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Imagine you want to buy a brand new laptop. It's an expensive purchase, so you'll need to sell your old laptop before you can afford it. The old laptop still works okay, but you know that lately it's been having some technical problems. You're afraid that if you mention the problems to potential buyers, you'll have a hard time selling it.

Is it legal to avoid telling your customer about the laptop's issues? And is it ethical? What's the *right* thing to do? It can be hard to tell!

Salespeople face dilemmas like this one all the time. That's why it's important to learn about legal and ethical issues in selling. If you know how to behave legally and ethically, you can bring in more clients, make more sales, and maintain better customer relationships.

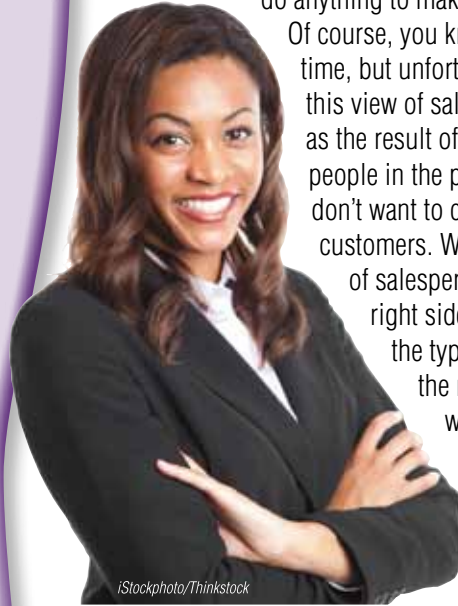
## Objectives

**A** Explain legal considerations in selling.

**B** Explain ethical issues in selling.

## Legal Issues in Selling

What sorts of stereotypes have you heard about salespeople? Maybe you've heard that they're rude, or pushy, or that they'll do anything to make a sale, no matter the cost. Of course, you know that this isn't true all the time, but unfortunately, many people hold this view of sales professionals—often as the result of dealing with bad salespeople in the past. Chances are that you don't want to come off this way to your customers. Would you rather be the type of salesperson who's always on the right side of the law? What about the type of salesperson who does the right thing all the time, even when laws aren't involved? If you want to be the type of salesperson your customers trust and want to build a relationship with, just keep reading!



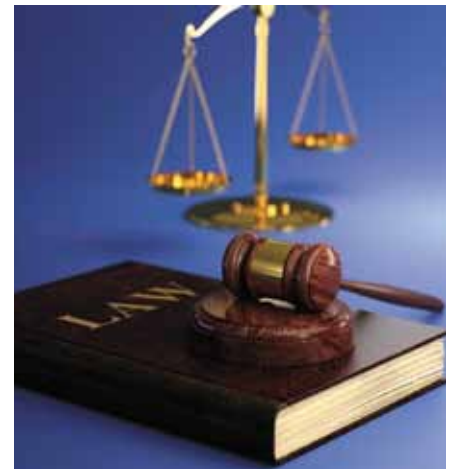
- ▲ Do you want to be the type of salesperson your customers trust? Salespeople who do the right thing, legally and ethically, have an easier time building relationships with customers.

### What are laws?

Salespeople might not think they have any influence on their company's legal issues. But they do! When a salesperson makes a sale, offers a warranty, or even just describes the benefits of a product, s/he is acting as his or her company's legal agent. That's why it's so important for salespeople to know about the laws and regulations affecting selling.

**Laws** are the rules and regulations enforced by the government of a country or community. Selling laws exist at both the federal and state level. This means that some selling laws are the same nationwide because they're enforced by the U.S. government. On the other hand, some selling laws differ from state to state.

- ▶ Salespeople can have a big effect on their company's legal issues! That's why it's so important for salespeople to know all about selling laws at the federal and state level.



It's important to be aware of national and state laws, but you also need to know the laws and regulations of the countries you're selling in. For example, if your business is in America but you're doing business with customers in Japan, you'll need to become familiar with Japan's regulations.

With so many laws, you might think you don't have to know them all. After all, if you don't know a law, you can't be expected to follow it, right? Wrong! Salespeople are responsible for making sure that what they do is legally correct, and claiming ignorance of a law is no excuse.

### Why are laws important in sales?

Just like laws against violence and theft protect our society, selling laws protect both customers and the economy. Without laws, businesses would be free to do whatever they wanted, including lying and misrepresenting their products, to convince customers to buy from them. Businesses also wouldn't have to keep their promises or uphold their warranties. How hard would it be for customers to trust companies if there were no laws?

Laws also protect the economy. We all want the economy to be healthy, and to be healthy, the economy needs competition. Regulations ensure that competition exists and that one company can't control too much of the market. And when customers trust businesses, they're more likely to buy from them, which also helps the economy grow.

What happens when salespeople break the law? Salespeople themselves may face fines or possibly jail time. Even worse, the whole company may suffer. Legal troubles lead to a bad reputation, which in turn can lead to lost business. Jail time, fines, *and* a ruined reputation? You can see why it's important to stay far away from illegal actions!

### Illegal behaviors

It would be impossible to go over every selling law in every state and country here, but we'll mention some of the biggest ones you'll likely encounter. Illegal behaviors can be grouped according to a salesperson's customers, competition, employers, and coworkers. Note that many illegal behaviors can actually fit into more than one category.

- **Customers**

When dealing with customers, there are many ways a salesperson can find him/herself on the wrong side of the law. In the United States, the Federal Trade Commission (FTC) develops and enforces regulations that protect customers. Although the Federal Trade Commission Act was initially passed simply to regulate competition, the FTC's responsibilities have expanded to include safeguarding customers from unfair and deceptive acts or practices.



Customers are also protected by their specific state's regulations. Most states have either adopted the Uniform Deceptive Trade Practices Law, which regulates unfair and deceptive acts, or they have developed their own similar lists of deceptive trade practice violations. That's why it's so important for salespeople to research their individual state's regulations.

Two specific areas in which salespeople can find themselves in legal trouble are misrepresentation and negligence. You probably know that it's not a good idea to tell your customer a bold-faced lie. But did you know that it can also be *illegal*? Telling the facts in an inaccurate way is known as **misrepresentation**. That means that if you make an untrue claim about your product's features or benefits, you're misrepresenting the product—and breaking the law.

- ◀ It's important to be truthful when explaining a product's features or benefits to a customer. If a car salesperson makes an untrue claim about a car, it could be considered illegal.



- ▲ Salespeople have a responsibility to know all applicable sales laws. If you live in the United States but you do business with customers in Japan, you need to know the laws and regulations of both countries.





However, you don't necessarily have to say something untrue about a product to find yourself in legal hot water. Sometimes, it's what you *don't* say that's the problem. For example, let's say you're a salesperson trying to sell manufacturing equipment to factories. If you really need to get the commission, you might not want to jeopardize the sale by mentioning that the machine emits a toxic smoke when it's operating. However, not telling your client about this could be considered **negligence**. Negligence is not doing something necessary or required—in other words, not providing your customers with important information that they need to make educated buying decisions. A salesperson is also negligent if s/he fails to make sure his/her company's products are safe. Negligence is dangerous because, depending on the situation, clients' products (or clients themselves) can be harmed.

### • Competition

Selling is one of the most competitive jobs there is! Of course salespeople want to make sales, earn commission, and be the best. . .but they should also exercise caution. Doing whatever it takes to beat the competition can lead to illegal behavior. When dealing with their competition, salespeople should avoid slander and libel, bribery, and engaging in unfair competition within the marketplace.

Saying bad things about your competitors isn't just rude—it can be illegal! You might be tempted to spread untrue rumors about your competition in order to make yourself look better, but this can backfire if you find yourself convicted of **slander** (saying something untrue that damages a person's or business's reputation) or **libel** (writing something untrue that damages a person's or business's reputation). Try to keep your sales presentations focused on facts, not rumors or trash-talking.

Another way salespeople can get themselves in trouble is through **bribery**. Bribery (making illegal payments intended to secure business or products in return) is definitely illegal, but it can be tempting when it seems like everyone else in an industry is doing it. If one company really wants to secure an order from another company, it may offer a bribe, like money, gifts, or other perks, in exchange for the sale. While bribing a customer may get you ahead in the short term, it damages your entire industry in the long term. In other words, bribes can negatively affect competition by making it difficult for your competitors to be truthful. It's hard for one company to behave honestly and legally when other companies are engaging in bribery!

Bribery isn't the only thing a salesperson can do to compete unfairly. Competition is the heart of the economy, so actions that jeopardize competition are closely watched. The Federal Trade Commission Act, the Sherman Antitrust Act, and the Clayton Act all, at least in part, prevent unfair competition such as **monopolies**. A monopoly exists when the market is controlled by one supplier and there are no substitute goods or services readily available. Many large companies have either faced legal consequences or been suspected of being a monopoly, including Amazon, Windows, and Google.



▲ It's hard for one company to behave honestly when other companies are engaging in bribery. Bribery can damage an entire industry in the long run.

### Other examples of unfair competition within the marketplace:

- Doing business only with those who do business with you (reciprocity)
- Price discrimination (charging some customers more or less for the same product)
- Tying-in sales (making the purchase of another product mandatory)

### • Employers

In a perfect world, an employer will be a good role model who encourages legal behavior and practices such behavior her/himself. Unfortunately, that's not always the case. If an employer requires that an employee engage in illegal selling practices, this act itself could be considered illegal. An employer should never convince an employee to lie, withhold information from customers, or engage in bribery. For example, what if an employer pushes his/her employee to avoid mentioning that their product recently failed a safety test? Of course the employee wants to please his/her boss and make a sale, but this is considered illegal behavior that could harm the customer and company.

### • Coworkers

You and your coworkers can have a pretty big influence on each other! This can be a good thing if your coworker motivates you to do a better job on your sales presentation, or if you can convince him/her to try a new sandwich place for lunch. But it's not always positive! If you convince a coworker to bribe someone or lie to a customer, you could also find yourself in legal hot water.

And what about when you see someone else do something illegal in your company? It's important not to keep it to yourself! Sometimes, just knowing about someone else's illegal activity without reporting it is enough to get you in serious legal trouble.



**Summary**

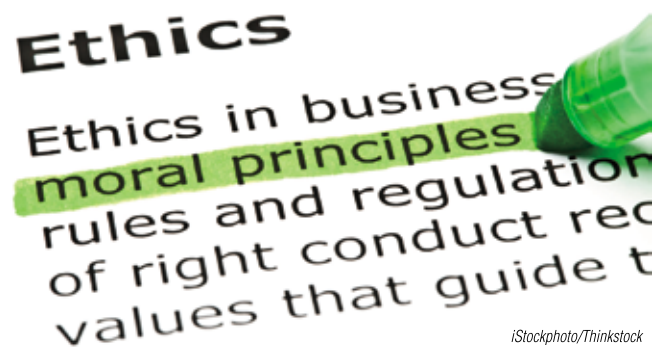
Salespeople are responsible for knowing about the legal issues that affect selling. Laws are important because they protect both customers and the economy. Breaking laws can result in serious repercussions for salespeople and their companies, including fines, jail time, and lost business. Salespeople can face legal issues when dealing with customers, competition, employers, and coworkers.

1. What are laws?
2. Why are laws important in sales?
3. Give an example of an illegal behavior involving customers.
4. Give an example of an illegal behavior involving competition.
5. Give an example of an illegal behavior involving employers.
6. Give an example of an illegal behavior involving coworkers.

## The Right and Wrong of It

**What are ethics?**

You might not be breaking any laws, but that doesn't necessarily mean you're behaving ethically! As the basic principles that govern behavior, **ethics** are not laws. Ethics are not enforced by the government—they go *beyond* laws to the heart of a situation. Your moral and ethical standards (what you determine to be right or wrong) influence every decision you make.



▲ If you're behaving legally, are you also behaving ethically? Not necessarily! Ethics go beyond laws to the heart of the situation.

Serena just started her dream job at a sales firm she's always admired. When she accepted the job offer, she knew it would be extremely competitive, but she wasn't concerned because she's always thrived in competitive environments.

### THE GRAY ZONE

However, once Serena's been on the job for a few weeks, she notices that other salespeople are willing to do whatever it takes to make a sale...even if whatever it takes is underhanded, sneaky, or unfair to the customer.

Serena's always prided herself on her strong moral code. She likes to build relationships with her customers through honesty, instead of tricking them into buying from her. Still, she knows that this job is a great opportunity for her, and she wants to make a valuable contribution to her sales team.

What should Serena do? Should she engage in unethical sales behaviors if it might save her job? And what about her coworkers? Should she report them for their unethical actions?

Sometimes, a person might be behaving ethically even if s/he's technically breaking a law. For example, if a law says, "Only cross the street at a crosswalk," but someone sees a person injured on the other side of the road, s/he might feel that it's important to cross quickly to help the other person. In this case, his/her moral standard of helping others outweighs the desire to obey the law.

Whether or not legal issues are involved, if you possess a high level of ethics, you'll behave in a truthful way—meaning that your words and actions will be honest and straightforward. If you're acting ethically, you won't be sneaky, shady, or deceptive. You'll conduct yourself honestly, even when people aren't looking. And, you'll adhere to your moral principles in spite of temptations or pressures to do otherwise. In short, you'll keep it real.

## Why are ethics important in sales?

Selling is about a whole lot more than just making a sale—it's about building a relationship. As the face of their companies, salespeople are responsible for building and maintaining these relationships. As any self-help book or television psychologist could tell you, the foundation of a personal relationship is trust. The same is true of sales relationships! If clients know they can trust a salesperson (and, by extension, his/her company), they're more likely to keep buying.

What happens when the level of ethics is low? When salespeople cross the moral line, negative events can follow. If clients suspect that a salesperson just wants to make a quick buck and doesn't have a strong code of ethics, they will realize they can't trust the company and they'll stop buying. Even worse, they'll spread the word about the company's unethical practices. Soon even people who've never done business with the company will know about its bad reputation. The company will be in serious trouble if it loses customers and is unable to attract new ones. What's even more disheartening is that it only takes one salesperson's unethical behavior to make the whole company look bad. That's why it's so important for every employee to have a high level of ethics in every selling situation.

## Drawing the line

Up until now, we've been dealing with situations that are black and white, but not every situation is clearly right or wrong. Some situations are questionable, and salespeople tend to judge these situations differently—according to their own personal ethical standards. What seems just fine to you might seem unethical to your coworker. These behaviors may even turn into illegal actions if you aren't careful. Common sales-related ethical issues can be grouped according to a salesperson's customers, competition, employers, and coworkers. Let's take a look at each.

### • Customers

When dealing with customers, salespeople must be cautious with gift-giving, entertaining, answering questions, and maintaining confidences.

You already know that it's illegal to offer or accept a bribe. But, at what point does a gift become a bribe? Is it okay to send out boxes of candy to your clients around the holidays? Is it appropriate to send

promotional notepads, key chains, and pens to potential customers? What about larger gifts that "obligate" a customer to buy from your company? Ultimately, how much giving is *too much*? Some industries and companies have gift-giving guidelines or price limits. But if they don't, it can be tough to know what's appropriate.

The same goes for entertainment. In certain industries, taking clients out to dinner or to sporting events is just part of the relationship building process. But in other industries, especially those where contracts are awarded, entertaining can be viewed as favoritism, or even bribery! If you're not careful, your simple golf outing can turn into serious trouble very quickly.

◀ Is it okay to give gifts to your clients? How do you know when a gift becomes a bribe?

Ethical Unethical



◀ Ethical situations aren't black and white. What seems fine to you might seem wrong to your coworker. Only you can draw the line when it comes to your own ethical standards.





Another issue is answering questions without really knowing the answers. You might not intend to misrepresent your products to your customers, but you can easily do so if you're just guessing instead of relaying facts. Of course you want your customers to think you're an expert, but tread carefully! It's always better to check with a supervisor or someone else who knows the answer instead of guessing. Salespeople who try to appear knowledgeable when they're actually uncertain risk crossing into the legal issues of misrepresentation and negligence.

Because building relationships and communicating go together, it's important for salespeople to carefully guard what customers tell them in confidence. Spreading information that is not intended for others' knowledge can tear down a relationship and hamper communication in the long run. It's generally expected that salespeople will ask a customer's permission before sharing his/her confidential information. It's also expected that salespeople will *not* share company secrets to make a sale.

### • Competition

Some salespeople are tempted to do what it takes to cripple their competitors. They tamper with competitors' products and relocate (or even hide) those products on store shelves. Unfair competition is illegal, but little things like these can go unnoticed. It takes a salesperson with high ethical standards to avoid sabotaging a competitor's opportunity to make a sale, even when no one's looking.

Although it's tempting, try to refrain from badmouthing your competition in front of your customers. Even if you aren't saying anything slanderous or libelous, spending too much time downplaying your competitors won't make you look very good. It will likely make your customers think less of you. Instead, focus on your own product and its benefits.

Management is doing things right;  
leadership is doing the right things.

—Peter F. Drucker,  
American management expert



▲ Sales employees can be involved in questionable activities that can influence their employers. One example is fudging expense accounts.

### • Employers

Just as with legal issues, employers and employees can influence each other when it comes to ethical concerns.

Some questionable employer activities include:

- ✓ Putting unreasonable pressure on salespeople (by setting out-of-reach quotas, for example)
- ✓ Being a poor role model for ethical sales behavior
- ✓ Looking the other way when staff members behave unethically

Sales employees can be involved in questionable activities, too. These include fudging expense accounts, working a second job (or going to school) on company time, and taking customer records when leaving the company.

### • Coworkers

Employee-to-employee relationships have their share of ethical issues. A little friendly competition is only natural, but sometimes that competition can get too intense. When a sales department holds a contest, for example, certain employees might be tempted to do whatever it takes to win. They might declare sales that were completed at the end of the previous month as completed at the beginning of the current month.

Coworkers can have a big influence on each other's ethical decisions. Is it right to encourage someone else to behave unethically? What about keeping unethical behavior "under the table"? Do these activities seem ethically questionable?

Questions frequently arise in the course of examining ethical issues. What helps the most is having an ethical standard by which to measure each questionable activity.

## Personal code of ethics

Your ethical standard is your personal code of ethics. Your sales behavior reflects this personal code—in other words, your position on what's right and wrong in your personal life determines how you act in sales situations.

Every person is different—what are *your* individual ethical standards? Are you fine with any behavior that doesn't cross the legal or moral line, even if it gets close? Or do you prefer to play it safe and stay further away from the line? Your answers to these questions reveal your level of ethics.

So, how high are your ethics? To find out, think about how you conduct yourself as a salesperson. Who are you *really*? Are you an honest salesperson—someone to be trusted? Or, do you try to manipulate potential customers into doing what you want? During a sales presentation, do you stick with the facts? And, do you consistently report your sales expenses accurately when no one else is looking?

What determines your final decision? Do you base your ethical decisions on what's *right*, or what works best *right now*? In other words, do you follow your personal code of ethics all the time, regardless of the circumstances?

Taking a good long look in the ethical “mirror” can be very revealing. Just as it's important to check your physical appearance before you start your day, it's important to examine your personal ethics before you begin a career in sales. Keep in mind that your behavior can make a difference in your firm. Every ethical sales department is made up of ethical salespeople. Will you be one of them?



▲ Everyone has his/her own personal code of ethics. Take a look in the ethical “mirror” and explore your individual ethical standards.

## Summary

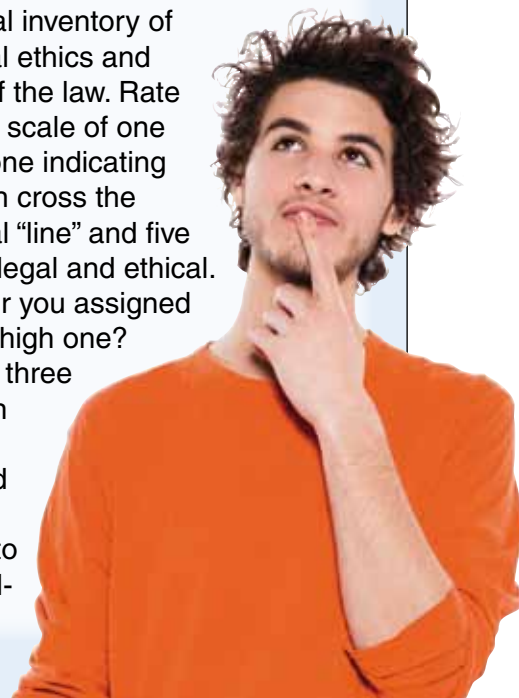
Ethics are the basic principles that govern your behavior. They go beyond laws to the heart of the situation. With a high level of ethics, you'll conduct yourself honestly, even when people aren't looking. Trust is the foundation for any good customer relationship, and salespeople who behave unethically break that trust and risk bringing negative consequences on themselves and their companies. Salespeople can face ethical dilemmas when dealing with customers, competition, employers, and coworkers. They can determine how to handle these situations based on their own personal code of ethics.

## TOTAL RECALL

1. What are ethics?
2. Why are ethics important in sales?
3. Give an example of an ethical issue involving customers.
4. Give an example of an ethical issue involving competition.
5. Give an example of an ethical issue involving employers.
6. Give an example of an ethical issue involving coworkers.

## Make It Pay!

Take a mental inventory of your personal ethics and awareness of the law. Rate yourself on a scale of one to five, with one indicating that you often cross the legal or moral “line” and five being highly legal and ethical. Is the number you assigned to yourself a high one? Now, identify three ways you can improve your behavior, and apply those three things to your next selling situation.



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