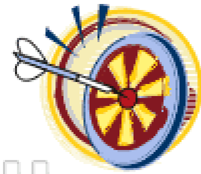
Objectives

after completing this lesson, YOU will be able to



» Understand the breadth and depth of **the problem of consumer fraud** in the United States;

» Discuss the *myth of the free market;* and

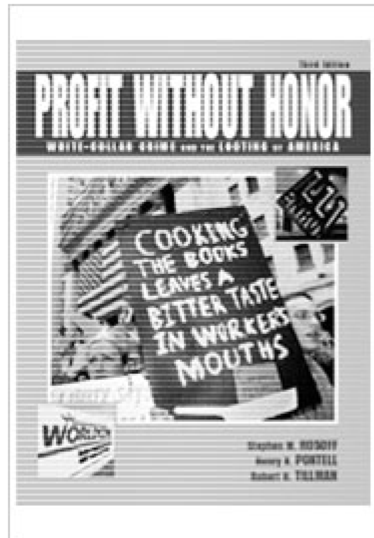
» Discuss *specific types of consumer fraud,* including automobile repair fraud, telemarketing, loan fraud, false advertising, price fixing, and price gouging.

For this lesson, please read:

» Rosoff, Pontell and Tillman, *White-collar Crime:*

- **Chapter 2. Consumer Fraud**

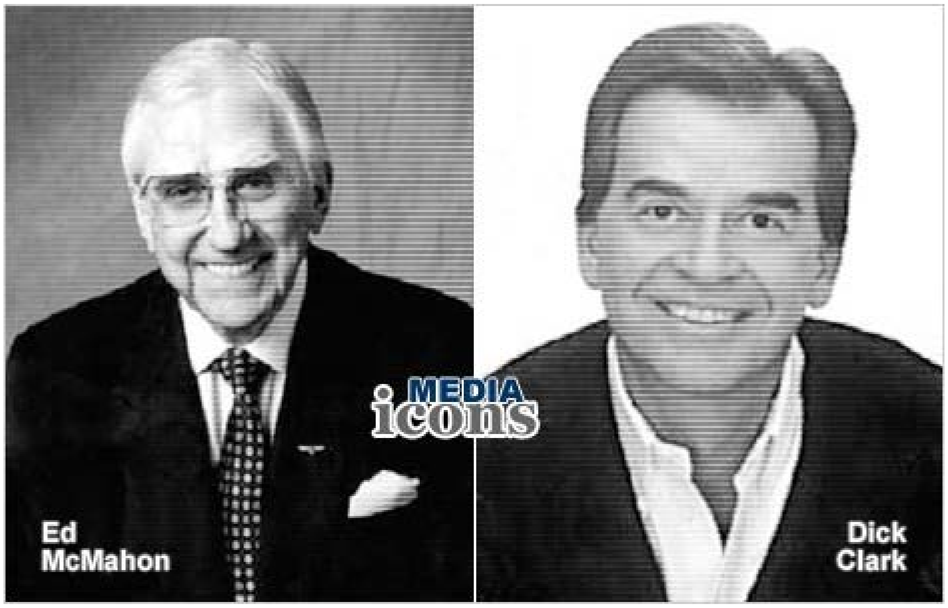
» Now that we have finished a general overview of issues related to corporate and white-collar crime, **let's examine some of the forms in more detail.**



We'll use the book ***Profit Without Honor*** to look at a number of historical examples of white-collar crime, and consider them in larger societal, cultural, political, and economic contexts.

As you'll see throughout this text, **there are some pretty startling, lively, and bizarre (but true) stories.** Some you have undoubtedly heard of, while others are simply hard to believe. The book is intended to be an eye opener in that sense.

But along with this shock of recognition, we also wanted to fully illuminate the breadth and depth of the major social problem of white-collar crime in American society. *Everyone is fair game here* — including media icons such as **Dick Clark** and **Ed McMahon**, whose public identities exist in large part with their promotion of the **American Family Publishers Sweepstakes.**



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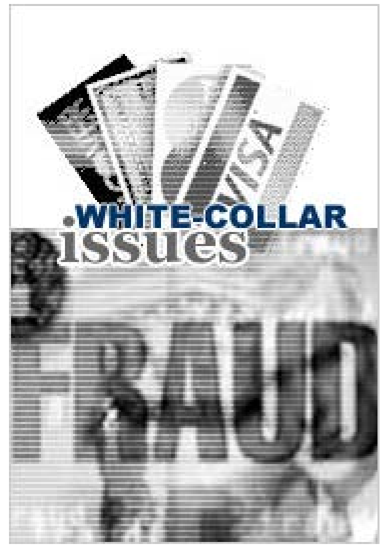
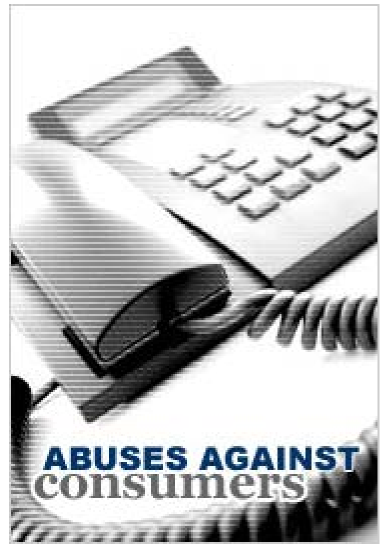
The deceptive advertising found in the American Family Publishers case was aimed largely at the elderly. ***The civil lawsuits against the company finally led it to make concessions and settle claims.*** At least one state is investigating whether the company violated criminal racketeering statutes regarding the improper billing of customers.



This is only one example of consumer fraud, however.

» **Abuses against consumers** are also rampant in the growing 900-number telephone industry. Many persons don't know how much they've been ripped off (or even that they've been victimized at all) until they see their telephone bill at the end of the month.



One major conceptual debate here involves what we term ***the myth of the free market.***

In its purest form a free market economy, based on an idealized laissez-faire model, gives consumers sufficient protection because unrestrained competition promotes improvement in the quality and safety of goods and services. Moreover, those opposed to regulation and legal controls argue that since most businesses are law abiding, there is no need for additional state intervention.

» But this argument seems no more logical than tearing down all our prisons because **most people don't commit crimes.**

The rule of ***caveat emptor*** (let the buyer beware) is still held by a small number of theorists. But today, unlike the ancient time in which the idea originated, things are just a bit more complex. Crimes against consumers carry a heavy social cost in terms of the quantity and quality of life, the legitimacy of government, and cultural notions of fairness and justice.

»

We must strike **a balance between two extreme positions:** that of a smothering role of government, which has failed in noncapitalist societies, and the hands-off policy that is implied by the caveat emptor rule.

Forum *discussion*

"to post your reply, select OUTLINE from the TOOLS menu and enter the FORUMS area"

Consider the two extreme positions of **caveat emptor and caveat venditor** (let the *seller* beware). *Where do you think an **appropriate balance** would be?* ***Why?***

It can be easy to **blame the victim** in consumer fraud cases. Given some of the ridiculous scams that take place, however, we are all potential prey to sophisticated swindlers.

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Persons who have a great deal of sound business judgment have been victims of worthless deals and scams. As one commentator has put it, *"**No one is safe** — your doctor, the retired couple next door, or the man who picks up your garbage."*

The **automobile repair business** is in need of the most attention from the consumer movement, according to any number of social indicators —including surveys, letters of complaint to congressional committees, and government data and reports.

»

Many of these **frauds** take place in independent shops and are committed by greedy mechanics. But those that take place in large corporate chains are far more troubling because they involve a much higher degree of public trust associated with major brand names.

One major study, conducted by UC Irvine criminologist **Paul Jesilow**, found that ***nearly 10% of major chains*** such as K-Mart, Goodyear, Sears, and Firestone *recommended replacing a car battery that was merely run down and in need of simple recharging.*

»

The field experiment involved female confederates, since it is generally believed that **women are especially targeted as victims**. Jesilow's study found that larger chains were more likely to defraud customers than were independent auto repair shops.

As explained in Chapter 2, Sears and AAMCO appear as particularly grievous examples of **corporate malfeasance in the area of automobile repair fraud.**

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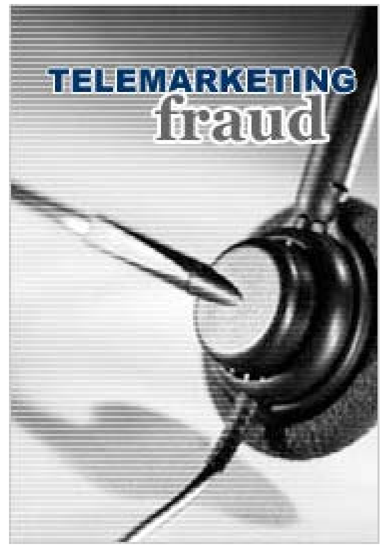
Telemarketing is another area that has seen *growing and sizeable amounts of fraud.* Although not all phone sales involve crooks, too many of them do.



From bogus or nonexistent products and real estate investments to other opportunistic rip-offs, telemarketing frauds are a prime example of the invasive nature of white-collar crime. That is, **you can be victimized in the "privacy" of your own home.**

The readings describe in detail the variety of cons and how they are carried out. Perhaps the most remarkable case is called **"The Attack of the Toner-Phoner,"** which accounts for the *misdeeds of what might be called a "serial extortionist" and his victims* — both individual and organizational.

As mentioned earlier, consumer frauds can target **particular victims**, as well as **consumers** as a whole. One of these target groups is the poor.

Fraudulent loan companies, including those dealing with mortgages and home equity loans, prey on people experiencing hard financial times — and make things far worse for these unsuspecting victims. *Vocational schools have fleeced poor students seeking a better life, as well as federally funded student loan programs.*

The list of scams against
the poor is almost endless.

It seems quite clear that a general rule of American society can be taken from the title of a major book written by **David Caplovitz** decades ago: ***The Poor Pay More***.

False advertising is another salient form of consumer fraud that has a long history. Used as a tool of manipulation more than information, **advertising falls under three broad categories classified by the FTC:**

- » *informative* (educative, and perhaps the least visible type)
- » *puffing* (featuring exaggerations and irrelevant information), and
- » *deceptive* (ads containing misleading and untrue claims).

»

Almost any type of company can be involved in ***false advertising***.

Examples include oil, clothing, health care, nutrition, tobacco, computers, and even baby food! The list goes on and on.

Recent FTC regulations have been enacted in *response to complaints about endorsements of products* by celebrities who have no basis for the truthfulness of the information they are relaying to the public.

Price fixing was criminalized through the **Sherman Antitrust Act of 1890**, one of the most important laws passed in American history. It essentially ***prohibits practices that unreasonably deprive consumers of the advantages of competition***, which is the major economic pillar of capitalism. Competitive markets attract customers by keeping prices down and quality up through continued innovation and related efficiency in production.

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Nonetheless, numerous companies have engaged in price fixing, and are even seen as **"common in a wide variety of industries."** At least one reason for this seems to be the erratic nature of price-fixing regulation and enforcement in different political regimes.

The biggest recent antitrust case involved the software giant Microsoft.

A mountain of available evidence was presented in court, and numerous legal decisions and maneuvers were put into play. Despite all this, the company and its founder, Bill Gates, refused to admit to any wrongdoing regarding the bundling of Microsoft products
in an attempt to destroy competitors and threaten other companies.

Microsoft eventually reached a settlement with the government, in which monitoring compliance remains a central concern. ***Aggressive enforcement*** appears to be the only way to guarantee that the terms of the settlement are being met.

Perhaps the most famous thoroughly analyzed of all the price-fixing cases in the white-collar and corporate crime literature is the **"Great Electrical Conspiracy."** *In fact it was not a single conspiracy or act, but rather was a series of conspiracies involving a number of different products and over 40 manufacturers.*

Gilbert Geis, published the first scholarly piece on the subject in 1967, as a **chapter in an anthology**, and the work remains to this day as one of the seminal pieces in the field. It was responsible for ***reawakening interest in the topic of white-collar crime***, which was at that time largely dormant since Sutherland's initial writings on the subject decades earlier.

Essentially, the largest electrical equipment manufacturers in the country were found to be colluding on large government contracts, in direct and massive violation of the **Sherman Antitrust Act.**

The conspiracy took place in the 1950s, when manufacturers found it *more convenient and profitable to conspire than to compete.* Instead of submitting sealed and private bids for work, the companies took turns submitting inflated proposals, which over time cost taxpayers and the government and estimated billion dollars (a lot of money at that time).

The scheme was discovered serendipitously by a civil servant, when **a miscue by the companies allowed numerous identical bids to be submitted for the same job.** The reactions of the press, the companies, and employees were all quite interesting, given that this was the first case of its kind.

» *For example, Westinghouse stood by its employees, saying that they had not acted for personal gain. GE, in contrast, did not tolerate the behavior of its managers, claiming that they did not follow the ethical policies of the company.*

Of the 45 executives from 29 companies who were indicted, **31 were convicted and 7 served jail terms of 30 days.** Fines, which totaled $2 million, were levied mostly at GE and Westinghouse.

»

Regarding the fines, Geis noted that a $400,000 fine against GE would be equivalent to a person with a yearly income of $175,000 receiving a $3 parking ticket.

Price gouging is yet another form of consumer fraud.

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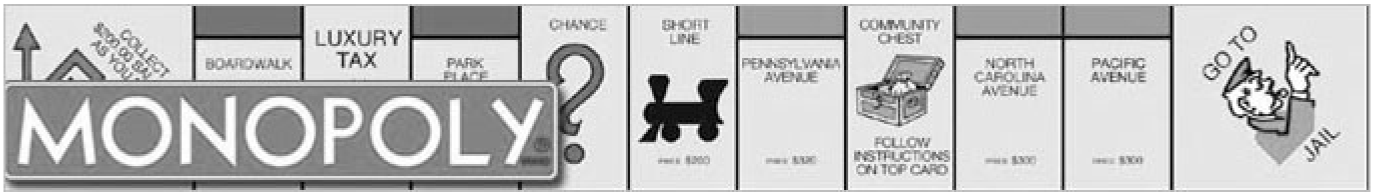
This form of price-fixing essentially takes advantage of consumers through any possible means (legal loopholes, monopoly, real or contrived shortages, and so on).



For example, natural disasters are usually followed by large increases in the price of needed items. During the electrical blackout in the summer of 2003 in New York City, merchants raised the price of a $1 or $2 bottle of water to $5 or more while stranded commuters walked the streets in search of a means to get home.

Another example is the cereal industry. Despite congressional hearings on the matter, no one seems to be able to ascertain a good reason why cereal cost so much.

The same is true for prescription drugs, and for the *"rent-to-own"* dealers whose exorbitant prices gouge slum-dwellers who cannot afford to buy furniture at reputable stores. Their trade association claims that their "customers have as much right to the American Dream as anyone else." Unfortunately, they have to rent it.

Summary

a brief overview of what you learned

» **Consumer fraud is a rampant form** of white-collar crime that often targets the poor or elderly but can affect virtually anyone.

» The myth of the free market suggests that **we do not need regulation and legal controls** — consumers are already protected because unrestrained competition promotes improvement in the quality and safety of goods and services. But today's crimes against consumers can be much more complex. Many people do not even know they have been victimized.

» The **varieties of consumer fraud** include automobile repair fraud, telemarketing scams, fraudulent loans, false advertising, price fixing, and price gouging.