CHAPTER 16

THE FIRST DECISIONS.

Before beginning to draft a code of ethics, a number of ground rules need to be considered and accepted. These are:

- The audience at which the code should be aimed;
- The process that should be employed to develop the code; and
- The form the code should take.

I. THE AUDIENCE AT WHICH THE CODE SHOULD BE AIMED:

1. The code could be for internal use only with the goal to:
   a) establish agreement about ethically acceptable behaviour within the company;
   b) facilitate moral decision-making;
   c) promote organizational integration and co-operation;
   d) foster motivation, trust and pride (not conceit).

   Or it could also be:

2. The code could be addressed to external parties, that is, to customers, shareholders and suppliers in order to enhance the company’s relationships with its external stakeholders.
3. The code could further be directed at government so as to avoid state interference and legislation.

4. A code can also be used to pre-empt legal action as wide publication of such a code can demonstrate the organization’s intention to circumvent moral malpractice.

5. If the code is required for a multinational business and international distribution, the rules, regulations and customs in the various countries where the company operates need to be kept in mind (see chapter 5 “Cultural Relativism”). An international code of ethics is far more complex than a purely domestic one.

Depending on the addressees, the reason for the formulation and implementation of a code of ethics, as highlighted in points 1 to 17 at the end of the previous chapter, may change in importance. Because of the interdependence of the business and its stakeholders, I believe a code of ethics should be addressed to all the stakeholders – see also page 51.

II. THE PROCESS OF DEVELOPING A CODE OF ETHICS:

1. The basic beliefs and attitudes of the staff need to be considered. The employees are at the centre of action implementation and their individual value systems cannot be ignored. A successful code of ethics will not just represent the thoughts of top-management. People need to discover the values for themselves (and must be given the opportunity in accordance with Kant’s definition of dignity and autonomy to do so) before they will subscribe to them and act accordingly. For instance, a business that employs a large number of non-Christians will find it difficult to introduce an ethics policy that is based entirely on Christian values. The level of trust that prevails in an organization is crucial for a successful development of a code of ethics. If there is low trust, there will be a great deal of skepticism, and in such a case the issue of trust should be addressed before a code
of ethics is discussed, designed and introduced into the company (see chapter 7 “Trust”).

2. A code of ethics will have power only if the participation of those concerned in the discussions of the relevant issues is as wide as possible. Thus, where a code is for internal use only, as many staff members as reasonably feasible should participate in the process. Participation of the employees leads to a democratic process in finding consensus concerning ethical guidelines and allows for the consideration of different religious and/or cultural beliefs. Ethical behaviour cannot be forced; it depends on the jointly accepted attitudes and beliefs of the staff. Corporate values will take root in an organization only if they are shared values. All other relevant stakeholders, e.g., customers, suppliers, shareholders, need to be consulted for a code that is to serve external purposes, and, where the code is to serve both internal and external aims, all stakeholders should be involved in one way or another in developing the code. Establishing trust between stakeholders requires consulting them.

3. Multinational businesses should confer with their various offices in other countries to help formulate ethical standards and interpret ethical issues.

4. An ethical code must not only comply with the yardstick of practical reason and be suitable for the particular business, but also motivate the relevant actors to act in compliance with ethical norms espoused by it. For this reason it is absolutely essential that the board of directors gives guidance and support, that it finds ways to involve the entire organization in the process of determining the ethical norms. The CEO needs to introduce, promote and gain acceptance from the whole staff for the development of a code of ethics.

5. The leader of the organization must have a good sense of what is important to the success of the business and must personally attend to articulating his/her thoughts about the business’s purpose, values, ethics and vision. This input into the
development of the code of ethics is vital. Shareholders, through the CEO, may wish to express certain minimum requirements that they want to see in the code of ethics. This is their right as the owners of the business, but the reasons for such compulsory input should be given and it is the CEO’s duty to obtain acceptance from the other involved stakeholders of such matters. Where certain stakeholders cannot accept such minimum requirements and are not prepared to comply with them fully, they should be asked to leave the organization.

6. The company needs to be prepared to set aside the time required to inform and train staff in the basics of ethics and to allow groups of employees to deliberate on the relevant issues. The greater the harmony between the employees about the conception of the right, the better an agreed code will function (see also page 13).

III. THE FORM THE CODE OF ETHICS SHOULD TAKE:

1. How detailed should the ethics code be? If it is too detailed it becomes inflexible and requires constant additions as new questions arise. A very detailed code will curtail management’s scope to manage and will be seen as prescriptive and patronizing. It also encourages unthinking action, which is unhelpful in trying to find solutions to ethical dilemmas. Deon Rossouw (42. Rossouw, 2002: 129/30) says an ethical code can take two different forms:
   a) A standard of conduct has the following benefits:
   • It is concise and easy to remember;
   • It is less likely to be confusing;
   • It shows respect for the maturity and discretion of people to apply the ethical values as they see fit;
   and the following weaknesses:
   • It does not provide specific guidance in morally complex situations;
   • It is difficult to enforce because of its brevity.
   An example of such a standard of conduct is the one agreed to by Levi Strauss (the jeans manufacturer) which reads: “Honesty, keep promises, fairness, respect
for others, sympathy and integrity must guide discussions and actions within and without.”

b) A code of conduct has the following advantages:

- It is specific, gives clear guidelines and leaves little room for misinterpretation;
- It is easy to enforce – it can spell out the consequences of ignoring it.

The disadvantages are:

- It tends to be long (up to 50 pages) and thus difficult to remember;
- It does not allow much discretion – it can breed an attitude of “thou shalt not be caught out.”

The best form depends on each individual company, on the consensus of those who will have to work in accordance with the code. Striking the appropriate balance between providing clear direction and leaving room for individual judgment makes crafting ethics codes one of the hardest tasks that confront executives.

2. In his book *Wirtschafts- und Unternehmensethik in der Marktwirtschaft*, Bernd Noll (41. Noll. 2002: 118) suggests two additional criteria to consider when designing the form in which a code of ethics is written:

a) A compliance based code which:

- Is control orientated;
- Relies on external auditing;
- Is supported by an appropriate reward system; and
- Includes a disciplinary code.

This is the traditional, authoritarian management model and may still have a place to-day in businesses of a bureaucratic, low complexity nature.

b) An integrity or value based code which:

- Aims to support morally responsible behaviour;
- Has the goal of sensitizing employees towards the business’s values and culture and to accept responsibility;
- Requires a culture of trust; and
• Presupposes that the employee is interested in the business’s goals, is
  morally integrated and wishes to accept responsibility (this model is aligned
  with Kant’s Kingdom of Ends – see page 13).

This system is right for more complex (particularly international active)
organizations with decentralized decision-making and customer relations.

It is usual to find some of each of these elements in a code.

What sort of an ethics code will suit a particular business? This will depend on the
type of organization our business is. The code for a sole proprietor will look very
different from that of a large, public company and so will it for a bureaucratic as
compared to a very innovative business, for instance, an advertising agency.

If a code of ethics is to cater for an internationally diversified business the dangers
of cultural relativism (see chapter 5 “Cultural Relativism”) need to be avoided.
Do in Rome as the Romans do? Or take an absolutist approach, insisting that in
whichever country the business has an establishment the ethical code of the
company’s home office must be strictly applied? Neither of these approaches is
right, and a compromise must be found.

In the course of establishing the form, content and tone of the code, one is also building
support for the values that will be written into the final code of ethics.