplace.

A third and final limitation in relying on mid-level, deontic rules of the market is that there are standard market failures—and thereby inefficiencies—that are *not clearly ruled out* when business proceeds in conformity with the rules of the marketplace. The United States health care market provides an interesting illustration. Well-developed information systems and information sharing arrangements between health care providers are a public good in that all actors in the health market would benefit from easily accessible, transferrable patient history data (Congressional Budget Office 2008). Providers would be able to administer and prescribe treatment more holistically, based on a patient's past examinations, test results and screenings, and the costs to the entire health care system would be reduced due to the availability of information that may otherwise have to be obtained independently by each provider. And yet the market provides little or no incentive for any one private actor to make the necessary investments to create a robust system of information sharing. Indeed recent reports suggest that health care providers are actually taking deliberate steps to *avoid* sharing patient information with other health care providers (Pear 2015). The problem appears to be that providers are trying to persuade patients that the quality and price of the care they receive is better when a single provider administers their care. The most basic deontic requirement of the marketplace to "compete on price and quality," thus, has actually set in motion actions that entrench the problem of not having information seamlessly follow patients when they move from provider to provider in the marketplace. It is natural to say here that responsible firms in the health care industry would refrain from profiting from this public goods problem (when not addressed through regulation) and yet it is unclear that a standardized list of deontic requirements could be nuanced enough to rule out such inefficient profit-seeking.

Application of Market Norms and Efficiency

Business ethics, thus, involves three general types of judgment in the application of the market's deontic requirements. First, what does a rule require in a particular decision making context? Second, how do different rules that provide concurrent guidance weigh and balance against each other in a particular decision making context? Third, when is it ever the case that acting in conformity with the rules of the market nevertheless allows for conduct that runs contrary to the market's Paretian purpose? All of these moments of judgment are necessary to render an all things considered decision about how to conduct ethically responsible business in specific circumstances.

It is not my intention to provide advice on how to answer these questions; rather, the point I want to underscore is that a deontically sound market would be one where managers fully engage these questions when it comes to deciding how to conduct business. This is part and parcel of being ethically responsible and for ethical requirements to effectively govern the market in a more efficient manner.

This fact begins to blur the distinction between efficiency and the behavioral requirements whose general observance steer business activity toward it. So, for the first general type of judgment, the most natural way to interpret the meaning and extent of deontic rules is to examine what purpose those rules serve. The requirement that firms "not

[4] Heath seems to recognize this second type of application problem when he states that the requirements implied by the market "must be further refined, in order to fit the circumstances of specific markets (with particular attention to the possibility of offsetting market imperfections that may generate conflict among the principles) in order to generate concrete rules that can directly govern managerial conduct" (2014, p. 199).

exploit information asymmetries" in order to, say, sell more products to consumers is illustrative. What counts as an asymmetry and whether the asymmetry is being exploited (or not) involve judgments that are largely context-dependent. Not all information asymmetries look alike and not all instances of exploiting an information asymmetry manifest themselves in a similar fashion. The nature of the product in question, its technical specifications, and the impact of the product's use on the consumer's interests are all potentially relevant in judging whether the norm has been violated. A determination of whether a firm has taken advantage of an information asymmetry to sell products will depend upon a consideration of a number of complicating circumstances. In a particularly difficult case, it may naturally benefit from an exploration of what information a consumer may ideally want before she decides whether to buy the product in question.

This sort of exercise is a conscious, deliberate move to explore how buying the product in question can make off the consumer better—or worse—off. In this manner, the resolution of whether the norm regarding the exploitation of an information asymmetry is respected, or not, is made possible by reflecting upon *why* the norm serves as an action-guiding reason in the first place. The impact on the welfare (preference satisfaction) of the consumer is the end that clarifies what is deontically required. While it is true that this assessment of consumer welfare is not the same as a system-level assessment of whether there are Pareto improvements in the economy as a whole, an interest in whether other transactionally proximate parties are made better off as a result of a particular exchange is nonetheless a concern central to the value of efficiency. The act of applying the norm extends the scope of ethical concern from mere conformity to a deontic rule (do not exploit information asymmetries) to whether other individuals in the marketplace are made better off from a general point of view.

What about acts of judgment of the second sort where responsible agents must decide how to prioritize one norm over another, or decide whether one norm takes on less significance when weighed against another? Here it also seems that a commitment to elements of efficiency as a social value is helpful in rendering these judgments. Sensitivity to the way that a list of deontic requirements provides coherent guidance is part of effectively instituting the entire range of requirements presupposed by the market. This process is aided by an understanding of what common purpose the requirements serve. A proper balancing and prioritization of norms, thus, can proceed only when agents deliberate about the value that the requirements are designed to support. Appealing to efficiency serves to "articulate at a higher level of abstraction" a value that agents can "project" on to difficult cases that are not easily adjudicated by subsuming the circumstances under the existing rules (Heath 2008, p. 276).

The same is true of those unique circumstances where full conformity with the letter of the market's deontic requirements does not yield action that is consistent with the Paretian spirit of the market. The example of the health care industry from above was designed to illustrate that however well specified a set of deontic rules is, there will be occasions where remaining cognizant of the value that underwrites the rules is necessary for an agent to act responsibly. Firms that act in a manner that is consistent with the spirit of a well-functioning healthcare market will, at a minimum, refrain from activity that further cements the tendency of firms to refuse to share patient information. Even more: responsible firms would resist the advantages associated with withholding information from other healthcare providers. They could either share patient information freely or work to reform the system of incentives so as to promote increased information sharing among all providers. But, to be motivated in these directions, managers of responsible business firms must take seriously the improved patient welfare that occurs in a market with greater levels of information sharing. Again, while this practical objective is not necessarily a concern about efficiency at the level of the general economy, it is an objective that constitutes a concern for the efficiency of the particular transaction types that make up the healthcare market.

It should be stressed that I am not asserting that efficiency is an end that must be used as a decision-making criterion for ethically responsible business managers when problems of application arise; rather, efficiency is an end that shapes a business manager's understanding of *why* certain behavioral constraints on market activity exist in the first place. Practically speaking, efficiency need not be a single consequentialist standard for decision making but can still remain as an objective that prompts further reflection on when, say, a problematic information asymmetry exists, whether an externality is unnecessary or whether competition on price and quality may actually entrench a market failure. Efficiency is an objective that is not isolated from consideration when managers are faced with difficult choices about how to interpret and apply the mid-level, behavioral norms of the market.

Could setting aside the mid-level requirements and reverting to higher level proscriptions against "exploiting market failures" or "taking advantage of market imperfections" address some of these problems regarding the application of the market's rules? Such a move is tempting because these more general proscriptions begin to explain how ethically oriented managers could address interpretative problems outline in the above examples. The problem with this suggestion is two-fold. First, such a move actually

nudges managers closer to internalizing the value of efficiency because deliberation about when and under what circumstances a market failure exists, whether it should be avoided, and if there are imperfect levels of competition, would seem to require a conscious examination of what markets are efficient or, at the very least, whether there are some parties that are made worse off as a result of a firm's pursuit of profit. Second, the suggestion fails to appreciate the functional role that mid-level, behavioral constraints play in simplifying the general duty of business managers to act in ways that are consistent with efficiency. The rules—and their manifestation within an ethical sensibility—are a "second best" institutional arrangement to help realize efficiency even when it seems nearly impossible to use efficiency as a single, unifying normative standard of conduct in business (Heath 2014, pp. 198–200)

The argument I am making in this section purports to show respect for the functional purpose of the market's implied behavioral constraints while also acknowledging that there are moments of judgment in this application of these constraints that benefit from an appreciation of how the value of efficiency is positively or negatively impacted in difficult cases.

All of this suggests that a sharp separation between the purpose of the market and the intentions of business managers may not be as pronounced as might first be thought. Responsible business conduct is not exhibited by tailoring conduct to *simply* conform to a rule. Responsibility is expressed when managers deliberate about how to integrate operational concerns with the limiting rules of the marketplace. Those rules are action guiding in specific circumstances when the practical connection between the rules and the purpose they serve is brought in to view—and taken seriously—at key moments in time. This decidedly ethical perspective moves a functional understanding of the market's behavioral presuppositions, i.e., what market actors need to do in order to preserve the efficiency of the marketplace, toward a normative understanding of the market's behavioral presuppositions, i.e., what is *justifiably required* of market actors in order to preserve the efficiency of the market.

It should be acknowledged that the difficulties associated with interpreting and applying the behavioral constraints of the market are not unique to ethics as a governance mechanism. Other governance mechanisms of the market, such as the regulations enforced by administrative agencies of the state, have analogous challenges. Case-specific judgments regarding the meaning and application of the codified rules that make up a regulatory system are routine. But regulatory systems characteristically have impartial methods for addressing the problems of application discussed thus far: heads of regulatory agencies can exercise discretion within the bounds of existing statutes to clarify or refine the rules that make up a regulatory system; judges can interpret the rules when disputes over their meaning arises; and legislators can undertake efforts to change parts of the system to better serve the legal design of markets. In each of these cases, however, the individuals that clarify, interpret, or change the rules stand outside of the market. They oversee the terms under which market activity takes place but are not participants in the exchange activities that we commonly associate with the marketplace. Governance of the market through regulation or judicial oversight does not require that the market's purpose become part of the practical objectives of market actors.

Business ethics, in contrast, places oversight over how activities in the market should take place in the hands of market actors themselves. This means that if business ethics can effectively produce self-restraint on the part of businesses, and if the deontic requirements needed for effective governance require context-specific application, then reliance on a business manager's capacity for ethical restraint in the market has the unique feature of blending a market actor's intentions with the overarching value of the market.

Remaining Aware of Efficiency

The idea that ethically responsible managers (from time to time) should be prepared to examine their conduct in light of the market's larger purpose is mirrored in the ways that business leaders speak about their firm's place in a market economy. There are many occasions where business managers are quite conscious about how business activity serves the purpose of efficiency and their role in promoting it.

The most natural example of this is when business leaders engage in political activities, such as in testimony before agencies of government or legislative lobbying. In these sorts of situations managers routinely engage in arguments warning that proposed legislation will dampen innovation, impose unsustainable costs, lead to reductions in aggregate employment, and the like. At other moments, they advocate for changes in public policy on the grounds that economic opportunities will expand. These are very much efficiency-related arguments even if not framed in full Paretian terms. It is a misleading to suppose in advance that business managers have no sense of how their activities and interests as agents of a particular firm—or of a particular industry—may be connected to the larger successes or failures of the market.

We may have reason to doubt managers' sincerity or grasp of the facts in these moments of political engagement; but there is little reason to doubt that they understand

very well how the success of their firms is interrelated with the success of the market as an institution (Lindblom 2001). In the early years of the environmental sustainability movement the founder and former CEO of the textiles firm Interface, Inc., Ray Anderson, famously spoke of the need for policy makers to rearrange the system of tax incentives that rewards wasteful resource consumption. His argument was straightforward. A sustainable market economy needs to ensure that the earth's natural resources are not depleted at a rate that precludes our ability to produce ongoing wealth from their use (Lovins et al. 1999). Waste is inefficient and as long as raw materials consumption by firms is not penalized and remains a tax-deductible business expense, then, Anderson thought, businesses would tend to operate in a manner that would threaten the possibility of industrial production. He also looked inwardly at Interface and identified an imperative for the company to internalize the costs of production that it had formerly externalized (Anderson 2009). Expressing faith in the market system, Anderson called for Interface to internalize those costs so that the market price for its products is "honest" and the market can serve its purpose to signal the actual costs of production to buyers and sellers. In both of these instances, Anderson was fully cognizant of why the market exists and how it can be undermined by poorly designed or incomplete governance mechanisms. The call to revise the tax code and internalize the costs of production was premised not on mere conformity to a deontic rule, but a keen sense of how businesses had failed to satisfy the purpose the market and why a commitment to the market meant seeing social welfare, broadly construed, as a regulative ideal that his firm had an obligation to support.

Business managers can adopt an institutional perspective on their firm's conduct. They are able to simultaneously understand what is in the interests of the firm they manage as well as what supports the health of the market in which their firm operates.

This kind of dual perspective—understanding oneself as an actor within a rule-bound institution and as someone who can assess whether the institution's purpose is being served—occurs in other competitively structured institutions as well. In both amateur and professional sporting competition, for instance, there are some actors that play a special role in aligning the aim of winning with the larger outcomes of sport as an institution. Thus, coaches have high expectations to be compliant with the rules of competition because they have a perspicuous view of *why* the sporting competition exists in the first place and what aims its serves. Their roles are institutionally defined in a manner so as to provide both the incentives to "win" and the incentives to uphold the spirit of the rules of competition. Ethical responsibility for coaches—unlike the ethical responsibility of players—includes an expectation that when the rules are incomplete, or when it is possible to violate the rules without external sanction, there is a purpose that those rules serve that should guide their judgment about how their team should try to win. Similarly, many attorneys in the United States that advocate for clients eligible for the death penalty do not do so simply because they are providing aggressive services to a defendant as part of their training and expertise; instead, their advocacy is motivated by the belief that their work in particular jurisdictions, with particular clients, is a means toward exposing trends in criminal prosecution that tends to administer the death penalty in a structurally unjust manner. This demands that an attorney have a simultaneous understanding of what her immediate role is as an advocate along with an intentional understanding of how to use that role to support the institutional aim of criminal justice.

The point here is to underscore that social roles within competitively structured institutions are not so clearly delineated so as to eliminate from consideration the social value that the institution serves. But, as Wittgenstein (1958) famously implores us to do, we must "look and see" how particular practices function as there will inevitably be subtle variations in how different conventions and social expectations may call upon individuals to act with an institution's purpose in mind. It is true that the number of occasions where an attorney needs to think about the goal of justice, or the moments when a coach needs to contemplate the "spirit" of athletic competition, may be infrequent and limited to unique situations. Rules for criminal procedure and the rules of many sporting competitions are reasonably determinate and, to a large degree, constitute what is expected of coaches and attorneys. Individuals in these roles have arguably less occasion to examine their conduct beyond straightforward inferences as to whether they are compliant, or not.

Still, even in these cases, ethically oriented actors will have occasion to deliberate about how to institute the rules in light of actual circumstances. It is in these moments that we realize that there is no bright line dividing what an attorney or coach intends by following the rules of her institutionally specified role and what the institution is designed to accomplish. This lack of separation between an institutional actor's intentions and the institution's purpose is even more pronounced in the case of business managers in the market. The examples from above illustrate that market rules are not only *not* constitutive, thereby affording business managers latitude in how to effectively comply with the market's presupposed requirements, but they also demand a careful attention to the requirements' underlying purpose if (and when) business managers intend to exercise this latitude in an ethically responsible fashion.

There is something appealing in the notion that in competitive spheres of life—whether in sport, politics, criminal justice, or the market—special ethical exemptions and expectations apply to those who compete based on the purpose of the institution. It is nonetheless equally important to recognize that even within a single, competitively structured institution, there are different roles that may prompt individuals to consciously consider how and why an institution functions as it does.

Conclusion

Conceiving of business ethics as a mechanism to assure Paretian outcomes has the effect of making ethics seem like other governance mechanisms that direct social action toward efficiency. Under such a picture, it is natural to think that there is no practical connection between the institution's aim and the motives and intentions of its actors. But the discussion here challenges this inference. The difficulty is that ethics, insofar as it does steer the market toward efficiency, demands that business managers take its underlying value as delineating and clarifying the objectives of ethical business conduct.

In an oft-cited article written in the *Harvard Business Review* some 40 years ago, Goodaster and Matthews (1982) distinguished two very different meanings of the term "ethical responsibility" for business managers. There are times when being responsible in business can simply mean intentional conformity with well-established rules of conduct. Being responsible in business can also mean how well individual businesses and their managers exercise the decision-making latitude given to them within the bounds of those well-established rules. It is the second sense of responsibility that prompts my challenge. Insofar as ethical responsibility is a matter of internalized, self-directed restraint that conforms to the market's behavioral requirements, and insofar as markets are characteristically sites of decentralized decision making, implementing the market's behavioral requirements in concrete circumstances will demand an institutional perspective on the market. The market's role in producing mutually beneficial forms of social cooperation is a value that a responsible manager will need to consider if (and when) there are ambiguities in how to apply the market's behavioral rules in the course of doing business.

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