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EDITORIAL POSTLUDE

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HERBERT JACK ROTFELD

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Slapping Down Dangerous Information

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After reading the first draft of my book *Adventures in Misplaced Marketing* (2001), the publisher insisted that I disguise or otherwise hide the names of the companies whose practices I ridiculed or otherwise criticized. I could make fun of one presidential candidate's political advertising or another one's inability to pronounce "subliminal," but must not say anything negative about a business identified by name unless I could cite someone else saying it.

As a result, it was the holder of an unnamed corporate credit card who discovered while overseas that his card had been improperly cancelled, forcing him to be away from home without it. It was the store clerks of "an electronics store" who responded to a customer with a demeanor of "Like I Care" while wearing buttons that repeated an advertising slogan of personal caring for customers. I could not identify the computer store whose clerks were repeatedly found huddled around a terminal in a corner of a customer-filled store and responding to requests for help by saying "customer service isn't my job." Nor could I name the bookstore whose clerks in several cities appeared illiterate or the grocery store whose people weighing fish products could not convert simple fractions to decimals.

Fortunately, most of these stories did not require a company name to make a point. I was describing consumer frustrations, not marketplace malfeasance, and where a company name was needed, the publisher was not difficult to assuage if I could produce a citation or other documentation. Other authors, however, have not been so fortunate.

One author told me that his first book got killed by a respected academic publisher after a news organization described in his manuscript wrote to him to threaten legal action if he published his well-documented research on the company's international practices. In another instance, a paper by one of my former students was accepted at an academic journal but was

then summarily rejected by the employees of the journal's for-profit publisher because it named the companies engaging in sweatshop-like operations in third-world countries. The article referenced the newspapers that had carried articles about these heavily reported manufacturing practices, but the author was told that the references such as the *Boston Globe* are not authoritative sources.

Such reporting fear and news suppression are not unknown in the world outside of academic publishing. And examples can be found at the largest of news organizations. A highly regarded 1999 movie, *The Insider*, provides a fictionalized account of how corporate managers of CBS News caved in to pressures from Brown and Williamson Tobacco Company and suppressed an interview scheduled to run on the news magazine "60 Minutes." Fearing that a lawsuit would bankrupt CBS, and as some had speculated, would derail a pending purchase by Westinghouse, the network's lawyers and top executives refused to allow the show to broadcast an interview with a former B&W vice president of research in which he described how the company manipulated nicotine levels and the executive lied under oath to Congress about the product's addictive power (Grossman 1999). The story finally appeared on the network after *The Wall Street Journal* reported the story, creating a scandal of news suppression well beyond the original story itself.

Ralph Nader has said that you can't have equal protection before the law when it is the typical consumer versus Exxon. And this he knew first hand. General Motors responded to Nader's now-classic *Unsafe at Any Speed* (1965) by hiring private detectives to follow him, presumably in an effort to discover personal information that could be used to discredit the author of a negative book about the automobile industry. Fortunately for Nader, because he was at the time a Congressional witness General Motors' actions were seen as harassment and were therefore in violation of existing laws. Today, however, corporations have better honed the use of law to control information critical of their activities.

For example, drug companies contractually attempt to control what academic researchers can publish from studies that the companies fund on their products. The standard funding contracts allow publication of results only with corporate permission, and logically, permission is granted only when the findings are supportive of uses or sales the company wishes to pursue. As a reaction, 12 of the world's most prominent medical journals are banding together to block publication of research that does not come with a guarantee of scientific independence. Yet the skeptic in me understands that such independence is easy to claim and

difficult to prove, while the companies will invariably direct their research monies to researchers whose work is most likely to obtain favorable results. And if that research is not judged worthy of publication by the most prestigious journals, other less prestigious journals can still be used as authoritative citations.

And for those remaining independent voices, companies increasingly turn to threatened or actual lawsuits. There is even a name for the activities, SLAPP suits, for “strategic litigation against public participation” (Pring and Canan 1995). Some car companies whose models are noted as unsafe in *Consumer Reports* respond to the criticisms by suing the magazine. In another example, Boise Cascade responded to a negative article in the *Denver Journal of International Law and Policy* by having a company lawyer contact the authors and the university publisher to demand that they cease distributing the article (Monaghan 2000).

Perhaps even more disturbing is the case in which a for-profit journal sued the non-profit associations that publish *Physics Today* and the *Bulletin of the American Physical Society*. After they published companion articles based on a cost effectiveness study of various scientific journals, comparing subscription charges and content, the for-profit journal that came out low in the rankings responded with intense legal action in several different countries.

Needless to say, the fear of dealing with lawyers has had a widespread impact on publications of all types. We hear about CBS News, but not about the articles killed or altered by small publishers or in academic journals.

In a maximal effort to avoid any and all potential legal actions, one British publisher of numerous academic journals has written guidelines barring any potentially defamatory or otherwise unflattering statements of companies, regardless of whether the statements are true or extensively documented. Disguising an individual or organization might avoid the journal’s solicitors from suppressing the article, but not if the identity of the company can be discerned from the rest of the discussion. Accordingly, their editorial guidelines note that “there are individuals and companies which are impossible to hide,” and any research paper condemning their activities would not be published in their journals.

Consumer advocates have always sought ways to provide people with better information when they go shopping. Through the decades, many of the research articles in *The Journal of Consumer Affairs* have focused on product labels or other product or service information and how readily consumers can or would use the materials. Yet, the companies selling the

products are themselves the predominant source of market information. In obtaining and disseminating information about products and companies, the government, academic researchers, Consumers' Union, and news media are already at a distinct disadvantage. It is thus particularly vexing when companies use their market power to suppress or limit information they don't wish the public to hear.

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