Industry Authority in Government Regulation and Feigned Public Moral Obligation: The People of California v. Exxon Mobil Corporation

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Funded by the Andrew Mellon Foundation

Developed by Cassandra Hockman

Background

Companies sometimes lie to the public. One case example is the tobacco industry in the United States. For decades, companies that make up the industry itself used advertising and public relations campaigns to deceive people into thinking that smoking does not cause health harm, including lung cancer and severe respiratory illness. Instead of acknowledging health impacts, some tobacco companies poured money into creating the public impression that their companies were supporting research into the health impacts of smoking. Rather than acknowledge that smoking causes cancer or other deadly diseases, for years tobacco companies misled consumers of their products about addiction and related illnesses by hiding evidence and paying scientists to conduct research that did not directly study smoking's health effects. Instead, companies fostered public doubt about scientific findings, so people were not sure whether smoking caused serious health problems despite medical evidence showing that it did.

Public perception is a powerful tool to create consensus about reality. Images of cool cartoons like Joe Camel in leather jackets were intended to convince consumers that smoking looked cool. More recent tobacco advertising campaigns feature fruit and candy-flavored tobacco cigars, with large pictures of fruit: the wet-shaded greens and summertime pinks of watermelon pop. The message is that their cigars are refreshing. It's an enticing, warm impression the image

leaves, associating the product with feeling good while enjoying sunshine, watermelon, and maybe some nostalgia.

Companies selling tobacco products worldwide use advertising to appeal to immediate desires, making sales at the expense of public health. These advertisements and other avenues of communication stimulate feeling, and create deep impressions that become popular public opinion. For more than half of the twentieth century, the public was not necessarily clear on whether tobacco caused harm, and was especially unclear about the addictive nature of its active ingredient: nicotine. During the first world war, the American government issued cigarettes to soldiers. Until 1975, the U.S. military issued cigarettes in the same boxes as soldier rations. People commonly smoked in restaurants, in the workplace, and on airplanes, and almost every adult character in the movies smoked (so actors could smoke their way through their workday). Regulations on smoking did not come until much later. In the 1990s, the U.S. Food and Drug Administration (FDA) sought to regulate cigarettes, but lobbyists from the tobacco industry shaped policy-making so successfully that in 1996, the U.S. Supreme Court ruled that FDA regulations did not apply to tobacco products.

In 2006, after almost 20 years of research by journalists, attorneys, the Department of Justice, the FDA, and professionals affiliated with groups like the American Cancer Society, a federal judge finally ruled against cigarette companies. Following the evidence, she ruled that companies had in fact been publicly lying about the health dangers of smoking. As a result, companies were ordered to publicly acknowledge this deception—an act they delayed doing in advertisements until almost 10 years after the ruling. Efforts to force public accountability by the companies came from public health concerns, but also from government leaders, journalists, and professional organizations. It took a large amount of research to prove their claims, so much so that there are vast paper archives of tobacco companies' internal correspondence housed at institutions, including the University of California at San Francisco's Industry Documents Library. In 2009, the U.S. FDA gained federal authority to regulate tobacco products through the Family Smoking Prevention and Tobacco Control Act, which is now a federal law.

While the tobacco industry has taken hits in the court of public opinion, as well as federal courts, and through regulatory oversight, theirs is not the only industry profiting from widespread misunderstanding influencing consumer behavior. The plastics manufacturing industry is another one, also significant to public health.

Case Study

Picture this. You buy a drink in a plastic bottle every so often. When you're done with it, maybe you reuse it a few times, but normally you simply throw it away. Later, you learn about a symbol that is new to you: a triangle made of arrows, a symbol that will be imprinted in small but visible lettering on those plastic bottles. The symbol means that the bottle is recyclable. You come to think of recyclability as a great achievement for the plastics industry. Just because plastics abound, you think, does not mean they will stick around. What a nice thought!

The idea that plastics are recyclable becomes a belief. Your belief tells you that if the soda bottle in your hands is recyclable, then somewhere a factory or plant of some sort is recycling it. You feel that you are helping that happen by throwing the empty bottle in a handy recycling bin.

What is the problem, then? Will you repeat this behavior, buying plastic containers and throwing them in the recycle bin? What is your thought process behind the behavior? If you were led to believe that the three-arrowed triangle that implies the material is recyclable was a guarantee that the plastic is made of reusable material, thus eliminating trash waste from using it, would you see a problem with using and manufacturing plastic? Your family probably gathers plastic containers in a blue bin for regular recycling pickup or to drop off someplace like a supermarket or local dump which has separate bins for different materials. You and your roommates do the same. Dorm halls and school buildings have designated places to toss your empty bottle from lunchtime. Less trash, you think. Go green.

Indeed, green you tried to go—but therein lies the problem. The idea has become ingrained in the public individual psyche that recycling plastic bottles is not only possible, but it is happening, and it is very important for individual consumers to participate. Because if individuals participate, then they become agents in action for environmental change. It's up to us to make responsible choices, and those individual choices can save the planet! By this same logic, however, we as individuals are primarily responsible for pollution. The onus is then on us to recycle, reduce, and reuse. It's an idea that we have become accustomed to, one people feel compelled to follow. Millions of Americans these days believe that they have the power to protect the environment and community health by choosing to recycle. The impression on public consciousness is that individuals have a moral obligation to recycle. Do you feel obligated to recycle? Why or why not? How did you come to your beliefs?

In September 2024, the state of California formally filed a lawsuit against the oil company, Exxon Mobil, for lying to the public about plastics recycling and environmental pollution. According to the case, *The People of the State of California vs. Exxon Mobil Corporation*, the company led a campaign to convince the public that recycling all plastics was possible—and that it was up to individual consumers to collect and return these single-use items for sustainable environmental practices.

On the same day this suit was filed, another suit was filed against Exxon Mobil Corporation by four environmental non-profits, including the Sierra Club, one of the country's oldest known groups pressing the case for environmental stewardship. The other three organizations were San Francisco Baykeeper, Heal the Bay, and the Surfrider Foundation. These four organizations, along with the Attorney General's office, brought forth evidence to argue that however great the idea of plastic recycling seems, plastics recycling overall is a myth, and the overproduction of plastics is toxic to virtually all living things.

What about the three-arrowed triangle symbol on your plastic lunch bottle? It's technically fake.

Among the leaders of California's case against Exxon Mobil Corporation is the California Attorney General, Rob Bonta. The job of the Attorney General is to represent the people. For each U.S. state, that office is based out of its Department of Justice. This means that when California sues another entity, Bonta leads the prosecution. Exxon has lied for decades, he said, and they have misled people to think all plastic—including bottles, to-go containers, and utensils—could be recycled. Furthermore, Exxon Mobil isn't just deceiving the public into creating more garbage—at the same time the production of plastics creates massive industrial pollution along California's coastline, affecting the environment as well as communities near manufacturing facilities.

Part of Exxon Mobil's strategy to take the onus off themselves for the global saturation of plastic waste and the pollution that goes into its manufacture is to target the public through advertising. As such, marketing executives and publishing venues that run those ads have also assisted the company's extensive public relations strategy. The lawsuits mentioned above address the company's strategy of deceptive advertising, and they include several examples. Back in 1988, Exxon Mobil collaborated with fellow petrochemical companies to form a group they called the Council for Solid Waste Solutions—a purposefully innocuous name. Through this group, they

advertised in *Time* magazine in July 1989 with a 12-page spread titled, “The Urgent Need to Recycle”. On the first page of that old ad, a sidebar reads: “Americans have entered into an era in which landfilling will no longer be the primary method of garbage disposal.” Today this seems like sinister foreshadowing, since plastics are indeed found outside of landfills. They aren’t just littering oceans, rivers, and land. Microplastics, tiny plastic particles, have found their way into living bodies, including human blood and tissue, via drinking water and food products. Plastics production has grown to such a large scale that scientists have started tracking microplastics' concentrations in the air by measuring what sticks in spider webs.

Exxon Mobil apparently knew as far back as the 1970s that plastic recycling was not generally going to work as any kind of sustainable practice. Nevertheless, the company pursued an alternative narrative to create a false perception of reality, and for the most part, they seem to have succeeded. According to California’s case filing, the company led the public to believe that they had identified technical strategies which could serve as sustainable recycling solutions. One named solution was mechanical recycling. This is the idea that single-use plastics (like that lunch drink bottle) will be recycled and turned into new products through “sorting, washing, drying, grinding, heating, re-granulating and compounding.” This did become the public impression. However, internal company documents reveal that the executives “always knew that recycling would never solve the plastic waste and pollution crisis and never intended to fund long-term recycling projects.”

One of the corporations’ major advertising victories was the three-arrowed triangle, also known as the “chasing arrows symbol”, which was originally developed to apply to paper recycling. The petrochemical company co-opted the symbol to generate support for increased plastic manufacture and use in the late 1980s. At the time, Exxon and Mobil were still two distinct companies and had not yet merged. Through another named professional group, the Society for the Plastics Industry (since renamed to the Plastics Industry Association or PLASTICS), Exxon and Mobil deployed the triangle symbol for plastic materials. In addition, executives lobbied for a numerical system that would place a number in the middle of the three “chasing arrows” when printed on plastic materials.

Each number, from 1 to 7, was supposed to signify to consumers that materials should be sorted for recycling based on the composition of the resin that the material was made from. However, this labeling hid the truth: that *most* of those categories indicated materials that were

actually impossible to recycle anywhere on the planet. According to the case filing, “there were and still are no western U.S. recycling facilities that can process resin numbers 3 to 7”, even though sorting numbers were supposedly meant to facilitate recycling across the country. Because of how people absorb the meaning of a symbol, printing a triangle on an item should mean that it’s recyclable, right? By that logic, consumers would assume personal responsibility for plastic pollution. For people to choose the recycle bin, they had to know which of those numbers, 1 through 7, might be eligible to drop off, and where. The trick is that *5 out of those 7 varieties of plastic are completely non-recyclable*. Meanwhile, the technical production of facilities that would be needed to recycle plastic types 1 and 2 is unrealistic to imagine. The scale, let alone the cost, of such construction prohibits any possibility of creating true sustainability for global plastics production.

Around 1988, about a year before paying to publish its 12-page recycling manifesto in *Time* magazine, Exxon Mobil (through the Society for the Plastics Industry), successfully sold the number system to state and local governments in order to avoid regulatory oversight. They even successfully lobbied states to require the triangle symbol with numbers on materials, despite its near meaninglessness.

Attorney General Bonta argued that Exxon should remedy the problem by taking on the project of re-educating the public. He also argued they should pay to remedy the plastics pollution problem that they have created. In addition, the company would have to stop all deceptive marketing campaigns and practices that give the false impression that plastics recycling is possible and occurring on a sustainable scale to meet market demand and consumer behavior. Part of the lawsuit’s intended goal is to publicly make clear that most plastic produced is not actually recyclable. “It’s just trash,” Bonta said.

People have come to believe over time that by recycling they have been participating in a morally and practically effective way of saving the environment. However, labeling plastics with the recycling symbol is a form of large-scale corporate deception. It has deceived people into believing that using disposable plastic is okay, because the action of recycling counteracts the environmental damage of plastic. Essentially, the labeling has instilled a false moral consciousness telling us all that the “right thing” to do is to recycle—rather than eliminate the wasteful overproduction of single-use plastics.

Through its deceptive actions, Exxon Mobil and other companies have tried to build a reputation for environmentally friendly, “ethical” practices. The comforting idea of plastics recycling puts the problem of material overconsumption and industrial production collectively out of sight and out of mind. Recycling deception tells us all that these castoff materials are not trash, they are merely part of an established cycle. The idea of plastic recycling even now provides false comfort to consumers through publicity about another process the company calls “advanced recycling.”

Exxon Mobil purposely created a false public moral consciousness that obligates individual people to feel responsible to recycle or, at least, to think generating and using plastic is fine, because the trash will be broken down and repurposed by the company, somewhere. The Exxon Mobil Corporation, among others, has effectively distracted the world from their devastating institutional practices of manufacturing both pollution and lies, by putting responsibility on individuals to solve the unimaginably massive problem of global plastics pollution—a problem that greatly intersects with the global carbon emissions crisis. Rather than develop real solutions or abandon harmful practices, companies like Exxon Mobil create problems and sustain them with public endorsement, in the name of endless profit.

Processing Questions

1. What challenges do companies bring to consumers? To governments? To government regulatory agencies, such as the U.S. Food and Drug Administration?
2. What efforts can be made for people by government agencies, such as the U.S. Food and Drug Administration? What challenges might those agencies face?
3. What responses might be reasonable to expect from state and federal offices tasked with protecting community health when people express concerns about consumer products?
4. What expectations might there be for scientists and technical professionals working for companies and running testing on health impacts of products and services?
5. How does circulation of information and advertising shape public health?
6. What responsibilities do companies have to address problems they contribute to?
7. How are companies, or whole industries, held accountable? How might courts and communities shape possibilities for public accountability?
8. What shapes public perception? How has your impression of recycling been shaped about plastics or plastic bottles?

9. How did Exxon Mobil manufacture a sense of security for people in their practices? How do other companies market to you? What impressions or values are they manufacturing for you?
10. What challenges might be present for marketing and communications professionals who work for oil and industrial manufacturing companies, or who might be hired by these companies for public relations campaigns?
11. What responsibilities might be present in this case study for professionals from a range of fields and doing a range of work?
12. What role do governments play in regulating companies? What conflicts of interest may be present for companies and municipalities as they co-exist with differing goals (companies working for profit vs. localities with indicators of poor public health)?
13. What roles do non-profit organizations such as the Sierra Club play in maintaining and supporting environmental health?
14. What responsibilities might be present for technical plastic manufacturers, such as for engineers, materials science, or chemistry professionals working for petrochemical companies like Exxon Mobil or others?
15. What obligations should companies have to their employees? What about for people living in areas with manufacturing facilities or interfacing with its pollution?

Thematic Reflection and Discussion

Theme 1: Regulations, and Federal and State Oversight

Regulations for companies like Exxon Mobil come into play when they are navigating environmental regulations. In this case study, the company sought support from state officials to use a numbering system to identify different resins for plastic manufacturing. Exxon Mobil as a plastic company makes the polymers that are then sold to other companies that make the materials that are commonly found like drink bottles and food utensils. These are called single-use plastics. Microplastics get into the environment and impact health because single-use plastics break down when littered. Manufacturing facilities emit chemicals into the air and in other discharged substances that release microplastics into the soil and local geography. These facilities are also regulated by state and federal agencies that are responsible for monitoring environmental quality and issuing use permits.

Questions

1. What tensions might be present between companies and regulatory offices at the state and federal government levels?
2. What might be some long-term consequences of company actions, particularly those that successfully evade environmental regulation? What might be some consequences of public, individual efforts to recycle?
3. Who are the main people impacted in this case? Who are some of the primary stakeholders, in addition to Exxon Mobil Corporation executives?

Theme 2: Research and Professional Ethics

This case study involves ethical decisions made by many different people in many kinds of professions. People make decisions about the manufacturing of materials, strategic marketing, and public circulation of ideas. In addition to company executives and marketing specialists, technical professionals with science and engineering expertise also work in the petrochemical industries, while others with those credentials work for state and federal regulatory agencies. State regulators were involved in this case under their professional responsibility to control emissions and chemical toxins released through manufacturing processes. These experts were also confronted with the recycling-triangle-resin-numbering-system idea and allowed it, even though there was no proof that it meant anything, even if they were not explicitly aware of Exxon's ploy to get around regulations. Similarly, professionals at Exxon Mobil were aware that they were making non-recyclable objects that would be advertised as recyclable or "earth-friendly". Engineers and other technical personnel involved in research with oil and plastic manufacturing, even those who may not be directly involved in executive corporate decision-making, are ultimately aware of their employers' decisions to the same extent or more than the general public. In this case, these were technical experts and researchers working in regulation and for Exxon Mobil.

Questions

1. What tensions might become present for scientists and engineers of polymer plastics as researchers and as professionals with specialized knowledge? What obligations might they have to monitoring corporate actions when working for regulatory agencies or companies?
2. How might other industries present tensions for professionals? Are you aware of any?

3. How does this case study shape your perspective and understanding of engineering and technology in public contexts? What obligations might technical professionals have to people using plastics? To non-governmental organizations seeking healthy oceans and fresh waterways?

Theme 3: Accountability

This is a critical case for public accountability of companies, especially large oil manufacturing companies, because of the high risk of long-term, global damage their products can cause. The Attorney General's office in California seeks accountability from Exxon Mobil for its deception, namely, lying about the potential of recycling, and effectively placing the blame for plastic pollution as well as global climate change onto everyday individuals. Although massive-scale industrial emissions cause the most significant amount of pollution, including that of greenhouse gases, the myth of sustainable recycling and the individual's "carbon footprint" teaches us that ordinary people are the primary responsible party. Average people's actions are inherently insufficient to cause or prevent global industrial pollution, but most of us have learned otherwise. The lawsuits against Exxon Mobil are revealing the coverup through evidence gathered by the hard work of researchers, by journalists, attorneys, and other experts. News media played a role in investigating and creating opportunities for accountability for Exxon Mobil and the plastics industry. The lawsuit filed by California Attorney General Rob Bonta against Exxon Mobil builds on reporting from PBS Frontline and National Public Radio, as both found evidence of the coverup. Circulation of information served as a powerful tool for public accountability in this case.

Questions

1. What do you think public accountability might look like moving forward here? For whom? Why?
2. How does evidence shape public perception in this circumstance? How does evidence shape accountability and for whom? When?
3. What convinces you to behave in certain ways? Does evidence sway you to do certain things? How do you think the source of that evidence shapes your views?

Theme 4: Community Health Impacts

Plastic pollution impacts public health in several ways. Plastics break down in water sources, from the salt water along the coastlines, to the freshwater rivers and lakes from which

communities draw water to use every day. Microplastics have been found in soil as well, and in animal tissues. All of this is because of plastics production on a massive global scale. All the human health impacts are not yet clear, but it so far certainly appears that communities living near a plastics facility, or downstream from one, are the most impacted. Those tend to be historically marginalized communities are often the most impacted, including in the state of California, because of a confluence of factors, but no one on earth is immune to the impacts of plastics pollution.

Questions

1. Based on this case study, what benefits are there to collective community action? How do you know?
2. What challenges might there be to improving community health circumstances because of plastics pollution, public misunderstanding, and behavior? For whom?

Theme 5: Private Industry Authority in Public Health

This theme connects to the other themes, especially regulations and research and professional ethics. In this case study, Exxon Mobil as a private company—along with its industry partners—has had a hand in creating an institution, through spreading one simple idea: recycling works. They effectively had the authority to create such a public impression that it shaped material reality for people worldwide, convincing them to recycle, and their organizations to recycle, because they believed in the good news about plastics recycling. This example adds a new dimension to how we might think about the authority of private companies and corporations over matters of public health. In this case, regulatory bodies were not sufficient to protect people and environments from industrial manufactured pollutants; and this reality only reinforced industry's power over public health.

Questions

1. How might industries be regulated in the future given that the plastic pollution crisis is beyond the public's control?
2. How can community collective action shape public authority for corporate accountability? How might individuals get involved?

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