BUSINESS ETHICS—WAYNE EASTMAN

SAMPLE PRESCRIPTIVE CASE ANALYSIS and SAMPLE ETHICAL RELATIONS CASE ANALYSIS

PART I--SAMPLE ETHICAL RELATIONS ANALYSIS

Domino's Pizza ("We'll deliver in 30 minutes" guarantee):

You are: Tom Monaghan, CEO, Domino's Pizza

We are: RBS Ethics Consultants, Inc.

Background: You have asked us to analyze how Domino's can best instill confidence, mutual respect, and high performance by major relevant groups in the wake of a decision either to: a) end the company's 30-minute delivery policy or b) to retain that policy in a modified form stressing safety in the new promotional campaign as well as speed.

What follows are the gist of remarks you (and other Domino's managers) could be making to members of different groups in the event of either decision. After that are brief thoughts on how the analysis could inform your decision about what to do.

	Option A--End the Policy	Option B--Keep a Modified Policy
Drivers	[optional--no remarks necessary] "We want you to know we put safety first. Our drivers have an excellent safety record, and we're committed to being the best in the industry. For years, we've had a company-wide bonus pool for locations with 100% safety records. All of our drivers can share in the success of Domino's in being the safest company around."	"We're going to be rolling out a new ad campaign with a driver in Ohio who stopped to help an old woman having trouble with her car late at night. The pizza was late, but the customer understood and gave the driver a big tip. At the end of the ad you see the driver and the customer and the old woman all smiling. You guys are our stars!"
Franchisees	[optional--no remarks necessary] "The decision we've just made was one we thought was important for all of you as well as for the company. We're highly optimistic that our new "Bring Back the Noid" campaign is going to be our best ever, and we see all of you as vital parts of our success going forward. Here's some more on that…"	"As you know, our contracts with you make it clear that the liability for accidents rests with the franchise, not with Domino's. At the same time, we want you to understand that we stand behind you 100% going forward. There's lots of legal stuff involved that's not my department, but I want you know that you have my promise as we roll out our new

		promotion that Domino's will hold you harmless against the legal sharks for this coming year."
D's HQ managers	"This company has been a great love of my life. And as I talk to you now I love it as much as I ever have. It's not my only love—there's Marjorie, there's my daughters, there's my faith. But it's a huge part of me. And you all are, too. You've made Domino's what it is, and I owe you more than I can ever say. I'm committed to Domino's being a great company, with or without me. Someday—not now, not soon, but the day will come—I will be moving on and other people will own the company. That's tough for me to deal with, and it may be for you, too. But it's also healthy. Business and life are change. We all gotta change, we all gotta grow."	"We're a different kind of company. Most companies would have caved under the pressure, but we're not going to do it. That has something to do with me. I believe in a higher power beyond all the powers of this earth. That's my business, and I don't impose it on the company or on any of you. But it does have something to do with my absolute commitment that this company will be guided by the highest principles. We will not blow every which way based on fashion or lawsuits. I've hired all of you based on my faith in you as people who are absolutely committed to doing the right thing, and I look forward to moving forward with all of you."
Potential Outside Investors	"You Bain guys are the "unlock the value" people. And you think that if you buy out Domino's from old Tom you can unlock value. That investors will like Domino's better if there isn't a boss that supports right to life and Ave Maria. And maybe you're right. But I can tell you that nobody watches the money more closely than I have and no one is less sentimental. Look at what I did in cutting out our speedy delivery guarantee. This company has been run right. Let me tell you more about that…"	"Look, I don't have to sell. I'm not a guy who gets scared or caves. Look at the way I handled the lawsuit stuff. Not the way a suit would do it. Yes, I'm open to doing a deal with you. But I'm also very good with keeping 100% of Domino's. The number you offer me has to be the right number for me to have any interest."

Our evaluation: You are likely to get a better response from the drivers, franchisees, and potential investors with Option A, and from your managers with Option B.

Our reasoning: Drawing closer to drivers and franchisees is a risky response to the company's legal troubles. The successful Domino's model has been built on maintaining a measure of relational distance from these groups, and care is called for in changing that model. On the other hand, in regard to the company's current group of Michigan managers, Option B offers a much stronger appeal for loyalty-oriented managers. For such managers, Option A is likely to be unsettling. For prospective investors, we believe Option A is a signal of investor-oriented management that is much more likely to go along with a good sale price to a private equity firm than Option B is.

Our bottom line: Were Domino's a public corporation, we believe the relational ethical balance would tilt in favor of Option A. Sustaining a tightly-knit culture of managerial loyalty, for all its practical and moral value as a consideration in favor of Option B, seems to us less significant than other relational considerations. Given your 100% ownership of Domino's, you have a choice as to whether to run your business according to the principles applicable to public corporations or in another fashion; should you want our further opinions on that, please contact us.

PART II. SAMPLE PRESCRIPTIVE CASE ANALYSIS (same case)

Alternative strategies: 1) Get rid of the guarantee; try to establish other bases on which to differentiate the company's product; 2) Modify the guarantee—for example, establish sliding delivery time targets based on distance, with customers to be informed by cell phone of delays, and/or introduce a new ad campaign emphasizing commitment to safety; 3) Keep the guarantee.

Arguments for no time guarantee	Arguments for current or modified guarantee
1. The rush to deliver is immoral—to gain some extra profit, D is predictably killing people because of employees' incentive to speed.	1. The proposed principle against D's policy is unacceptably broad—speed is a reasonable goal that consumers understandably value.
2. D is a pizza company whose basic job or mission does not involve speed. A rush to deliver by D is morally troubling in a way a FedEx rush is not.	2. D's business model is based on speedy delivery. There is no fundamental moral difference between D and companies like FedEx.
3. Any social value of getting pizzas to people faster is simply not worth the hazards of the policy. D cannot defend killing as many as 20 people per year in order to deliver pizzas a few minutes faster. Any reasonable cost-benefit analysis would show that D's policy--or a revised one with the Internet and cell phones--is inefficient.	3. The cost-benefit calculus may well favor D's policy—for one thing, the critics have no evidence that D's accident rates are worse than for other companies. 20 deaths (which may be overstated) from 80,000 Domino's drivers is about the same as the overall U.S. rate of 40,000 deaths from around 200,000,000 drivers.(1, 2)
4. Apart from the other concerns with D's policy, there is an overwhelming practical case for jettisoning it. D needs to take quick action to avoid getting stigmatized as a corporate bad actor, having juries award huge punitive damages, and possibly having the whole company destroyed.	4. The legal risks are overrated, and in any case it would be wrong for D to allow itself to be stampeded by a media rush to judgment fueled by plaintiff's lawyers. If D doesn't hold the line, it will only lead to worse media frenzies against D and other companies.
5. Clear rules have value: A clear "no	5. Open-ended standards have value:

guarantee" position is a much more understandable fix for Domino's problems than an effort to fix the flawed guarantee program with cell phones or a new advertising campaign.	Though there are problems with the way the guarantee has worked, a revised, more nuanced guarantee with advanced technology and a commitment to safety is better than just abandoning the guarantee.
6. D should be very worried about the negative externalities of its guarantee to people hurt by the company: It's D's business to do something, not to wait for outside regulators.	6. D should not be too worried about possible negative externalities, except as they become costs to the company. Let the legal system decide what the costs are.
7. It's moral for the law to impose huge liabilities on D because D's policy encourages speeding and deaths.	7. It's immoral for the law to impose huge liabilities on D because D has tried hard to avoid speeding by its drivers.
8. Intelligent flexibility is a moral virtue: D is not the little company it was; it should reinvent itself by differentiating its product in new ways. Through coming up with new approaches to differentiate the product, D is likely to become a better company.	8. Steadfast dedication is a moral virtue: Though D can be flexible in modifying and updating its guarantee, it should stay dedicated to the policy, partly because people work better when a company is consistent in its values and its long-term strategy.
9. Respect for the basic moral rule that companies like everyone else should respect the law calls for abandoning the guarantee. The point isn't whether the costs of paying out verdicts are small or large; the point is that you have a fundamental moral duty to follow the basic rules laid down in law. Morality cannot be a matter of costs and benefits.	9. D's policy does not violate the law. Negligence law is anything but clear; bad lawyering has lost some cases for D, but good lawyering in others has won. More fundamentally, the right approach is to consider the overall costs and benefits of D's policy given the legal system and all other factors, not to pretend there is a moral rule that solves the issue.
10. Moral Foundations (Haidt): Withdrawing the guarantee is called for under the harm/care foundation—don't hurt innocent people!—and the justice foundation—do the right thing even if it costs you. It makes sense as well under the purity/sacredness foundation, since many people are offended by edgy business	11. Moral Foundations (Haidt): Adhering to the guarantee appeals to people's feelings under the justice foundation—keep your promises and have integrity! It makes sense as well under the loyalty foundation—stick to your group!—and the authority foundation—act like a leader! Also, because the accidents don't involve

conduct like D's. The human gut hates the idea of businesses making money at the expense of human life.	people in D's care, it does not offend most people's intuition under the harm/ care foundation.
11. UMG (Mikhail): The guarantee is condemned by popular opinion for the same reason pushing the fat man to save five people is condemned: D is planning a course of action that sacrifices some people to create benefits for itself and its customers. It's actually worse because D is profiting itself, unlike in the trolley case where the pusher is saving other people's lives.	11. UMG (Mikhail): The guarantee is accepted by popular opinion for the same reason that pulling the switch that kills one person after saving five is acceptable: D is doing its best to serve the public by providing a product speedily, and the harm to a few people is an unwanted side effect of its justified course of action, not the cause of the benefits received by D and its customers.
12. Obedience (Milgram): The basic chilling fact about human nature revealed by Milgram also applies in the D case. People in a corporate structure like D's will do what they believe the situation demands of them. Drivers operating under a 30-minute guarantee are like Milgram's experimental subjects who pulled the switch. You know that speeding or running a red light is wrong. But faced with a corporate policy and practice that demands delivery by a certain time and with the reality that you can always be let go as a driver if you cost the company money, you will be willing to hurt people as a D's driver.	12. Obedience (Milgram): The Milgram scenario is radically different from the real-world situation in the D's case. Instead of an authoritative researcher telling the subjects to pull the switch, in D's we have independent franchises and drivers making their own choices. The view of drivers as robots speeding to make the 30-minute target is foolish. D's policy is about building corporate good will—"have a pizza on us!"—not about coercing employees. Drivers are likely to get tipped better when they give customers a free or cheap pizza for a slow delivery—given that, the bigger incentive for them is very likely to be safe rather than to speed.

CONCLUSION [Of course, you could write a reasoned conclusion the other way.]

Domino's should make a clean break with the past by abandoning a time guarantee for delivering its pizzas. Once the guarantee policy was a helpful ingredient in Domino's rise from a small outfit to a huge chain. Now, though, the guarantee is about as helpful to Domino's as offering its customers rotten anchovies as a topping.

As a national company with deep pockets that is directly in the sights of aggressive trial lawyers, Domino's is in a different situation from when it was a start-up venture. For a fringe, start-up company, an edgy, ethically tricky approach may be the best one to adopt. But with size comes respectability and responsibility. In terms of the way it should make its corporate decisions, Domino's is now more like Time-Warner than Death Row Records.

As an established pizza chain, Domino's does not want to risk being seen as an aggressive profiteer that encourages its drivers to speed. Domino's is not Ford, FedEx, or UPS, for whom the risks of autos and trucks are understood as inherent in their businesses. When a pizza company like Domino's imposes extra risks of dying on third parties, it creates understandable moral anger. That anger has been turned into jury awards, including one for $78 million in punitive damages (3), and presents a serious risk to the future of the company.

Jurors' moral intuitions that lawyers rely on to win verdicts may be unfairly tilted against business, and the trial lawyers themselves are anything but saints. But Domino's is a for-profit business. It needs to take the legal system and the moral judgments that it relies on, including anti-business judgments, as they are rather than to crusade against them.

Even if it is true, as it may well be, that Domino's drivers cause fewer accidents per pizza delivered than patrons of sit-down pizza parlors cause by their driving, human moral intuition sees the situations as very different. Joshua Greene's and John Mikhail's different approaches to trolley problems converge in helping to explain why Domino's policy, as opposed to an alternative business model that might be associated with more deaths, is likely to disturb people. Per Greene, the "personal/moral" nature of a driver hitting a pedestrian or another car overrides cost-benefit analysis. Per Mikhail, the strategic, profitable nature of the risk created by Domino's speedy delivery policy means that the company will be seen as the cause of harm.

At this point, modifying the guarantee policy by softening it or by instituting an ad campaign stressing the company's commitment to safety isn't the way for Domino's to go. Such a middle-way approach might make sense if Domino's were writing on a blank slate. But it's not. Domino's needs a clear, decisive response to the risk that the guarantee presents.

After ending its guarantee—which should be done simply by stopping the marketing campaign, without any mea culpas that will be used against the company in court--what if Domino's wants at some point in the future to market to nostalgic old customers who remember the old slogan and to prospective customers who value speed? (4) That's fine—but for ethical as well as legal reasons, the company should avoid a 30-minute time guarantee.

Notes keyed to analysis--

1. http://findarticles.com/p/articles/mi_m3190/is_n33_v23/ai_7865517/ (1989; contains 20 Domino's accident deaths and 80,000 drivers figures); http://www.infoplease.com/ipa/A0908129.html (U.S. driving deaths)
2. http://www.statemaster.com/graph/trn_lic_dri_tot_num-transportation-licensed-drivers-total-number (number of US drivers)

3. http://www.snopes.com/business/consumer/dominos.asp (lawsuits that motivated Domino's to drop its guarantee)
4. http://blogs.wsj.com/law/2007/12/17/dominos-pizza-amp-the-law/ (Domino's new 30 minute "non-guarantee"

General information--

Domino's-- http://www.fundinguniverse.com/company-histories/domino-s-inc-history/ (corporate history)
Tom Monaghan— http://www.epluribusmedia.org/features/2006/0311tom_monaghan.html (activism; sale to Bain)

[I highly recommend consulting Wikipedia—I do it all the time--but please refer to sources cited in Wikipedia that you've read, rather than to Wikipedia itself.]