



Consumer Judgment of Morally-Questionable Behaviors: The Relationship Between Ethical and Legal Judgments

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Abstract

Consumers' engagement in morally-questionable behaviors poses a serious threat to firms. To further the understanding of consumers' behavior, this study explores the association and conflicts between their ethical and legal judgments. In addition, it examines the way consumers' judgments depend on their mind-sets and the legal liability criterion of action (activity). In two experiments, participants were asked to judge the ethicality and legality of consumers' morally-questionable behaviors. Behavior activity and participants' mind-sets were manipulated. The results show that consumers are more likely to judge a behavior to be legal when they consider it ethical than when they consider it unethical. Nevertheless, conflicts between ethical and legal judgments are prevalent. Furthermore, ethical judgments, legal judgments, and the occurrence of conflicts between them depend on activity and on consumers' mind-sets. Finally, consumers report uncertainty about the ethicality and legality of a wide range of morally-questionable behaviors. Thus, the results paint a picture of individuals who perceive the law to be often beyond their reach or in conflict with their ethical principles. They portray both ethical and legal judgments as dynamically-changing, subjective, and context-dependent. Theoretical contribution and business applications are discussed.

Keywords Legal judgment · Ethical judgment · Mind-set

Introduction

Consumers' morally-questionable behavior is costly for firms (Bamfield 2004; Kos Koklic et al. 2016), prevalent (Blanco et al. 2008; Harris 2008; Reynolds and Harris 2005), and has been shown to have negative effects on consumers and customer-contact employees (Harris and Reynolds 2003). Furthermore, it threatens the existence of many firms (Kos Koklic et al. 2016). Therefore, it has attracted the attention of stakeholders, regulators, policy makers, consumers, and researchers (Gopal and Gupta 2010; Kos Koklic et al. 2016).

In particular, an interest in the factors affecting consumers' morally-questionable behavior has emerged.

In line with consumer ethics research, we refer by "morally-questionable behavior" to actions, which involve deceptive legal or illegal practices, indirectly harm a seller or a firm, or result in active or passive benefits on their expense (Vitell and Muncy 1992). A wide range of drivers of consumers' morally-questionable behaviors has been identified. For instance, it has been shown that financial gains and ego revenge promote dysfunctional behavior (Daunt and Harris 2012). However, criminology theories have highlighted people's legal and moral judgments as the central determinants of their behavior (Antonaccio et al. 2017). Specifically, the situational action theory has proposed that people's actions depend on the way that they perceive their action alternatives. Hence, people's engagement in crime depends on the extent to which they judge action alternatives to be legal and moral¹ (Wikström 2006; Wikström et al. 2011). Nevertheless, consumer ethics research has predominantly focused on ethical judgments (Vitell 2003; Vitell et al. 2016) and has understudied consumers' legal judgments.

Throughout the paper, we refer by 'conflicts between ethical and legal judgments' to situations, in which consumers

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judge a behavior to be ethical but illegal, or unethical but legal. According to this definition, conflicts occur if the discrepancies between ethical and legal judgments are large enough. In contexts other than consumer ethics, business ethics research has acknowledged the distinction between people's ethical and legal judgments. It has emphasized that "ethics research that ignores the distinction between legal and ethical considerations in assessing judgment is prone to misclassification, misevaluation, and misinterpretation" (Pearce 2013, p. 498). In consumer ethics contexts, a study has revealed that a proportion of ethical consumers experience intense moral conflicts which threaten the moral coherence of their self (Carrington et al. 2015). However, the examined conflicts have been related to consumption choices (e.g., environment friendly clothes). Thus, it has not explored the nature of conflicts between consumers' ethical and legal judgments of ethically-questionable marketplace behaviors. We are unaware of studies examining such conflicts.

Consumer ethics research has provided important insights into the dependence of ethical judgment of morally-questionable behaviors on the nature of the judged behaviors. A stream of studies has revealed that consumers consider behaviors, in which the actor actively benefits on the expense of the seller, to be less ethical than behaviors, in which the actor passively benefits on the expense of the seller (Muncy and Vitell 1992). We term the variable ranging between passive behaviors and active behaviors 'activity'. Although research has established that activity affects consumers' ethical judgments (Vitell 2003), neither the effect of activity on legal judgments, nor its effect on the conflicts between ethical and legal judgments has been examined.

Consumer ethics research has also shown that ethical judgments of marketplace behaviors depend on consumers' characteristics (e.g., demographic details, beliefs, and personality traits; Vitell 2003; Vitell et al. 2016). For example, it has revealed that consumers who are more spiritual tend to be more ethical. In contexts other than ethics, consumer research has established that mind-sets significantly affect people's judgments. For instance, it has shown that when consumers develop a "which-to-buy" mind-set, they tend to buy more (Xu and Wyer 2007). The term 'mind-set' refers to a state, which is "characterized by the persistence of cognitive processes and judgmental criteria that are activated in the course of performing a task. Once activated, it generalizes to other situations, affecting responses in these situations as well" (Xu and Wyer 2007, pp. 556–557). However, the effects of consumers' mind-sets on their ethical and legal judgments and the conflicts between them have not been explored.

Accordingly, the aim of this paper is to advance the understanding of the factors affecting consumers' judgment of morally-questionable behavior. In particular, it aims at

elucidating the nature of the association between consumers' ethical and legal judgments, as well as the dependence of consumers' judgments and conflicts on activity and on consumers' mind-sets. Understanding consumers' judgments enables us to develop methods to reduce consumers' engagement in unethical behavior. Furthermore, it enables us to address the literature gaps discussed above and hence make theoretical contributions.

Association Between Ethical and Legal Judgments

The notion of ethics is defined to be the set of "moral-based values that an individual or group believes are good and right in a specific situation", whereas the notion of legality is defined by a "system of rules that are created and enforced by recognized authorities" (Pearce 2013, p. 498). Throughout the paper, we use the term 'ethical judgment' to describe the process through which people determine whether a behavior is ethical. We refer by 'legal judgment' to the process through which people determine whether a behavior is legal. As people are not always familiar with the law (Pleasence and Balmer 2012; Preston-Shoot and Mckimm 2013), we suggest that determining whether a behavior is legal or not involves judgment under uncertainty (Tversky and Kahneman 1974) rather than merely recall processes.

The strength of the association between consumers' legal and ethical judgments has not been empirically studied. Furthermore, the literature about the relationship between ethical and legal judgments is fragmented and separated between three disciplines: legal philosophy, moral psychology, and consumer ethics. However, all three disciplines have portrayed ethical and legal judgments as distinct, but mutually dependent constructs.

Legal philosophers have highlighted the differences between ethical and legal judgments. Drawing on legal positivism, they have suggested that people can identify formal rules of behavior although they may not consider them moral (Raz 2012, pp. 156–157). The distinction between legal and ethical judgments is reflected also through natural law theories. Specifically, the idea that law is required to regulate the behavior of those, whose moral principles diverges from the social good (Finnis 2011, p. 125), reflects the perception that the law does not always coincide with people's moral principles. In addition, it has been theorized that ensuring compliance with law requires more social pressure than ensuring compliance with norms-based ethical rules (Ullmann-Margalit 1977). However, legal philosophers have also pointed out that there are similarities between morality and law. Both law and morality aim at protecting life and the continuity of society (La Torre 2010, p. 243). Furthermore, the legal system has been conjectured to draw its legitimacy from

the moral principles it is based on. The similarity between morality and law suggests that people's ethical and legal judgments are likely to coincide in many cases. Similarly, legal philosophers have argued that society is well-ordered only when people endorse the rules of justice, which are enforced by the social institution (Rawls 1999, pp. 3–6). The fact that most people obey the law suggests that their legal judgments may overlap with their ethical judgments.

Moral psychology studies have demonstrated that morality develops through the internalization of law and social norms (Brady and Hart 2007; Kohlberg 1981). During childhood, the distinction between “good” and “bad” is determined by the attempt to avoid punishment and gain rewards. Adolescents often associate morality with law and social norms. This association provides adults with a reference for their moral judgments. It has been demonstrated that only a minority of adults base their moral judgment on universal justice principles (Kohlberg 1981). Thus, moral psychology theories highlight the influence of legal judgments on ethical judgments.

Business ethics research has identified discrepancies between people's ethical judgments and the law (Libby and Agnello 2000; Pearce 2013). However, it has demonstrated that most consumers agree with the statement, that if a behavior is illegal, then it is unethical (Vitell and Muncy 1992). It has also showed that behavior legality is a central consideration in consumers' ethical judgment (Vitell 2003). Following research in these three disciplines, we hypothesize that there is a positive relation between consumers' legal and ethical judgments. That is, we hypothesize that if consumers judge a behavior to be legal, then they are more likely to judge it to be ethical than they are likely to judge it to be unethical. If consumers judge a behavior to be illegal, then they are more likely to judge it to be unethical than they are likely to judge it to be ethical:

H1 Consumers' ethical and legal judgments are positively related.

Effects of Activity on Ethical and Legal Judgments

As mentioned above, we refer by ‘activity’ to the variable ranging on the continuum between ‘passively benefiting on the expense of the seller’ and ‘actively benefiting on the expense of the seller’ (Vitell and Muncy 1992). We say that a consumer actively benefits on the expense of others if the consumer's behavior is a causal antecedent of the harm experienced by others. A consumer passively benefits on the expense of others if the consumer's lack of behavior is an antecedent of the harm, and there is another event, or event

characteristic, which is a causal antecedent of the harm (Slo-man et al. 2009).

The distinction between active and passive benefits can be viewed as a special case of the distinction between ‘doing’ and ‘allowing’. Many philosophers have debated the nature and validity of this distinction (Asscher 2007; Bennett 2003; Bradley and Stocker 2005). Studies in experimental philosophy have demonstrated that lay people distinguish between situations of ‘doing harm’ and ‘allowing harm’, and attribute greater compensatory responsibility to ‘doing harm’ cases than to ‘allowing harm’ cases (Barry et al. 2014). People perceive doing harm as less moral than allowing harm (Cushman et al. 2008). In fact, moral psychology studies have revealed that children can identify others' intentions and include them in their moral judgments (Helwig et al. 2001). Furthermore, children can distinguish between harmful behaviors and behaviors which do not involve harm (Smetana 1985). As with adults, they judge active harming to be morally worse than inactive harming (Powell et al. 2012).

Business ethics studies have established that ethical judgments of scenarios involving benefits depend on the way the benefits are obtained (Muncy and Vitell 1992; Vitell 2003). Although consumer ethics research has not differentiated between consumers' legal judgment and activity as separate variables, it has revealed that actively benefiting on the expense of others is considered more unethical than passively benefiting on the expense of others (Vitell and Paolillo 2003). For example, the active behavior ‘drinking a can of soda in a supermarket without paying for it’ is considered to be less ethical than the passive behavior ‘observing someone shoplifting and ignoring it’ (Vitell and Muncy 1992).

The effect of activity on consumers' legal judgment has not been explored. However, activity is a central determinant of criminal liability in criminal law (Husak 2010). Therefore, we expect that if consumers know whether a behavior is legal or not, then their judgment would depend on activity. In other words, we hypothesize that both ethical and legal judgments of consumers' morally-questionable behaviors depend on the extent to which the behaviors are active:

H2a Actively benefitting on the expense of the seller is judged to be less ethical than passively benefitting on the expense of the seller.

H2b Actively benefitting on the expense of the seller is judged to be less legal than passively benefitting on the expense of the seller.

Because moral conflicts have been shown to have a profound influence on consumers (Carrington et al. 2015), in addition to examining the effect of activity on ethical and legal judgments, we investigate the effect of activity on

conflicts between ethical and legal judgments. The dependence of conflicts on activity has not been studied. However, as ethical and legal judgments have been theorized to be different (Raz 2012), we conjecture that their patterns of dependence on activity are different, too. Conflicts between ethicality and legality occur if the differences between them are large enough. Thus, if the differences between the patterns of dependence of ethical and legal judgments on activity are large enough, then activity would influence the occurrence of conflicts between them. We examine this possibility empirically.

Effects of Mind-Sets on Ethical and Legal Judgments

In the context of consumers' judgment, we refer by 'mind-set' to the cognitive processes which are activated when consumers approach a judgmental task. A long tradition of philosophical research has proposed that temporary experiences, which are closely related to mind-sets, affect judgment. For instance, Kant believed that emotions bias moral judgments (Pizarro 2000). Similarly, moral psychology studies have revealed that moral judgments depend on people's emotions (Cheng et al. 2013), beliefs (Walker et al. 2012), and goals (Callan et al. 2013). Furthermore, business research has established that mind-sets influence human judgments in a wide range of consumption and business contexts (Janiszewski and Wyer 2014; Tsalikis 2015; Xu and Wyer 2007). Therefore, we hypothesize that consumers' ethical judgments of morally-questionable behaviors depend on their mind-sets.

No previous study has examined the effect of consumers' mind-sets on their legal judgment. However, perceiving legality judgments to be judgments under uncertainty (Tversky and Kahneman 1974), we conjecture that they are susceptible to human judgment biases as ethics judgments are. Therefore, we hypothesize that consumers' mind-sets influence also their legal judgments:

H3a Mind-sets affect consumers' ethical judgments.

H3b Mind-sets affect consumers' legal judgments.

As with activity, in addition to examining the effect of consumers' mind-sets on their ethical and legal judgments, we explore the dependence of conflicts between ethical and legal judgments on consumers' mind-sets. The dependence of conflicts on mind-sets has not been studied. However, as ethical and legal judgements are different (Raz 2012), we expect that there are differences between their patterns of dependence on mind-sets, too. If these differences are large enough, mind-sets would influence the occurrence of

conflicts between ethical and legal judgments. We explore this conjecture empirically.

We were primarily interested in three mind-sets: aggression, politeness, and awareness to legal punishment. Research has demonstrated that aggression affects people's judgment and behavior (Carlson et al. 1990; Daunt and Harris 2012; Todorov and Bargh 2002) due to its influence on the way they interpret situations (Reynolds and Harris 2009). People, in whom aggression mind-set is induced, tend to judge unethical behaviors leniently (Tsalikis 2015). People with high levels of aggression (as a personality trait) exhibit low sensitivity to ethical issues, too (Rallapalli et al. 1994). Therefore, we expected aggression mind-set to affect consumers' judgments.

Past research on the effect of politeness cues on people's behavior and perceptions has yielded inconclusive results: although inducing politeness in people had a positive effect on their behavior (Bargh et al. 1996), it did not lead to improved sensitivity to business-related ethical issues (Tsalikis 2015). We chose to study politeness to examine the effect of a positive mind-set on ethical and legal judgments.

The effect of awareness to legal punishment on ethical or legal judgment has not been studied. However, ethical judgments have been found to depend on normative punishments (e.g., being chastised by a store manager or by co-workers; Vitell et al. 2001). Furthermore, it has been theorized that decisions about engagement in morally-questionable behaviors depend on the perception that punishment is probable (Robinson and Darley 2004). Because people often use the availability heuristic for probability judgments (Tversky and Kahneman 1973), raising consumer awareness to legal punishment is likely to increase the perceived probability of being punished. Thus, we explored the influence of awareness to legal punishment on consumers' ethical and moral judgments.

Contribution to Business Ethics Research

This study contributes to business ethics research insights into the way consumers make ethical and legal judgments. First, it theorizes and empirically demonstrates that ethical and legal judgments are positively associated and significantly affected by the activity of the judged behavior and consumers' mind-sets. In addition, it empirically demonstrates that the occurrence of conflicts between ethical and legal judgments depends on the activity of the judged behaviors and consumers' mind-sets.

Second, this study provides business ethics research with new perspectives on consumer ethics. Consumer ethics research has tended to overlook the relationship between ethical judgment and other judgments. However, situations which require ethical judgments often require

also other justice-related judgments. This study is the first to provide information about the relationship between ethical and legal judgments. Therefore, it provides consumer ethics research with a broad, holistic perspective on consumers' judgment. This study is also the first to systematically explore conflicts between consumers' ethical and legal judgments. Thus, it provides insights into the complexity of consumers' judgments. Furthermore, examining the effect of mind-sets on consumers' judgments, it provides consumer ethics research with a context-dependent perspective.

Third, by showing that consumers' legal judgments are susceptible to mind-sets and that consumers are often unfamiliar with the law, this study conceptualizes legal judgment as judgment under uncertainty (Tversky and Kahneman 1974). Furthermore, it emphasizes the importance of the study of legal judgment. A few business ethics studies have examined the effect of scenarios' legality on consumers' ethics perceptions (Vitell 2003; Vitell and Paolillo 2003). Although these studies have yielded important results, they have not differentiated between the law and consumers' legal judgments. Thus, previous results about the dependence of ethical judgments on law may not reflect consumers' judgments.

Finally, business ethics research has tended to focus on the dependence of consumers' ethical judgments on relatively stable, individual factors, which are impossible or difficult to change (e.g., gender, personality, religiosity, spirituality, moral identity, culture, and nationality; Vitell 2003; Vitell and Paolillo 2003; Vitell et al. 2016). Thus, consumer ethics theories tended to be descriptive. Consistently with research on management ethics (Tsalikis 2015), this study shows that consumers' ethical judgments can be influenced by external manipulations. This observation suggests that environmental cues and educational efforts may increase consumers' sensitivity to ethical issues. By highlighting this new application field, we extend consumer ethics research to the development of dynamical theories. Additional theoretical contributions are discussed in [Appendix A](#).

Experiment 1

Experiment 1 was designed to test hypotheses [H1](#), [H2a](#) and [H2b](#). In addition, it examined the prevalence of conflicts between consumers' ethical and legal judgments and their dependence on activity. Participants were asked to judge the ethicality and legality of morally-questionable consumer and internet behaviors. Activity of the presented behaviors was manipulated.

Method

Participants

Seventy-seven people acted as participants. They were recruited in the UK, however, had diverse nationalities (including British, French, Italian, Dutch, Belgian, Greek, Polish, Romanian, American, Brazilian, Singaporean, Malaysian, Indian, and Moroccan nationalities). Sixty of the participants were undergraduate or postgraduate students. Two participants (2.6%) were excluded due to outlier analysis (based on Cook's distance method; Cook 1977), leaving 75 participants for the analysis (44 women; age mean = 22.27 years; age std = 8.64 years).

The participants were recruited by students. Each student recruited seven participants. The students were instructed to ask the participants, whom they recruited, to complete the given task (individually) in their presence. Neither the experimenters nor the participants were told what the hypotheses were. Therefore, it was a double-blind procedure.

Materials

We were interested in testing the hypotheses on a representative sample of consumer morally-questionable scenarios. Therefore, we employed two standardized questionnaires. Questionnaire 1 was based on the 27-item consumer ethics questionnaire of Muncy and Vitell (1992). It includes items such as "Returning damaged merchandise when the damage is your own fault". The questionnaire is considered representative of the breadth of ethical scenarios faced by consumers (Muncy and Vitell 1992). However, due to technological advances, we updated or omitted a few items. For example, the original item "Recording an album instead of buying it" was replaced by "Copying a music CD instead of buying it". Twenty-five items were included in questionnaire 1.

In questionnaire 1, five items described people actively benefiting at the expense of others, four items described people passively benefiting at the expense of others, five items described deceptive practices, and five items described situations which involved no harm (Muncy and Vitell 1992). Six items from the list 'Statements that did not load strongly on any factor' were chosen to mask the purpose of the study.

Questionnaire 2 was based on the internet-ethics questionnaire of Freestone and Mitchell (2004). Some of the items in this questionnaire referred to consumer ethics, e.g., "Using credit card numbers that you haven't stolen but have "discovered" yourself, e.g., from websites". The questionnaire contained items referring to other internet-related behaviors, too, e.g., hacking. Twenty-two of the 23 items in the questionnaire of Freestone and Mitchell (2004) were chosen. One item was omitted and three items were updated.

For instance, the item “Downloading music files from the internet for free, e.g., Napster sites or similar” was replaced by “Downloading music files from the internet for free, e.g., Pirate Bay sites or similar.”

To reduce order effects, the order of the questions in each of the questionnaires was randomized (with respect to the original questionnaires) and then counterbalanced. That resulted in two versions of each questionnaire. Each participant was given one of the versions of questionnaire 1 and one of the versions of questionnaire 2.

Design

The experiment had a within-participant design with respect to the variable ‘activity’. Item’s activity was manipulated in questionnaire 1 according to the classification of Muncy and Vitell (1992). In particular, the questionnaire included items relating to ‘passively benefiting on the expense of the seller’ (four items in questionnaire 1) and ‘actively benefiting on the expense of the seller’ (five items in questionnaire 1; Muncy and Vitell 1992). Questionnaires 1 and 2 were used to examine correlations between the variables.

Procedure

For each item, participants were asked to give two responses: an ethical judgement and a legal judgment. The instructions were: “The following questionnaire includes two sets of items (a total of 47 statements), describing actions in different situations. Please rate the extent to which you perceive each action as ethical and legal on a 5-point scale.” For each ethicality judgment, participants’ answers were given on a Likert scale ranging between “Strongly believe that it is NOT ethical” (1) to “Strongly believe that it is ethical” (5). The option ‘3’ represented “Do not have an opinion”. Legality was judged using a Likert scale ranging between “Very confident that it is illegal” (1) and “Very confident that it is legal” (5). The answer ‘3’ represented “Do not know”.

Results

Association Between Ethical and Legal Judgments

To test hypothesis H1 (consumers’ ethical and legal judgments are positively related), the correlations between participants’ ethical and legal judgments were calculated. (Throughout the analysis we pooled together the results of both versions of the questionnaires, counterbalancing for order effects). For each of these questionnaires, the correlation between participants’ ethical and legal judgments was significant and positive (questionnaire 1: $r=0.47$, $p<0.001$; questionnaire 2: $r=0.59$, $p<0.001$). These results supported hypothesis H1.

Dependence of Legal and Ethical Judgments on Activity

To test hypotheses H2a (actively benefitting on the expense of the seller is judged to be less ethical than passively benefitting on the expense of the seller) and H2b (actively benefitting on the expense of the seller is judged to be less legal than passively benefitting on the expense of the seller), we extracted participants’ responses to items from the categories ‘passively benefiting on the expense of the seller’, and ‘actively benefiting on the expense of the seller’ (Muncy and Vitell 1992). ANOVAs on participants’ ethical and legal judgments, using activity as a within-participant variable, revealed that the effect of activity on ethical judgments was significant ($F(1, 673)=22.00$; $p<0.01$). Passively benefitting on the expense of the seller was judged to be more ethical (mean ethics ratings = 1.94, std = 1.08) than actively benefitting on the expense of the seller (mean ethics ratings = 1.60, std = 0.88). However, the effect of activity on legal judgments was statistically insignificant. Thus, the results supported hypothesis H2a, but did not provide sufficient evidence to support hypothesis H2b.

Prevalence of Conflicts Between Ethical and Legal Judgments

We were interested in two types of conflicts: conflicts of type I, in which a behavior is judged to be unethical but legal, and conflicts of type II, in which a behavior is judged to be ethical but illegal. Operationally, conflicts of type I were defined as cases, in which ethical judgments were less than three (the central option in the Likert scale used) and legal judgments were greater than three. In conflicts of type II, ethical judgments were greater than three and legal judgments were less than three.

Descriptive statistics of the mean percentage of conflicts are given in Table 1. Table 1 shows also the results of t-tests, comparing the mean percentage of conflicts of each type to zero. As the table shows, for questionnaire 1, items were considered unethical but legal in 13.22% of all responses, and ethical but illegal in 4.05% of all responses. The average number of conflicts of both types per participant was significantly different from 0 (Questionnaire 1: $t(74)=10.01$, $p<0.01$; questionnaire 2: $t(74)=6.45$, $p<0.01$). In questionnaire 1, the items which were most frequently rated as illegal but ethical were: “Reporting a lost item as “stolen” to an insurance company to collect the money” and “Copying a music CD instead of buying it”. Lower percentages of conflicts between ethical and legal judgments were obtained for questionnaire 2. As the questionnaires are considered to represent the breadth of consumer ethical issues, we conclude that it is likely that consumers experience conflicts between their ethical and legal judgments.

Table 1 Percentages of participants' responses, which involved conflicts between ethical and legal judgments, and the results of *t*-tests, comparing these percentages to zero

Conflict type	Questionnaire	Percentage of conflicts	<i>T</i> -test results
Type I (unethical but legal behavior)	1 (Consumer ethics)	Mean = 13.22%, std = 0.11	<i>t</i> (74) = 10.01**
	2 (Internet ethics)	Mean = 5.03%, std = 0.07	<i>t</i> (74) = 6.66**
Type II (ethical but illegal behavior)	1 (Consumer ethics)	Mean = 4.05%, std = 0.05	<i>t</i> (74) = 6.45**
	2 (Internet ethics)	Mean = 2.06%, std = 0.03	<i>t</i> (74) = 5.30**

We denote by ** statistical significance at the 0.01 level

Dependence of Conflicts Between Legal and Ethical Judgments on Activity

We were interested in the dependence of conflicts of type I and II on activity. In addition, we examined cases in which ethical judgments did not conflict with legal judgments. In these cases, ethical and legal judgments were greater than three, or ethical and legal judgments were less than three. For the analysis, we used the percentage of participants' responses on the items, which referred to each of these cases.

ANOVA on the percentage of participants' responses corresponding to each of the cases, using the variable 'activity' as a within-participant variable, showed that the percentage of conflicts of type II was lower when items referred to active benefits (mean = 0.02, std = 0.08) than when items referred to passive benefits (mean = 0.06, std = 0.14; $F(1, 74) = 9.96, p = 0.002, \text{partial } \eta^2 = 0.12$). No other significant effects were found. Therefore, the results showed that occurrence of conflicts depends on activity.

Uncertainty in Participants' Responses

As a measure of participants' uncertainty, for each participant, we extracted the percentage of items for which the participant chose the answer "Do not know" or "Do not have an opinion" (answer '3'). Analysis showed that for questionnaire 1, participants chose this answer in 20.85% of their legal judgments and 17.91% of their ethical judgments. Answering questionnaire 2, this option was chosen in 12.61% of their legal judgments and 12.36% of their ethical judgments. These results were significantly greater than zero (questionnaire 1: $t(74) > 12.16, p < 0.01$; questionnaire 2: $t(74) > 10.41, p < 0.01$). Although, to a certain extent, these results may reflect participants' response biases (Randall and Fernandes 1991), they suggest that people are often unable to make ethicality and legality judgments.

Variability of Participants' Responses

As a proxy for consumer disagreement about legal and ethical issues, we extracted the standard deviation of participants' responses. We found that the standard deviation of participants' ethical judgments was greater than 27% of the given range (questionnaire 1: mean = 2.36, std = 1.32,

1.32/4 = 0.33; questionnaire 2: mean = 1.65, std = 1.07, 1.07/4 = 0.27). The standard deviation of participants' legal judgments was greater than 30% of the given range (questionnaire 1: mean = 2.75, std = 1.47, 1.47/4 = 0.37; questionnaire 2: mean = 1.81, std = 1.27, 1.27/4 = 0.31).

Experiment 2

Experiment 2 was designed to investigate the robustness of Hypotheses H1, H2a and H2b with respect to consumers' mind-sets, and to test hypotheses H3a and H3b. In addition, we examined the prevalence of conflicts between consumers' ethical and legal judgments and their dependence on consumers' mind-sets. Priming procedures were used to induce in the participant's aggression, politeness, or awareness to legal punishment mind-sets. Subsequently, participants were asked to complete the judgmental tasks employed in Experiment 1.

Method

Participants

Participants were recruited as in Experiment 1. Sampling aimed at obtaining a wide section of young adults. Participants had diverse academic and professional fields (e.g., management, economics, engineering, social sciences, and medicine) and educational levels (high school students, undergraduate students, postgraduate students, and professionals).

The initial sample included 225 participants, of whom 11 (4.89%) were excluded after an outlier analysis (based on Cook's distance method; Cook 1977). Thus, our results are based on the answers of 214 participants (118 women; age mean = 20.41 years; age std = 5.24 years). There were 71 participants in the aggression-priming condition, 73 participants in the politeness-priming condition, and 70 participants in the awareness to legal punishment condition. The choice of sample size was based on the suggestion to have more than 50 participants per condition for adequate statistical power (Simmons et al. 2013).

Materials

Priming research has shown that mind-sets can be activated through priming procedures (Janiszewski and Wyer 2014), including sentence unscrambling tasks (Tsalikis 2015). Thus, we employed sentence unscrambling tasks to induce aggression, politeness, and awareness to legal punishment mind-sets in the participants. In all experimental conditions, participants were presented with a list of 14 series of five words. For each series, participants were asked to circle four words which make a complete sentence. Each word series contained target words which were relevant to the priming condition. For example, a word series given in the aggression condition was: “he aggressively spoke stared yesterday”, and a word series given in the politeness condition was: “they showed respect always usual”. For the aggression and politeness conditions, the task was as in Tsalikis (2015). For the awareness to legal punishment condition, we modified the task, so that the unscrambled sentences described negative legal consequences of breaking the law. For instance, one of the word series given in this condition was: “arrest she under is always” (see Appendix B).

Design

The experiment had a three (mind-set: aggression, politeness, or awareness to legal punishment) by two (questionnaire: questionnaire 1 or questionnaire 2) by two (type of judgment: ethicality or legality) by two (order of questions) design, in which mind-set and question order were between-participant variables, and questionnaire and type of judgment were within-participant variables. As the hypotheses were neither revealed to the experimenters nor to the participants, it was a double-blind experiment.

Procedure

Participants were assigned to one of three mind-set conditions: aggression, politeness, or awareness to legal punishment. Following the mind-set priming task, all participants were asked to fill in the questionnaires employed in Experiment 1 (questionnaire 1 and questionnaire 2).

Results

Correlations Between Ethical and Legal Judgments

To investigate the robustness of hypothesis H1 (consumers’ ethical and legal judgments are positively related), we calculated the correlations between participants’ ethical and legal judgments in each of the mind-set conditions. The results are presented in Table 2. In all mind-set conditions, the correlation between ethical and legal judgments was significant (questionnaire 1: $0.38 < r < 0.48$, $p < 0.001$; questionnaire 2: $0.52 < r < 0.55$, $p < 0.001$). These results suggest that hypothesis H1 is robust over different mind-sets.

Dependence of Ethical and Legal Judgments on Activity

To further our understanding of hypothesis H2a (actively benefitting on the expense of the seller is judged to be less ethical than passively benefitting on the expense of the seller) and H2b (actively benefitting on the expense of the seller is judged to be less legal than passively benefitting on the expense of the seller), for each of the conditions of Experiment 2, we carried out one-way ANOVAs on participants’ ethical and legal judgments using activity as a within-participant variable. As in the analysis of Experiment 1, we used only items referring to the categories ‘passively benefitting on the expense of the seller’, and ‘actively benefitting on the expense of the seller’ from questionnaire 1 (Muncy and Vitell 1992). The results are presented in Table 3. The effects of activity on ethical and legal judgments were significant in all conditions. Thus, the results supported hypotheses H2a and H2b over the examined mind-sets.

Dependence of Ethical and Legal Judgments on Mind-Sets

To test hypotheses H3a (mind-sets affect consumers’ ethical judgments) and 3ba (mind-sets affect consumers’ legal judgments), we carried out a two-way repeated measures ANOVAs on participants’ ethical and legal judgments, using as variables mind-set (aggression, politeness, or awareness to legal punishment), and questionnaire (questionnaire 1 or questionnaire 2). For the ANOVA on ethical judgments, sphericity assumption was violated for the variable ‘mind-set’. We report the results of Huynh-Feldt tests here and

Table 2 Correlations between participants’ ethical and legal judgments

Questionnaire	Condition		
	Aggression	Politeness	Awareness to legal punishment
1 (Consumer ethics)	0.47** ($N = 1775$)	0.48** ($N = 1825$)	0.38** ($N = 1750$)
2 (Internet ethics)	0.55** ($N = 1562$)	0.53** ($N = 1606$)	0.52** ($N = 1540$)

We denote by ** statistical significance at the 0.01 level

Table 3 Effects of activity on ethical and legal judgments

Judgment type	Condition		
	Aggression	Politeness	Awareness to legal punishment
Ethical judgments	$F(1, 637) = 15.59^{**}$	$F(1, 655) = 12.38^{**}$	$F(1, 628) = 24.20^{**}$
Legal judgments	$F(1, 637) = 9.11^{**}$	$F(1, 655) = 4.53^*$	$F(1, 628) = 44.81^{**}$

We denote by * statistical significance at the 0.05 level and by ** significance at the 0.01 level

whenever sphericity assumption is violated. Both variables had significant effects on participants' ethical judgments (mind-set: $F(1.99, 3065.31) = 45.61, p < 0.001$, partial $\eta^2 = 0.03$; questionnaire: $F(1, 1539) = 470.56, p < 0.01$, partial $\eta^2 = 0.23$). For the ANOVA on legal judgments, sphericity assumption was violated for the variable 'mind-set'. Both variables had significant effects on participants' legal judgments (mind-set: $F(1.98, 3045.28) = 4.89, p = 0.008$, partial $\eta^2 = 0.003$; questionnaire: $F(1, 1539) = 862.34, p < 0.01$, partial $\eta^2 = 0.36$). As mind-set had a significant effect on ethical and legal judgments, the results supported hypotheses H3a and H3a.

Effects of Specific Mind-Sets on Ethical and Legal Judgments

To further our understanding of the effects of mind-sets on ethical and legal judgments, we compared participants' judgments in each of the experimental conditions to their judgments in the other conditions. For questionnaire 1, ethical judgments in the aggression condition (mean = 2.76,

std = 1.43) were significantly greater than in the politeness condition (mean = 2.37, std = 1.35; $t(1774) = 8.98; p < 0.001$) and in the awareness to legal punishment condition (mean = 2.38, std = 1.36; $t(1749) = 8.92; p < 0.001$). No other significant differences between ethical judgments were found. Similarly, for questionnaire 2, ethical judgments in the aggression condition (mean = 1.91, std = 1.27) were significantly greater than in the politeness condition (mean = 1.76, std = 1.16; $t(1561) = 3.60; p < 0.001$) and in the awareness to legal punishment condition (mean = 1.83, std = 1.21; $t(1539) = 2.30; p = 0.022$). No other significant differences were found.

For questionnaire 1, legal judgments in the politeness condition (mean = 2.72, std = 1.48) were significantly lower than in the aggression condition (mean = 2.85, std = 1.52; $t(1774) = 3.10; p = 0.002$) and in the awareness to legal punishment condition (mean = 2.84, std = 1.53; $t(1749) = 2.72; p = 0.007$). No other significant differences between the experimental conditions were found for questionnaire 1 or 2. These results are presented in Figs. 1 and

Fig. 1 Mean ethicality judgments for questionnaires 1 (white bars) and 2 (gray bars) in each experimental condition. Dashed lines represent statistical significance at the 0.05 level

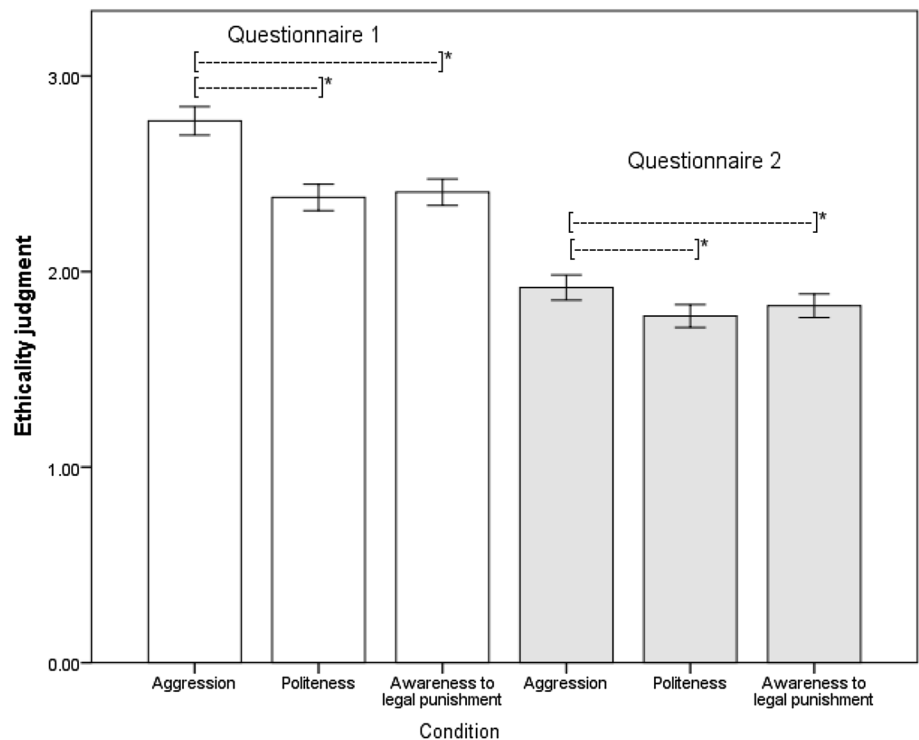
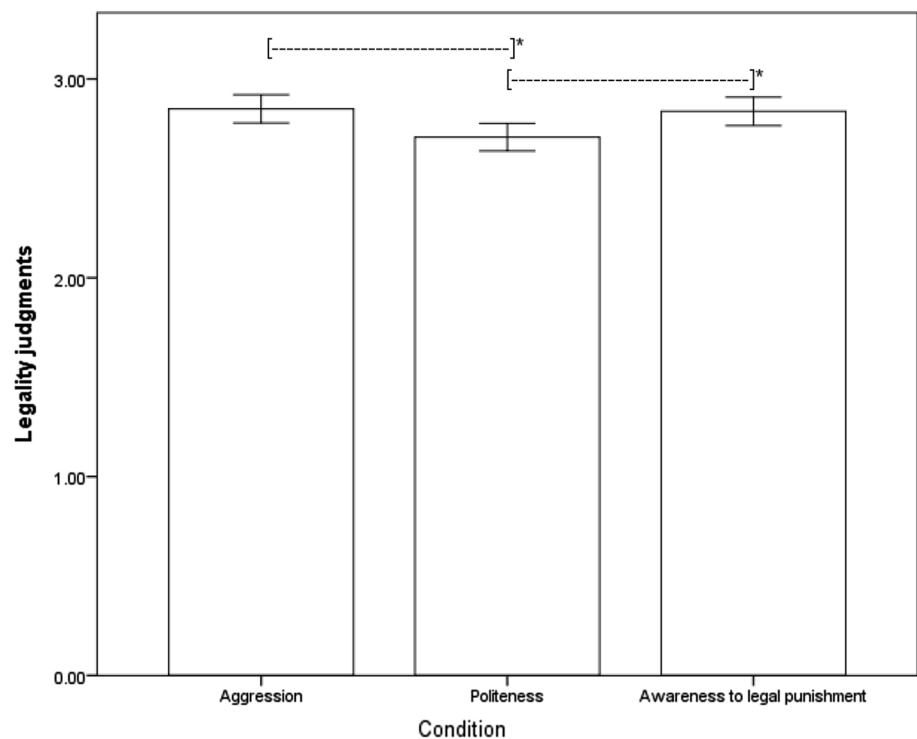


Fig. 2 Mean legality judgments for questionnaire 1 in each experimental condition. Dashed lines represent statistical significance at the 0.05 level



2. We conclude that aggression mind-set decreases consumers' sensitivity to ethicality and legality.

Prevalence of Conflicts Between Ethical and Legal Judgments

We extracted the percentages of conflicts of type I and type II for each participant in each condition. Descriptive statistics of the mean percentage of conflicts are presented in Table 4. Table 4 shows also the results of *t*-tests comparing the means of the percentages of the conflicts of each type,

which each participant experienced, to zero. The results reveal that in all conditions, conflicts between ethics and legal judgments occurred. The percentages of conflicting responses were significantly different from zero.

Dependence of Conflicts Between Ethical and Legal Judgments on Mind-Sets

To examine the effect of mind-sets on the occurrence of conflicts between ethical and legal judgments, for each questionnaire and each conflict type, we carried out an ANOVA

Table 4 Percentage of participants' responses, which involved conflicts between ethicality and legality judgments, and the results of *t*-tests, comparing them to zero

Conflict type	Questionnaire	Condition		
		Aggression	Politeness	Awareness to legal punishment
Type I	1	Mean = 10.14% Std = 8.57 <i>t</i> (70) = 9.97**	Mean = 10.57% Std = 9.69 <i>t</i> (72) = 9.32**	Mean = 13.89% Std = 10.19 <i>t</i> (69) = 11.41**
	2	Mean = 3.07% Std = 5.63 <i>t</i> (70) = 4.60**	Mean = 4.04% Std = 6.04 <i>t</i> (72) = 5.73**	Mean = 3.96% Std = 5.47 <i>t</i> (69) = 6.06**
	1	Mean = 8.33% Std = 11.25 <i>t</i> (70) = 6.32**	Mean = 3.84% Std = 6.48 <i>t</i> (72) = 5.06**	Mean = 5.49% Std = 7.14 <i>t</i> (69) = 6.42**
Type II	2	Mean = 5.57% Std = 7.01 <i>t</i> (70) = 6.70**	Mean = 3.92% Std = 6.02 <i>t</i> (72) = 5.56**	Mean = 4.68% Std = 6.23 <i>t</i> (69) = 6.27**

We denote by ** statistical significance at the 0.01 level

on percentage of participants' conflicting responses, using mind-set (aggression, politeness, or awareness to legal punishment) as a between-participant variable. For questionnaire 1, mind-set had a significant effect on the occurrence of conflicts of type I ($F(2, 138) = 3.53, p = 0.03$, partial $\eta^2 = 0.05$) and on the occurrence of conflicts of type II ($F(1.81, 124.63) = 5.46, p = 0.007$, partial $\eta^2 = 0.07$). (For questionnaire 2, no significant effect of mind-set on conflict occurrence was found). Thus, the results showed that conflicts between ethical and legal judgments depend on consumers' mind-sets.

Uncertainty in Participants' Responses

As in Experiment 1, to quantify participants' uncertainty, we extracted for each experimental condition the percentage of items for which participants chose the answer "Do not know" or "Do not have an opinion" (3 on Likert scale). We then carried out *t*-tests comparing these percentages to zero. The results are presented in Table 5. Answering questionnaire 1, participants chose the answer '3' for legal judgments in 21.07%–23.56% of the items, and for ethical judgments in 16.86%–19.61% of the items. These results were significantly different from zero.

Comparison Between the Results of Experiments 1 and 2

As consumers' mind-sets were not manipulated in Experiment 1, with respect to this variable, Experiment 1 can be considered a control group. Analysis, comparing the means of participants' ethical and legal judgments obtained in each condition of Experiment 2 to those obtained in Experiment 1, revealed that ethical judgments in the aggression condition (mean = 2.75, std = 1.43) was significantly greater than in Experiment 1 (mean = 2.34, std = 1.31; $t(1774) = 10.48; p < 0.01$). Although legal judgments showed a similar tendency (aggression condition: mean = 2.85, std = 1.52;

experiment 1: mean = 2.76, std = 1.49), the effect was insignificant ($p = 0.065$). No other significant differences were found.

Summary of the Results

In two experiments, we examined the strength of the association between consumers' ethical and legal judgments, the prevalence of conflicts between them, and their dependence on activity and mind-sets. Consistently with studies emphasizing the similarities between ethicality and legality (Kohlberg 1981; La Torre 2010; Vitell and Muncy 1992), we found significant, positive relations between ethical and legal judgments. This result was robust over all examined mind-sets. Thus, the study supported hypothesis H1.

In line with previous research (Vitell 2003; Vitell and Paolillo 2003), activity was found to affect ethical judgments. Activity had a significant effect on legal judgments, too, although this effect depended on participants' mind-set and was less consistent than the effect of activity on ethical judgments. Therefore, the results supported hypothesis H2a and H2b. Activity was found also to significantly affect the occurrence of conflicts between ethical and legal judgments.

Consumers' mind-sets affected their ethical judgments significantly: consistently with previous studies (Tsalikis 2015), participants, in whom aggression was induced, exhibited lower sensitivity to ethical issues than participants in all other conditions. Furthermore, mind-set significantly affected legal judgments. When politeness mind-set was induced in participants, their legal judgments were significantly lower than when they were induced with aggression or awareness to legal punishment. Therefore, in accord with mind-set research (Xu and Wyer 2007), our results supported hypotheses H3a and H3b and emphasized the susceptibility of legal judgments to human judgment biases. However, mind-set had a weaker influence on legal judgments than on ethical judgments. Finally, participants' mind-sets

Table 5 Percentage of participants' responses, which were three ("Do not have an opinion" or "Do not know"), for each questionnaire, and the results of *t*-tests, comparing them to zero

Measure	Questionnaire	Condition		
		Aggression	Politeness	Awareness to legal punishment
Percentage of legal judgments	1	21.07% $t(70) = 14.04^{**}$	23.56% $t(72) = 13.99^{**}$	21.54% $t(69) = 14.91^{**}$
	2	11.59% $t(70) = 9.40^{**}$	15.57% $t(72) = 10.46^{**}$	14.03% $t(69) = 9.63^{**}$
Percentage of ethical judgments	1	19.61% $t(70) = 12.67^{**}$	19.45% $t(72) = 10.81^{**}$	16.86% $t(69) = 14.16^{**}$
	2	14.79% $t(70) = 11.12^{**}$	12.45% $t(72) = 8.99^{**}$	13.38% $t(69) = 12.99^{**}$

**Denotes statistical significance at the 0.01 level

affected the occurrence of conflicts between ethical and legal judgments.

Our results reveal that conflicts between ethical and legal judgments are prevalent. In addition, consumers choose the answer “Do not know” or “Do not have an opinion” in a considerable proportion of the presented scenarios. Although, to a certain extent, this result may reflect participants’ response biases (Randall and Fernandes 1991), it shows that consumers are often indecisive in their ethical and legal judgments. The variance in consumers’ answers is considerable, revealing disagreements between individuals’ judgments.

Finally, our findings suggest that there is an asymmetry between the effect of positive and negative mind-sets on consumers’ judgments: the results do not provide evidence of an increase in sensitivity to ethical issues when politeness or awareness to legal punishment is induced (compared to the results of Experiment 1). However, when aggression is induced in consumers, their sensitivity to ethical issues decreases.

Conclusion

Discussion

Criminology theories have proposed that people’s legal and moral judgments have central roles in guiding their behavior (Antonaccio et al. 2017; Wikström 2006; Wikström et al. 2011). Nevertheless, neither consumers’ legal judgments, nor the similarities and discrepancies between their legal and ethical judgments has been studied. This study provides insights into the way consumers judge morally-questionable behaviors. It portrays individuals’ ethical and legal judgments as dynamically-changing and subjective. Furthermore, it depicts the law as a construct which is often inaccessible for consumers or in conflict with their ethical perceptions.

The dynamical nature of consumers’ ethical and legal judgments is reflected through their dependence on consumers’ mind-sets. People, in whom aggression mind-set is induced, consider morally-questionable behaviors to be more

ethical and legal than those in whom politeness mind-set is induced. As mind-sets dynamically change, ethical and legal judgments change, too.

The subjectivity of ethical and legal judgments is exhibited through the considerable variability of consumers’ responses. Different people understand the notions of legality and ethicality in different ways.

Finally, consumers are unable to provide legal and ethical judgments of many every-day consumers’ behaviors. When they can make judgments, there are often conflicts between their ethical and legal judgments. Therefore, the results highlight the differences between consumers’ perceptions of the law and their personal ethical principles.

Business Applications

This study suggests three methods for reducing consumers’ engagement in illegal and unethical practices. In line with stakeholder theory (Crane and Ruebottom 2011; Freeman et al. 2010), we analyze the effects of these methods on investors, consumers, employees, competitors, and governments. First, our study demonstrates that consumers are often unable to make legal and ethical judgments in a range of different industry settings, including retail, e-commerce, hospitality, online media, insurance and public service. Thus, in accord with previous research (Freestone and Mitchell 2004), it suggests that decreasing consumers’ engagement in illegal practices may be achieved by enhancing their ethical and legal knowledge. A special educational effort could address situations where ethical and legal judgments are unclear. Examples of morally-questionable behaviors affecting different industry sectors and suggested educational initiatives, aimed at inhibiting them, are presented in Table 6. Ethical and legal educational programs could be developed and administrated by governments and firms. They are likely to enhance consumers’ behavior and thus increase firms’ and investors’ returns. Furthermore, as it has been shown that consumers’ dysfunctional behavior affects both customer-contact employees and other consumers (Harris and Reynolds 2003), ethical and legal education

Table 6 Examples of consumers’ morally-questionable behaviors in different industry sectors (Muncy and Vitell 1992) and suggestions of educational methods, aimed at inhibiting these behaviors

Industry sector	Retail	Hospitality	Online media	Insurance	Public service
Example of consumers’ morally-questionable behavior in the sector	Observing someone shoplifting and ignoring it	Not saying anything when the waitress miscalculates the bill in your favor	Downloading movie files from the Internet for free	Reporting a lost item as “stolen” to an insurance company to collect the money	Stretching the truth on an income tax return
Suggested educational initiative, aimed at inhibiting consumers’ behavior	Sign-posting in store	Request to report errors on bills	Coordinated marketing campaign against content piracy	Coordinated marketing campaign against insurance fraud	Information about the risks of tax evasion on income tax return sheet

programs are likely to improve employees' well-being and consumers' shopping experience. In addition, ethics education could improve the moral efficacy, moral meaningfulness, and moral courage of consumers (May et al. 2014). Educational initiatives, implemented by specific firms, may provide them with advantages over their competitors.

Second, our study reveals that consumers frequently experience conflicts between their ethical and legal judgments. A proportion of consumers may choose to behave according to their ethical judgment rather than their legal judgment. Thus, this study suggests that adopting realistic business models, which take into account conflicts between consumers' ethical and legal judgments, may be more beneficial for firms than legal education programs. Realistic business models have already been implemented in the music industry. The music industry has incurred great losses due to consumers' illegal file sharing and downloading. However, it has been shown that online streaming firms have a positive effect on the revenues of the music industry (Wlömert and Papies 2016). The use of realistic business models, which acknowledge consumers' judgments, does not require any special governmental intervention. Firms adopting them can provide consumers with attractive services, which could make illegal behavior seem unnecessary. Thus, the use of realistic business models may increase firm and investors' revenues and improve employees' well-being. Adopting realistic business models may provide firms with advantages over their competitors.

Finally, our findings emphasize the impact of consumers' mind-sets on their judgments. Aggression mind-set, activated merely by a word unscrambling task, is sufficient to reduce participants' sensitivity to ethical issues significantly in comparison to politeness and awareness to legal punishment mind-sets. Specifically, our results suggest that reducing consumers' aggression levels may discourage consumers' morally-questionable behavior at service places more than emphasizing legal punishments. To a certain extent, that may be achieved in service places by changing their atmosphere. For instance, it has been established that certain types of music reduce customers' aggression (Niven 2015). Mind-set solutions do not require governmental involvement. They may improve the well-being of customer-contact employees, consumers' shopping experience (Harris and Reynolds 2003), and endow firms with advantages over their competitors.

Limitations and Directions for Further Research

This study supports our key hypotheses. However, it has a few limitations, suggesting avenues for future research. First, mind-sets have been induced in this study using priming procedures. Although it has been shown that prime effects and prime awareness are independent (Francken et al. 2011),

participants' awareness to the priming procedure might have interacted with their judgments. Therefore, we consider it worthwhile to continue exploring the way consumers make judgments using other research methods.

Second, as a first study on consumers' legal perceptions, it focused on the relationship between consumers' ethical and legal judgments. However, we consider it important to relate our results to consumers' behavior. Research has revealed that certain variables, including ethical care, the willingness to sacrifice, and ethical behavior planning, mediate between consumers' ethical perceptions and behavior (Carrington et al. 2014; Hassan et al. 2016; Shaw et al. 2016). The way consumers justify unethical behavior has been explained by moral disengagement theories (see, e.g., Egan et al. 2015). Of special interest could be a study examining the justification for possible discrepancies between consumers' legal judgments and behavior ("legal disengagement").

Third, studies have demonstrated that a proportion of consumers experience intense conflicts, which could lead to moral anxiety (Carrington et al. 2015). This study raises the question how consumers resolve conflicts between their ethical and legal judgments. Future research could examine this question.

Fourth, in line with previous studies (Ikegami 1993; Tsalikis 2015), our results highlight the asymmetric nature of the effect of mind-sets on judgments. Consumers, who are primed with aggression mind-set, exhibit a decrease in their sensitivity to ethical issues compared to that of consumers in whom no mind-set is induced. However, priming people with politeness or raising their awareness to legal punishment does not increase their sensitivity to ethics. This asymmetric effect may be the result of the way people process information. It has been demonstrated that people process bad information more thoroughly than they process good information (Baumeister et al. 2001). Future studies could explore the reasons for the asymmetry between the effects of positive and negative mind-sets on consumer ethical and legal judgments. We consider it especially beneficial to find ways to increase consumers' sensitivity to ethical and legal issues.

Finally, our study suggests three methods for dealing with consumers' morally-questionable behaviors: educational programs, adopting business models which take into account consumers' ethical and legal judgments, and developing service place atmosphere which reduces consumers' aggression. We hope that this study would lead to further research, examining the effectiveness of these methods and their effects on firm stakeholders.

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Compliance with Ethical Standards

Conflict of interest All the authors declared that they have no conflict of interest

Ethical Approval All procedures performed in studies involving human participants were in accordance with the ethical standards of the institutional research committee and the Code of Ethics and Conduct of the British Psychological Society.

Informed Consent Informed consent was obtained from all individual participants included in the study.

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Appendix A: Theoretical Contribution to Moral Psychology and Legal Philosophy

Major streams in moral psychology have explored different aspects of moral judgments: the ‘intuitive lawyer’ approach has examined the way people attribute moral responsibility, whereas the ‘person as moralist’ approach has investigated the effect of the characteristics of the decision makers on their moral judgments (Alicke et al. 2015). By exploring the interactions between activity (which is related to responsibility attribution) and mind-sets (which characterize the decision-maker), we link the ‘intuitive lawyer’ stream with the ‘person as moralist’ stream. Moreover, despite the ‘intuitive lawyer’ metaphor, moral psychology has not examined people’s legal judgments. Here, we conceptualize legal decision-making as judgment under uncertainty (Tversky and Kahneman 1974) and show that it is subject to human judgmental biases, including dependence on mind-sets.

Legal philosophers have debated what distinguishes law from social norms or habits. It has been suggested that to classify a rule as a law, one should adopt the perception of those who follow and accept it as a law: “For the

understanding of this [...] what is needed is a ‘hermeneutic’ method which involves portraying rule-governed behavior as it appears to its participants” (Hart 2012, p. 13). According to this perception, a rule is a part of the legal system if people acknowledge that it is indeed a law by using “normative terminology of ‘ought’, ‘must’, and ‘should’, ‘right’ and ‘wrong’” (Hart 1994, p. 57), similarly to the way they would accept the rules of chess. It has been argued that “the internal aspect of rules may be simply illustrated from the rules of any game. Chess players do not merely have similar habits of moving the Queen [...] they have a reflective critical attitude to this pattern of behaviour [...] These views are manifested in [...] the acknowledgement of the legitimacy of such criticism” (Hart 1994, pp. 56–57). A second theory has proposed that to analyze the legal system, one should assume the point of view of those who consider it legal and moral: “if there is a point of view in which legal obligation is treated as at least presumptively a moral obligation [...], then such a viewpoint will constitute the central case of the legal viewpoint” (Finnis 2011, pp. 14–15). However, this study shows that people’s judgment depends on their mind-sets and exhibits high variance. Therefore, to assume another’s point of view, one should determine whose point of view one assumes and in which mind-set this person is. That makes the suggested process difficult to define. Furthermore, we show that legal judgment is subjective, context-dependent, and many times inconclusive. Therefore, it is qualitatively different from the judgment of game rules. Finally, it is often in conflict with people’s ethical judgment. Therefore, our results do not support theories suggesting that law can be defined by people’s judgments. However, other philosophers have argued that the validity of law stems from the existence of a legal system which is in force in a certain country (Raz 2012, pp. 150–152). Our results suggest that this approach could be adopted to distinguish between laws and social norms.

Appendix B

Sentence completion task of the awareness to legal punishment condition.

Please circle four of the five words in order to make a complete sentence

1. was verdict severe given usually
2. arrest she under is always
3. to normally returned he court
4. jail rapidly they in were
5. fine the was they high
6. slowly sentence decided jail was
7. guilty she found sometimes was
8. the strict usually judge was

9. is normally the unhappy jury
10. prison faced sentences they often
11. always judge the appeals refused
12. long her trial was his
13. lawyer them his was upset
14. he not were charges dismissed

Endnote

The terms ‘ethics’ and ‘morality’ are often used as synonyms, although the term ‘ethics’ may express a specialized area of morality (see, e.g., Downie 2005).

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