Notes on a Scandal: Understanding Industrial Network Misconduct

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Introduction

"*And, without a trace of doubt, networks are 'good'. They reduce transaction costs, afford social capital, convey tacit knowledge, underpin interactive learning … and are fair, on top of it all*"
(Grabher and Ibert, 2006: 267).

"*When you light a candle, you also cast a shadow*"
(Ursula K. Le Guin, 1968).

On 18th September 2015, the Environmental Protection Agency (EPA) in the US announced that car manufacturer Volkswagen (VW) had purposely programmed certain diesel models to trigger emissions controls during laboratory testing regimes in order to artificially reduce the level of nitrogen oxide levels emitted (through the use of so-called 'defeat devices'), in order to meet regulatory standards. The VW emissions scandal ensued; it is estimated that in excess of ten million VW models were released on to the market globally between 2009 and 2015 that were fitted with the software to evade accurate detection of emissions during testing. VW's actions had placed it in violation of the Clean Air Act in the US as well as defendant of numerous legal actions in a number of countries from regulatory bodies and dissatisfied customers. VW's stock price plummeted and it was estimated that its fines could exceed $10 billion in the US alone (see Figure I for a timeline of events).

VW admitted its intentional misconduct: "*With this* [defeat device] *software, it was possible for the vehicle to recognise laboratory conditions and the engine control could switchover to emitting compliant nitrogen dioxide levels*" (BBC, 2015). Michael Horn, CEO of VW Group of America conceded that "*We've totally screwed up,*" and that they had been "*dishonest with the EPA, and the California Air Resources Board and with all of you*" (Euronews, 2015). One VW board member asserted that the individuals "*who allowed this to happen, or who made the decision to install this software*" behaved criminally, and asked "*why the board wasn't informed earlier about the problems when they were known about for over a year in the United States*" (BBC, 2015). By the end of September 2015, VW had suspended a number of executives including head of brand development, head of research and development, and head of engine and transmissions development (Cremer, 2015), and the CEO of VW Group (Martin Winterkorn) resigned.

One German tabloid asserted that senior management within VW had been aware of defeat devices being fitted to models in 2007 (Bild, 2015), after having being warned by one supplier of the illegality of using the software. A second German newspaper claimed that groups of individuals within VW were aware of the illegal practices possibly as early as 2005 (Spiegel, 2015), while a third alleged that VW's head of brand development (Heinz-Jakob Neusser) had ignored warnings from engineers concerning the legality of the software being used (Süddeutsche Zeitung, 2015). Further, a German magazine stated that a cycle of "*cynical deceit*" had existed within VW (Dyer, 2015).

Clearly networks are not always 'good', nor are they always beneficial to society. Although the individuals responsible within VW are yet to be identified, what is clear is that a network of personnel within VW had conspired to intentionally develop software to deceive emissions testing agencies, thus engaging in professional misconduct. The purpose of this paper is to provide an understanding of industrial network misconduct. Specifically, the study seeks to understand the characteristics of network misconduct – how networks attempt to conceal their activities to avoid detection, why managers engage in such actions and the potential evolution of networks of misconduct as they attempt to conceal their wrongdoing. Hence, this contribution is in keeping with recent studies in industrial marketing scholarship addressing 'dark networks' (Pressey *et al.* 2014; Pressey and

Vanharanta, 2016). Our aim is to better understand 'industrial networks gone wild', as they engage in illegal and unethical behaviours.

Figure I: Volkswagen emissions scandal timeline of events

VW admits fitting 'defeat devices' on 11 million vehicles worldwide, after an investigation by US regulators	VW CEO Martin Winterkorn resigns. Matthias Müller is appointed CEO	VW announces its first quarterly loss for 15 years	VW US CEO Michael Horn testifies before US Congress	VW results for 2015 show first annual decline of sales since 2011 (a decline of 4.8%)	US Department of Justice takes legal action against VW on behalf of the EPA	VW announces it will delay the release performance results due in March
September 2015	**September 2015**	**October 2015**	**October 2015**	**January 2016**	**January 2016**	**February 2016**
VW US CEO Michael Horn resigns	VW agrees to offer its US customers 'substantial compensation'	A court in California announces that as part of its settlement VW has agreed to make a buyback deal for approximately 500,000 vehicles	VW announces it has increased its fund to cover emissions scandal costs to €16.2bn from €6.7bn	VW announces a 20% reduction in pre-tax profits for the first quarter of 2016	Despite a decline in profits, VW's unit sales increase. VW is expected to be the world's biggest vehicle manufacturer in 2016	
March 2016	**April 2016**	**April 2016**	**May 2016**	**May 2016**	**June 2016**	

At present, research in industrial marketing has rarely engaged with illicit marketing management practices or so-called 'dark networks' (Pressey *et al*. 2014), thus resulting in an incomplete understanding of contemporary industrial marketing. One cannot, however, have the light without the dark. If we wish to obtain a balanced understanding of our discipline, we need to overcome social taboos by accepting and examining the issues faced by marketing managers and networks even if these issues involve criminal behavior. A failure to understand the 'dark side' of real-life marketing management practices jeopardizes an accurate and precise understanding of our discipline (Tonks, 2002; Keen, 1992).

The dark side of marketing

In the broader marketing literature, the subject of 'dark marketing' (the unwelcome, objectionable and often unlawful aspects of exchange) has attracted some scholarly interest, although this corpus of work is wide-ranging and fragmented. Popular areas of study have included consumer misbehaviour, dysfunction and deviance (Daunt and Greer, 2015; Greer, 2015; Leo and Russell-Bennett, 2012; Harris and Daunt, 2011; Reynolds and Harris, 2009; Harris and Reynolds, 2003; Fullerton and Punj, 2004), unethical consumer behaviour (Phau et al. 2014; Mitchell and Chan, 2002), the intentional disruption of service provision by frontline employees dealing with customers (Harris and Ogbonna, 2006), and incivility between service providers and customers (Van Jaarsveld et al. 2011).

In contrast, studies that examine the subject of illegality in industrial networks (practices where networks engage in activities such as industrial espionage, price-fixing, bribery, employee fraud, and so forth) are highly limited and conspicuous by their absence. Two notable recent exceptions include Pressey *et al.* (2014) and Pressey and Vanharanta (2016). These two studies provide rare insights into a number of price-fixing cartels that found marketing executives at the heart of the conspiracy, finding evidence related to network structures in illegal price-fixing conspiracies and the tensions actors faced, indicating that we stand to gain as a discipline by better understanding such practices. This would seem particularly relevant given the boundary spanning role that marketing managers adopt renders them vulnerable to illicit collusive practices (Wilkie and Moore, 1999). For example, it has been recognized that the role of marketing managers often positions them with "*ample opportunity to engage in guideline-relevant offences such as price fixing, bribery, fraud and discrimination*" (LeClair *et al.* 1997: 29).

Our failing to understand illegal behaviours by marketing managers in industrial networks is also mirrored by scholars outside of our discipline. For example, Baker and Faulkner (1993) describe conspiracies by executives as essentially a black box.' Similarly, Shapiro (1980: 29) observes that "*the study of crime and deviant behaviour has been negligent … in its lack of attention to the form and social organization of criminal activity. We know a great deal about criminals … but very little about the activity itself*." The complexity inherent in most large contemporary organizations makes it challenging, if not impossible, to accurately ascertain responsibility for illegal acts particularly when they involve diffuse groups of actors (Clinard and Yeager, 2006). Clearly there are also powerful methodological challenges accounting for the lack of research on the topic of white-collar crimes, where data may not be available and in the public domain.

Misconduct in networks – towards an understanding of industrial network wrongdoing

The topic of organization misconduct is well established in management research (see, for example, Staw and Szwajkowski, 1975), with studies of sweatshops and misconduct towards employees, deceptive accounting practices, misconduct related to pollution by organizations, and misconduct aimed at consumers through the launch of hazardous products. This said, the diffusion of misconduct within organizations, as well as other topics, has received limited attention (Greve *et al.* 2010). Misconduct can be defined by actions that are injurious and morally questionable, as well as behaviour "*in or by an organization that a social-control agent judges to transgress a line separating right from wrong*", and "*where such a line can separate legal, ethical, and socially responsible behavior from their antitheses*" (Greve *et al.* 2010: 56).

Cases of misconduct often involve a number of individuals connected by social ties. In addition to the work of Pressey *et al.* outlined above, a small number of studies have addressed issues of network misconduct (see, for example, Brass, Butterfield, and Skaggs, 1998; Punch, 1996; Baker and Faulkner, 1993), but none so far in an industrial marketing context. Drawing on these studies and the broader organizational and management literatures, we propose to address a number of areas related to network misconduct.

Influences and mechanisms

This relates to the motivation for wrongdoing, where a number of factors may play a role. This may include the personal ethics of actors, incentives to cheat, the context and ethical climate within the organization, as well as norms, incentives, constraints, and social pressure from peers. Why would VW as a company that promotes its diesel models for their strong environmental record risk damaging its brand potentially irreparably, as well as the future of the organization?

Dark network concealment

Networks engaging in misconduct must attempt to conceal their activities through an appropriate network structure. Theoretical explanations for network misconduct provide two (non-mutually

exclusive) accounts: the 'influence account' (isolated cliques that are well-connected within and/or between organizations) versus the 'secrecy account' (structured with the need for secrecy and designed to exclude certain actors to maximise concealment). The need for co-ordination may take priority over concealment, while the reverse may be true. Further, networks of misconduct that adopt the secrecy account suggest a greater degree of intentionality as actors have purposefully designed the structural conditions within which to engage in misconduct with maximum concealment. In the case of VW, it would be pertinent to understand how diffuse the network of misconduct was, as well as the form of concealment the network of misconduct adopted.

Dark network evolution

Problematically, the influence and secrecy accounts of network misconduct suggest a static view of networks of misconduct; in reality, networks may have 'fuzzy' qualities and may form a hybrid network that has characteristics of both influence and secrecy accounts. In addition, networks of misconduct may evolve over time, responding to local conditions; hence, misconduct may be initiated through social influence but may evolve to the characteristics of secrecy to help ensure concealment (Greve *et al.* 2010). Did the network of misconduct within VW evolve over time to help ensure concealment?

Case study methodology – VW and the unfolding emissions crisis

We propose to undertake a longitudinal case study monitoring events related to the VW emissions scandal. This will incorporate regulatory reports (including the EPA and Department of Justice in the US, as well as those published by other regulatory bodies). This will be augmented with reports in the media and press releases from major corporate interests.

In addition, Tweets were collected using CrowdTangle from the public Twitter accounts of Volkswagen Germany (@Volkswagen), Volkswagen UK (@UKVolkswagen), and the epicentre of the emissions scandal, Volkswagen USA (@VW). CrowdTangle allows subscribers to identify public Twitter accounts and collect historic tweets from the account in exported data files. For the present study, tweets were collected for the 12 months prior to 17th March 2016, ensuring sufficient data points before and after the initial announcement of the emissions scandal dating 18th September 2015. This novel method of data collection affords the tracking of communications from key stakeholders related to the emissions scandal (including major suppliers to VW).

Preliminary findings

We briefly explore three themes based on a preliminary analysis of the data collected thus far. This comprises the twitter chat related to the emissions scandal, who within VW may be responsible for the scandal and how VW envisages its corporate future.

Twitter chat

Three VW twitter accounts were examined (VW Germany, VW USA and VW UK) and in excess of 4500 tweets related to the emissions scandal have been collected to-date. Based on a preliminary analysis, approximately 11% of tweets issued during the time period were related to the scandal, with the bulk of this originating from VW Germany. News of the emissions broke on 18th September 2015; there was no mention of the crisis on the VW Germany twitter account until four days later on 22nd September 2015, on VW UK it was five days later on 23rd September 2015, and VW USA it was nine days later on 27th September 2015.

The first tweet from VW Germany contained a video link to a statement by CEO Martin Winterkorn, in which he apologized for VW's misconduct but attempted to downplay wrongdoing by attributing it to a small benign group operating within the organization:

"*…the irregularities with our group's diesel engines goes against everything Volkswagen stands for. At present I also do not yet have the answers to all the questions, but we are working hard to find out exactly what happened to do that we're putting everything on the table as quickly, rigorously and transparently as possible … to be frank with you, manipulation and Volkswagen … must never be allowed to happen again. Ladies and gentlemen, millions of people over the world trust our brand, our cars, and our technology. I am deeply sorry that we have broken this trust. I would like to make a formal apology to customers to the authorities and to the general public for this misconduct. … it would be wrong to cast suspicion on the hard work of so many because of the mistakes made by the few. Our team does not deserve that. … I personally am asking you for your trust as we move forward. We will get to the bottom of this, we're working hard on the necessary technical solutions and we will do everything we can to avert damage to our customers and employees. I give you my word we will do all of this with the greatest possible openness and transparency*."

In December 2015 (10/12/15) a tweet linked to a press release outlined the Group Audit's first findings regarding the NOx emissions, and further endeavoured to attribute wrongdoing to a small portion of the company. Essentially it was determined that the use of the software was due to three factors: "*the misconduct and shortcomings of individual employees, weaknesses in some processes and a mind-set in some areas of the company that tolerated breaches of rules*".

The network of nine

A number of factors may come into play to initiate misconduct; difficulty meeting the stricter legal requirements for emissions in the USA, potentially a restricted timeframe in which to solve the emissions problem, an internal testing of emissions and a culture where employees fear failure, or a mixture of these factors. Whatever the motive, some nine managers have been suspended by VW for possible involvement in the scandal. No information has been provided about these managers or their roles within the organization making it difficult to determine whether this network of individuals has been formed through influence or secrecy. The network of misconduct may possibly be restricted to these nine managers who determined the emissions 'solution'. Alternatively, the scale of the problem could suggest that the network of misconduct expands beyond the nine managers and involves a larger number of individuals. VW chairman (and former CFO) Hans Dieter Pötsch, in referring to the nine suspended managers, stressed that, "*No business transaction justifies overstepping legal and ethical bounds*" (9/12/2015).

While there appears to be a small group of employees who have transgressed, this has been enabled by the organizational culture and the nature of the processes in place. A chain of errors seem to have occurred which was initiated by a strategic decision in 2005 to heavily promote diesel engines in the US. VW was finding it impossible for certain engines to meet the USA's tighter regulations regarding NOx emissions within the timeframe available leading to the inclusion of software that adjusted NOx emissions depending on whether the vehicle was being tested in the road or the lab.

Future orientation

A strong message that VW have conveyed during the crisis is their future direction. This serves to distract from the original emissions problem and presents them in a more positive light. The initial future orientated statements focus on streamlining existing corporate bodies, structures and processes at the Group level, and streamlining the Group Board of Management (25/9/15). This was followed by VW cancelling or postponing certain investments to save over a billion euros. VW are emphasising more sustainable technologies which are in complete contrast to their diesel models. A tweet link to a press release (13/10/15) emphasises the development of the 'modular transverse toolkit', the 'MEB toolkit' and the 'pure electric Phaeton'. The digitalisation and electrification strategy are mentioned again (10/12/15). At the Consumer Electrics Show 2016 VW showcased the BUDD-e vehicle, an electric van with long-distance electromobility and the e-Golf Touch which has an innovative entertainment system (6/1/16). A future oriented press release stated that a new mind-set had been

initiated: VW need to build on their strengths of "*quality consciousness, strong identification with its vehicles and a high degree of social responsibility*" and develop a culture which is "*about more open discussions, closer cooperation and a willingness to allow mistakes*" (10/12/15).

Interestingly, incoming CEO, Matthias Müller, wanted VW engineers who "*make good arguments*" and "*who think and act like entrepreneurs*", "*people who are curious, independent and pioneering*". "*In short, the future at Volkswagen belongs to the bold*." It could well be that these are exactly the sort of people who have created the emissions problem. Müller also wants personnel who are not guided by the possible consequences of impending failure; if an atmosphere of fear of failure existed within the organization, however, then it may be surmised that it led to employees being flexible with the rules to avoid it. Müller has stated that he "*will make every effort to make sure the rules are respected by everyone*" (3/10/15).

Instead of conclusions: problematizing network deification

"*Look at how a single candle can both defy and define the darkness*"
(Anne Frank, 1952).

Overwhelmingly we tend to view industrial networks as social structures that perform almost entirely positive societal roles (such as generating competition and job creation, to facilitate innovation, to help resolve organizational problems, and so forth), than could be achieved by individuals acting in isolation. Such network veneration or reverence, however, is problematic. While most networks will form and cohere in order to achieve law-abiding and laudable objectives, some industrial networks will be established in order to realise nefarious goals, such as bribery, corruption, illegal sales and marketing practices, antitrust violations, or other criminal activities. While most networks do perform positive societal roles, it would be an error to overlook network misconduct.

Largely overlooked by business-to-business marketing scholars today is that the person credited with founding the study of social network analysis in the social sciences – Jacob Moreno – based his work on deviant social networks in the early 1930s in part on a study of a girls' reform school in New York to help explain a pandemic of runaways (Moreno, 1934). Moreno produced a series of 'sociograms' – among the earliest graphical illustrations of networks – to illustrate the networks of relationships between students in an attempt to explain why some girls would abscond while others would not. In this sense, the field of network studies has its foundations in misbehaviour, misconduct and network deviance.

The deleterious actions of networks are almost entirely overlooked by business-to-business scholars, although there are clearly methodological challenges in studying misconduct and dark networks in terms of obtaining accurate data. There has been a recent resurgence of interest in 'dark marketing' issues; indeed, a recent special issue in *Industrial Marketing Management* was dedicated to the 'dark side of relationships', and provides a rare example of focused attention on the topic. Studies of 'dark marketing' practices have been the subject of consistent scholarly attention since 2000 (Johnsen and LaCoste, *forthcoming*; Abosag *et al*. 2016; Chowdhury *et al*. 2016; Chung *et al*. 2016; Gupta *et al*. 2016; Tangpong and Hung, 2016; Pressey and Vanharanta, 2016; Pressey *et al*. 2014; Fang *et al*. 2011; Ferrell *et al*. 2000). This said, studies of truly dark illicit networks and their misconduct are limited to a relatively minuscule body of work. As a consequence, "*relatively little critique has been offered among scholars*" on the subject of the dark side of business relationships (Abosag *et al*. 2016: 5).

It may be convenient to dismiss network misconduct as anomalies operating at the margins of marketing practice. Further, we might think that marketers rarely if ever engage in network misconduct. The historical record, however, would suggest otherwise. Standout networks of misconduct include most famously Pillsbury (Tadajewski, 2010) and General Electric (Smith, 1961a, 1961b; Herling, 1962; Geis, 1977). It is somewhat ironic then that the point in time that both Pillsbury and GE are popularly regarded as pioneering the concept of modern marketing management and

control in the 1950s (Keith, 1960; Barksdale and Darden, 1971), these firms were actually defrauding large swathes of their customers and institutional buyers by price-fixing with many of their major competitors, involving senior marketing executives. More recently, Douglas Durand (marketing director of TAP Pharmaceuticals) became a whistle-blower and exposed a broad array of illegal sales and marketing practices of its drug Lupron performed by TAP to the US government, resulting in a fine of $885 million in 2001 (Greve *et al*. 2010). In addition, a study of illegal price-fixing cartels prosecuted in Europe between 1990 and 2009 by Ashton and Pressey (2012) provides factual evidence of sales and marketing executives involved in numerous major illegal cartel networks during that period. Collectively, these incidents of misconduct cannot be regarded as isolated practices and minor in their impact on competition; they also illustrate that networks of individuals within organizations can have profound consequences far beyond what individuals are able to exert outside organizational settings (Greve *et al*. 2010).

Most organizational misconduct is conducted at an intermediate level (i.e. it is often not conducted by a single employee nor is it conducted by all employees), but through networks of association. Both organizational criminologists and industrial economists have attempted to understand the illegal practices of firms through macro-level forces (such as industry structure, state of the economy, business cycle), where declining firm performance and market share have (rather unsurprisingly) been observed as common catalysts for corporate wrongdoings, whilst disregarding the micro-level practices of networks engaged in misconduct.

The present study seeks to redress this imbalance through a longitudinal study of the VW emissions scandal, with a particular emphasis on three aspects of network misconduct. To understand (i.) the *influences and mechanisms* that impel or else coerce actors to engage in misconduct, and why VW's relations with powerful regulatory bodies were viewed as adversarial. This contributes to our understanding of why networks are unable to self-regulate in ways that avoid wrongdoing. To appreciate (ii.) the nature of *dark network concealment* within VW – the structure actors adopt which they believe will afford them the most protection from detection. This helps us to explain the trade-offs network members and leaders make when attempting to provide a balance between effective co-ordination and concealment. Finally, to comprehend (iii.) *dark network evolution* with a particular emphasis on the changing nature of networks as they respond to internal and external forces. This affords us an understanding how networks attempt to protect themselves against unravelling and dissolving. Collectively, these elements of misconduct afford us a framework through which to understand industrial network misconduct, and help us to avoid the deification of networks.

To date, business-to-business marketing scholarship has made only cautious steps towards understanding the illicit, or 'dark side', of industrial marketing. This exposes an imbalance in our collective understanding of the roles that marketing managers are called upon to perform in the pursuit of organizational objectives, and a bias towards the positive roles of industrial networks. We risk providing an inaccurate account of our own discipline if we choose to overlook certain themes and subjects on the basis that they bring us discomfort and uneasiness.

As sociologist Georg Simmel (1950) reminds us, "*The fact that secrets do not remain guarded forever is the weakness of the secret society.*" Secrets cannot be guarded enduringly, therefore, and concealed networks are vulnerable to exposure and detection. The 'candle' quotation at the opening of this section is an apt one, for it allows us to draw on the metaphor of illumination. Our understanding of networks at present is partly obscured in shade as our understanding of dark marketing issues is limited despite their prevalence in society. While 'dark networks' – including networks of misconduct – have the capacity to *defy* (they rebel against licit networks, disobey legal rules, and challenge us while they evade detection), they also help to *define* our understanding of industrial networks generally (by complementing our understanding of 'light' networks). Methodological challenges aside, a closer scrutiny of dark marketing networks will afford us a broader understanding of business-to-business marketing.

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