



Playing BY THE Rules

ETHICS AT WORK

Undergraduate & Graduate Business School Season Two Guide

Episode 1: Engine Trouble
Episode 2: The Bank Job
Episode 3: Taking Advantage

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Business School Materials for Season Two

Ethical decision-making is a critical skill in the modern workplace, but one that can be difficult to understand, complex to navigate, and full of murky areas and dilemmas for people looking to do the right thing. *Playing By the Rules: Ethics at Work* is a public media series exploring real cases of fraud, whistleblowing, and corporate scandal.

This suite of resources is intended for use in undergraduate and graduate business school classrooms to support the study of the second season of the series. Each episode can be used to initiate in-class discussion, debate, and written assignments. These real-life stories provoke the question, “What would you do?” and subsequently provide the basis for rich student reflection and discussion.

Included in the materials for each episode:

Instructor Materials: Suggested class outline to help guide the instructor in structuring a class around discussion and debate. Students should watch each full 30-minute episode of *Playing By the Rules* prior to class in order to participate in the reflections, in-class discussion, and writing assignments.

Extension Activities: The instructor materials include suggested activities, assignments, and supplemental readings for students.

Because the three episodes primarily revolve around ethical decision-making, these materials can be applied to a variety of undergraduate and graduate level business school classes, including but not limited to: Management, Leadership, Professional Responsibility, Business Ethics, Corporate Social Responsibility, Business Communications, and Philosophy.

About the Series

Playing By the Rules: Ethics at Work looks at how ethics play a major role in contemporary business practices, and it challenges viewers to think about what they would do in similar situations.

From debating whether or not to act on a piece of insider information, choosing between the well-being of employees or an obligation to shareholders, or disclosing information about products with potentially harmful effects to consumers—understanding ethical decision-making is a critical skill in the modern workplace. Good people usually do the right thing. But as social psychology experiments have shown, even the most moral character can be influenced under certain circumstances. In every business ethics case, there are “gray areas” where decision-making can be challenging and complex.

The three episodes of the series are:

Season 2, Episode 1: “Engine Trouble”

In the early 2000s, the German automaker Volkswagen set an ambitious goal – to become the world’s largest car company. Key to its plan? Dramatically boost sales in the United States by developing a new, clean-burning diesel engine for cars sold in America. Instead, that effort would result in the biggest scandal in the history of the auto industry. *Playing By the Rules* goes inside the VW emissions scandal to reveal how the hubris of senior executives, unclear ethical guidelines, and the practice of punishing failure created an environment in which cheating thrived – and led to an elaborate cover-up once regulators started asking questions.

Season 2, Episode 2: “The Bank Job”

Wells Fargo liked to think of itself as America’s main street banker. Nearly all are familiar with its iconic red wagon and the catchy song which celebrates it. But behind that friendly image was a secret. In an effort to boost its bottom line and its reputation on Wall Street, Wells preyed on millions of ordinary customers – fraudulently opening accounts in their names, selling them unnecessary car insurance, and modifying their mortgages on the sly – actions which recently led to a fine of one billion dollars. *Playing By the Rules* talks with several former Wells’ employees about the corporate culture which led to the scandal – and whose complaints to management about what was going on fell on deaf ears.

Season 2, Episode 3: “Taking Advantage”

Medicare Advantage, a program in which private insurance companies provide healthcare to seniors, is an alternative to traditional Medicare. Originally conceived as a way to rein in healthcare costs, the government now pays Medicare Advantage companies nearly \$200 billion a year to cover some 19 million seniors. Yet, according to the federal government, nearly 10% of the payments to those private insurance companies are “improper.” It's suspected many of those improper payments are the result of fraud. Several whistleblower lawsuits have alleged that some Medicare Advantage insurance companies have systematically bilked the government of billions, all part of their business model. *Playing By the Rules* investigates the business practices which are said to be behind the alleged fraud.

Background Reading: Ethical Decision Making Models

This section contains an excerpt from a Brown University article covering the three key ethical frameworks. This article and the three frameworks can be used as the basis for examining all cases presented in the three episodes.

An ethical framework can be useful when analyzing cases, as a guide for exploring various ways to approach a problem. The three frameworks presented here — ethical, duty, and virtue — are commonly used in decision-making or critical analysis.

Here are some sample questions to reflect on when considering these frameworks:

- Which of the three frameworks most align with your style of decision-making?
- Think back to an ethical dilemma you encountered in school or in your professional career. How would you apply each of the three frameworks to the problem you faced?

Excerpted from [“A Framework for Making Ethical Decisions”](#) (Brown University, 2013):

Making good ethical decisions requires a trained sensitivity to ethical issues and a practiced method for exploring the ethical aspects of a decision and weighing the considerations that should impact our choice of a course of action. Having a method for ethical decision making is essential. When practiced regularly, the method becomes so familiar that we work through it automatically without consulting the specific steps. This is one reason why we can sometimes say that we have a “moral intuition” about a certain situation, even when we have not consciously thought through the issue. We are practiced at making ethical judgments, just as we can be practiced at playing the piano, and can sit and play well “without thinking.” Nevertheless, it is not always advisable to follow our immediate intuitions, especially in particularly complicated or unfamiliar situations. Here our method for ethical decision making should enable us to recognize these new and unfamiliar situations and to act accordingly.

Three Frameworks

Based upon the three-part division of traditional normative ethical theories discussed above, it makes sense to suggest three broad frameworks to guide ethical decision making: The Consequentialist Framework; The Duty Framework; and the Virtue Framework.

While each of the three frameworks is useful for making ethical decisions, none is perfect—otherwise the perfect theory would have driven the other imperfect theories from the field long ago. Knowing the advantages and disadvantages of the frameworks will be helpful in deciding which is most useful in approaching the particular situation with which we are presented.

1. The Consequentialist Framework

In the Consequentialist framework, we focus on the future effects of the possible courses of action, considering the people who will be directly or indirectly affected. We ask about what outcomes are desirable in a given situation, and consider ethical conduct to be whatever will achieve the best consequences. The person using the Consequences framework desires to produce the most good.

Among the advantages of this ethical framework is that focusing on the results of an action is a pragmatic approach. It helps in situations involving many people, some of whom may benefit from the action, while others may not. On the other hand, it is not always possible to predict the consequences of an action, so some actions that are expected to produce good consequences might actually end up harming people. Additionally, people sometimes react negatively to the use of compromise which is an inherent part of this approach, and they recoil from the implication that the end justifies the means. It also does not include a pronouncement that certain things are always wrong, as even the most heinous actions may result in a good outcome for some people, and this framework allows for these actions to then be ethical.

2. The Duty Framework

In the Duty framework, we focus on the duties and obligations that we have in a given situation, and consider what ethical obligations we have and what things we should never do. Ethical conduct is defined by doing one's duties and doing the right thing, and the goal is performing the correct action.

This framework has the advantage of creating a system of rules that has consistent expectations of all people; if an action is ethically correct or a duty is required, it would apply to every person in a given situation. This even-handedness encourages treating everyone with equal dignity and respect.

This framework also focuses on following moral rules or duty regardless of outcome, so it allows for the possibility that one might have acted ethically, even if there is a bad result. Therefore, this framework works best in situations where there is a sense of obligation or in those in which we need to consider why duty or obligation mandates or forbids certain courses of action.

However, this framework also has its limitations. First, it can appear cold and impersonal, in that it might require actions which are known to produce harms, even though they are strictly in keeping with a particular moral rule. It also does not provide a way to determine which duty we should follow if we are presented with a situation in which two or more duties conflict. It can also be rigid in applying the notion of duty to everyone regardless of personal situation.

3. The Virtue Framework

In the Virtue framework, we try to identify the character traits (either positive or negative) that might motivate us in a given situation. We are concerned with what kind of person we should be and what our actions indicate about our character. We define ethical behavior as whatever a virtuous person would do in the situation, and we seek to develop similar virtues.

Obviously, this framework is useful in situations that ask what sort of person one should be. As a way of making sense of the world, it allows for a wide range of behaviors to be called ethical, as there might be many different types of good character and many paths to developing it. Consequently, it takes into account all parts of human experience and their role in ethical deliberation, as it believes that all of one's experiences, emotions, and thoughts can influence the development of one's character.

Although this framework takes into account a variety of human experience, it also makes it more difficult to resolve disputes, as there can often be more disagreement about virtuous traits than ethical actions. Also, because the framework looks at character, it is not particularly good at helping someone to decide what actions to take in a given situation or determine the rules that would guide one's actions. Also, because it emphasizes the importance of role models and education to ethical behavior, it can sometimes merely reinforce current cultural norms as the standard of ethical behavior.

Putting the Frameworks Together

By framing the situation or choice you are facing in one of the ways presented above, specific features will be brought into focus more clearly. However, it should be noted that each framework has its limits: by focusing our attention on one set of features, other important features may be obscured. Hence it is important to be familiar with all three frameworks and to understand how they relate to each other—where they may overlap, and where they may differ.

The chart below is designed to highlight the main contrasts between the three frameworks:

	Consequentialist	Duty	Virtue
Deliberative Process	What kind of outcomes should I produce (or try to produce)?	What are my obligations in this situation, and what are the things I should never do?	What kind of person should I be (or try to be), and what will my actions show about my character?
Focus	Directs attention to the future effects of an action, for all people who will be directly or indirectly affected by the action.	Directs attention to the duties that exist prior to the situation and determines obligations.	Attempts to discern character traits (virtues and vices) that are, or could be, motivating the people involved in the situation.
Definition of Ethical Conduct	Ethical conduct is the action that will achieve the best consequences.	Ethical conduct involves always doing the right thing: never failing to do one's duty.	Ethical conduct is whatever a fully virtuous person would do in the circumstances.
Motivation	Aim is to produce the most good.	Aim is to perform the right action.	Aim is to develop one's character.

Because the answers to the three main types of ethical questions asked by each framework are not mutually exclusive, each framework can be used to make at least some progress in answering the questions posed by the other two. In many situations, all three frameworks will result in the same—or at least very similar—conclusions about what you should do, although they will typically give different reasons for reaching those conclusions.

However, because they focus on different ethical features, the conclusions reached through one framework will occasionally differ from the conclusions reached through one (or both) of the others.

Season 2, Episode 1: Engine Trouble

Instructor Overview

Case Overview

In the early 2000s, the German automaker Volkswagen set an ambitious goal – to become the world’s largest car company. Key to its plan? Dramatically boost sales in the United States by developing a new, clean-burning diesel engine for cars sold in America. Instead, that effort would result in the biggest scandal in the history of the auto industry. *Playing By the Rules* goes inside the VW emissions scandal to reveal how the hubris of senior executives, unclear ethical guidelines, and the practice of punishing failure created an environment in which cheating thrived – and led to an elaborate cover-up once regulators started asking questions.

Media Utilization Tips

Ideally, instructors will assign the [full episode](#) (26 minutes) to students to watch in advance of the class, so that they may fully participate in the in-class discussion.

Link to view:

<https://www.wliw.org/programs/playing-rules-ethics-work/>

Key Moments: Instructors may choose to highlight key moments within the episode when key players were faced with a critical decision for students to pause and reflect on the episode. Below are the timestamps of three key decision-making moments:

9:44 - What decision did Volkswagen knowingly make?

14:07 - What warning was made in 2014 as a result of the West Virginia team’s findings?

15:41 - What key choice did Volkswagen make? What alternative choices were available to them at this time?

Reflection Questions: Instructors may also choose to provide students with reflection questions as they watch the episode. Examples of reflection questions include:

- Describe the parties involved and their interests.
- Describe how Volkswagen misled its stakeholders and the public.
- What did Volkswagen stand to gain or lose from this decision?
- Describe the key moments when Volkswagen could have made a different choice.

Key Takeaways

Here are some of the key themes in this episode:

- Like *Playing By the Rules* Season One, we once again observe here a corporate culture that contributed to the situation and decision-making. Unrealistic expectations led to demands on managers that eventually put pressure on Volkswagen and its employees.
- There were several key moments when Volkswagen was presented with opportunities to make different choices. However, in each instance, they repeatedly made decisions that led the company down a fraudulent path.
- Understanding the role that government regulations play in business, how does it benefit companies to comply with these regulations? What happens when they do not?

Supplemental Case Readings

The following articles provide additional information about the Volkswagen case. Instructors may use this as background reading to prepare to lead the class. Additionally, instructors may choose to assign one or more of the articles as supplemental reading.

- [Volkswagen: The Scandal Explained](#)
(BBC, December 10, 2015)
- [How Volkswagen's 'Defeat Devices' Worked](#)
(New York Times, March 16, 2017)
- [How VW Paid \\$25 Billion for 'Dieselgate' — and Got Off Easy](#)
(Fortune, February 6, 2018)

Season 2, Episode 1: Engine Trouble

Instructor Resources

Below is a suggested structure for class discussion and activities based on this episode. This structure assumes the instructor has assigned students to watch the episode prior to class.

Class Outline:

I. Overview (10 minutes)

- Outline the case and key issues at play.

II. Discussion (30 minutes)

- Open up the floor for class discussion.
- *Discussion questions:*
 - Describe the key dilemma in the Volkswagen emissions case.
 - Describe the corporate culture at Volkswagen.
 - In which specific moments did Volkswagen pass up the opportunity to make a better, more ethical decision?
- *Suggested themes to highlight:*
 - The role corporate culture can play in ethical dilemmas.
 - Identifying key moments when Volkswagen had the opportunity to make an ethical decision versus a fraudulent one, and the subsequent impact of those decisions.

III. Activity: Debate (50 minutes)

- See "Extension Activities" on the following page for an activity outline.

IV. Conclude (15 minutes)

Season 2, Episode 1: Engine Trouble

Extension Activities

I. Case Summary

Assignment: Prior to class, assign students to write a three-sentence summary of the case presented in the episode. The summary should include an overview of the key issue presented in the case, along with the case outcome.

II. In-Class Debate

Companies who try to skirt or avoid environmental regulations may find themselves entangled in fraud, like Volkswagen in the emissions case. In the case of Exxon Mobil, the company's wrongdoing has been under recent debate.

Exxon Mobil and Climate Change: Exxon has been accused of purposely misleading the public regarding climate change by acknowledging the issue internally but modifying its advertising language externally. On August 3, 2018 the SEC announced it would drop its investigation into Exxon, however, activists claim the company's activity was problematic.

1. Split the class into three groups: two groups will argue for and against Exxon, and the third group will serve as judges. The instructor should print and distribute the applicable article to each group. The judges should read both articles.

Pro: *Exxon is guilty of misleading the public regarding what it knew about climate change.*

[Exxon Misled the Public on Climate Change, Study Says](#) (New York Times, August 23, 2017)

Con: *Exxon is being unfairly targeted by environments activists and donors.*

[Exxon Says There's a Conspiracy Against the Company Among Environmental Activists, and it's Probably Right](#) (Dallas Morning News, August 3, 2018)

2. Distribute the applicable reading assignment to each group and give students time to read independently and discuss as a group (20 minutes). During this time, the judges should read both articles and discuss the key issues at play.

3. Each group should clearly articulate their stance and make an argument as to why they are correct (5 minutes per group).

4. After each group states their case, the judges should pose questions to each group (5 minutes per group).

5. Judges will then leave the room and deliberate, and return with a final verdict and explanation of their reasoning (10 minutes).

III. Editorial

Assignment: Write a 250-word editorial either siding with or critiquing the actions of Volkswagen’s management in the emissions scandal.

Note: Instructors may choose to ask students to use the ethical frameworks included on pages 4-7 of the *Playing By the Rules* Season Two Guide, or other frameworks appropriate to their class in their analysis.

Key considerations:

- *Explain what you would have done if you were in a senior management role at Volkswagen.*
- *Describe the factors contributing to your decision.*
- *How would you weigh the consequences of your decision?*
- *What effect would your decision have on key stakeholders (Volkswagen shareholders, employees, research teams, the public, consumers)?*
- *Describe one or two ethical frameworks you would use to weigh your decision.*

Alternate Assignment: Write a 250-word editorial describing a similar ethical dilemma you have personally witnessed or experienced. Please do not reveal details about identities, company, etc. Apply the frameworks discussed in class and the major trade-offs faced by the main decision maker in the dilemma.

IV. Related Readings

Instructors may choose to assign additional readings for context on the key issues of this episode, either in advance of class or post-class:

- [The Role of Government in Business](#)
(San Francisco Chronicle, March 26, 2018).
- [Regulatory Environment Has More Impact on Business Than the Economy, Say U.S. CEOs](#)
(Forbes, August 12, 2014).

Season 2, Episode 2: The Bank Job Instructor Overview

Case Overview

Wells Fargo liked to think of itself as America's main street banker. Nearly all are familiar with its iconic red wagon and the catchy song which celebrates it. But behind that friendly image was a secret. In an effort to boost its bottom line and its reputation on Wall Street, Wells preyed on millions of ordinary customers – fraudulently opening accounts in their names, selling them unnecessary car insurance, and modifying their mortgages on the sly – actions which recently led to a fine of one billion dollars. *Playing By the Rules* talks with several former Wells' employees about the corporate culture which led to the scandal – and whose complaints to management about what was going on fell on deaf ears.

Media Utilization Tips

Ideally, instructors will assign the [full episode](#) (26 minutes) to students to watch in advance of the class, so that they may fully participate in the in-class discussion.

Link to view:

<https://www.wliw.org/programs/playing-rules-ethics-work/>

Key Moments: Instructors may choose to highlight key moments within the episode when key players were faced with a critical decision for students to pause and reflect on the episode. Below are the timestamps of three key decision-making moments:

- 4:40** – What is cross-selling, and how did it impact Wells Fargo's bottom line?
- 10:30** – What strategy did managers tell employees to take in order to meet their goals?
- 17:30** – How did Wells Fargo attempt to downplay the fake accounts?

Reflection Questions: Instructors may also choose to provide students with reflection questions as they watch the episode. Examples of reflection questions include:

- *Describe the parties involved and their interests.*
- *Describe the sales goals that Wells Fargo employees were required to meet. How did this contribute to corporate culture?*
- *Explain the toll that cross-selling demands took on employees like “Casey.”*
- *How could Wells Fargo have set up employee goals to avoid such extreme pressure?*

Key Takeaways

Here are some of the key themes in this episode:

- Employee fraud can often be a direct result of corporate culture. Extreme sales goals and cross-selling demands place pressure on employees to reach seemingly unattainable goals, leading to poor decision making by both employees and their managers.
- In toxic corporate cultures, lower-level employees and mid-level managers end up shouldering the weight of top-tier management’s unrealistic goals and struggle while executives are rewarded.

Supplemental Case Readings

The following articles provide additional information about the Wells Fargo case. Instructors may use this as background reading to prepare to lead the class. Additionally, instructors may choose to assign one or more of the articles as supplemental reading.

- [Wells Fargo's 20-Month Nightmare](#)
(CNN Money, April 24, 2018)
- [How Regulation Failed with Wells Fargo](#)
(The New Yorker, September 12, 2016)
- [The Leadership Blind Spots at Wells Fargo](#)
(Harvard Business Review, October 6, 2016)

Season 2, Episode 2: The Bank Job

Instructor Resources

Below is a suggested structure for class discussion and activities based on this episode. This structure assumes the instructor has assigned students to watch the episode prior to class.

Class Outline:

I. Overview (10 minutes)

- Outline the case and key issues at play.

II. Discussion (30 minutes)

- Open up the floor for class discussion.
- *Discussion questions:*
 - Describe the key dilemma in the Wells Fargo case.
 - Describe the corporate culture at Wells Fargo and how cross-selling put pressure on its employees and managers.
 - How could Wells Fargo have modified their sales goals to relieve some of the extreme pressure on its employees?
- *Suggested themes to highlight:*
 - The role corporate culture can play in ethical dilemmas.
 - Identifying the steps Wells Fargo and its new CEO, Tim Sloan, took after the crisis to shift corporate culture.

III. Activity: Debate (50 minutes)

- See "Extension Activities" on the following page for an activity outline.

IV. Conclude (15 minutes)

Season 2, Episode 2: The Bank Job Extension Activities

I. Case Summary

Assignment: Prior to class, assign students to write a three-sentence summary of the case presented in the episode. The summary should include an overview of the key issue presented in the case, along with the case outcome.

II. In-Class Debate

Corporate culture can have a serious impact on whether employees choose to commit fraud. In the case of TD Bank, the company's wrongdoing has been under recent debate.

TD Bank: In early 2017, the CBC broke a story that TD Bank employees across Canada had broken the law and committed fraud directly as a result of a toxic corporate culture. Some employees reported having to take a medical leave as a result of their anxiety over the pressure to upsell customers. TD Bank responded defending the company's actions and goals.

1. Split the class into three groups: two groups will argue for and against TD Bank, and the third group will serve as judges. The instructor should print and distribute the applicable article to each group. The judges should read both articles.

Pro: *TD Bank did nothing wrong. Company performance goals are realistic and normal for its employees.* [TD Comments on CBC Go Public Story](#) (TD Bank Official Statement, March 10, 2017)

Con: *TD Bank employees broke the law because of undue stress and unrealistic management goals.* [TD Bank Employees Admit to Breaking the Law for Fear of Being Fired](#) (CBC News, March 10, 2017)

2. Distribute the applicable reading assignment to each group and give students time to read independently and discuss as a group (20 minutes). During this time, the judges should read both articles and discuss the key issues at play.

3. Each group should clearly articulate their stance and make an argument as to why they are correct (5 minutes per group).

4. After each group states their case, the judges should pose questions to each group (5 minutes per group).

5. Judges will then leave the room and deliberate, and return with a final verdict and explanation of their reasoning (10 minutes).

III. Editorial

Assignment: Write a 250-word editorial either siding with or critiquing the corporate goals of Wells Fargo and the actions of its senior management team.

Note: Instructors may choose to ask students to use the ethical frameworks included on pages 4-7 of the *Playing By the Rules* Season Two Guide, or other frameworks appropriate to their class in their analysis.

Key considerations:

- *Explain what you would have done if you were an employee or manager at Wells Fargo.*
- *Describe the factors contributing to your decision.*
- *How would you weigh the consequences of your decision?*
- *What effect would your decision have on key stakeholders (shareholders, employees, research teams, the public, consumers)?*
- *Describe one or two ethical frameworks you would use to weigh your decision.*

Alternate Assignment: Write a 250-word editorial describing a similar ethical dilemma you have personally witnessed or experienced. Please do not reveal details about identities, company, etc. Apply the frameworks discussed in class and the major trade-offs faced by the main decision maker in the dilemma.

IV. Related Readings

Instructors may choose to assign additional readings for context on the key issues of this episode, either in advance of class or post-class:

- [How Does Corporate Culture Fuel Fraud? Start With Volkswagen And Wells Fargo](#) (Forbes, September 16, 2016)
- [How Wells Fargo's Cutthroat Corporate Culture Allegedly Drove Bankers to Fraud](#) (Vanity Fair, Summer 2017).

Season 2, Episode 3: Taking Advantage

Instructor Resources

Case Overview

Medicare Advantage, a program in which private insurance companies provide healthcare to seniors, is an alternative to traditional Medicare. Originally conceived as a way to rein in healthcare costs, the government now pays Medicare Advantage companies nearly \$200 billion a year to cover some 19 million seniors. Yet, according to the federal government, nearly 10% of the payments to those private insurance companies are “improper.” It's suspected many of those improper payments are the result of fraud. Several whistleblower lawsuits have alleged that some Medicare Advantage insurance companies have systematically bilked the government of billions, all part of their business model. *Playing by the Rules* investigates the business practices which are said to be behind the alleged fraud.

Media Utilization Tips

Ideally, instructors will assign the [full episode](#) (26 minutes) to students to watch in advance of the class, so that they may fully participate in the in-class discussion.

Link to view:

<https://www.wliw.org/programs/playing-rules-ethics-work/>

Key Moments: Instructors may choose to highlight key moments within the episode when key players were faced with a critical decision for students to pause and reflect on the episode. Below are the timestamps of three key decision-making moments:

4:20 – Explain why Freedom Health and other insurance companies would be incentivized to overstate the sickness of their patients.

12:25 – What decision did David Sewell have to make? What factors did he consider in making this decision?

15:17 – According to the whistleblower lawsuit, how did corporate culture encourage UnitedHealth employees to allegedly commit fraud?

Reflection Questions: Instructors may also choose to provide students with reflection questions as they watch the episode. Examples of reflection questions include:

- Describe the parties involved and their interests.
- Describe the corporate cultures at Freedom Health and UnitedHealth which contributed to encouraging alleged fraud.
- In what two ways was Freedom Health alleged to have defrauded the government?
- How is it alleged UnitedHealth's business model depended on fraudulent reporting?
- What factors, including risks and rewards, do whistleblowers face in coming forward to report fraud?

Key Takeaways

Here are some of the key themes in this episode:

- Corporate culture plays a large role in whether or not employees commit fraud. In the cases of Freedom Health and UnitedHealth, evidence suggests both companies' business models were structured in a manner that encouraged employees to bend or break the rules.
- In both cases, whistleblowers brought the fraud cases to light. Being a whistleblower is a difficult decision that employees face as they weigh the positive or negative outcomes of stepping forward to report claims of fraud.

Supplemental Case Readings

The following articles provide additional information about the Medicare Advantage fraud cases. Instructors may use this as background reading to prepare to lead the class.

Additionally, instructors may choose to assign one or more of the articles as supplemental reading.

- [Medicare Advantage Fraud, Risk Adjustment Fraud and Whistleblowers](#)
(Phillips and Cohen legal firm, 2018)
- [Florida Medicare Advantage insurer settles whistle-blower lawsuit for \\$32 million](#)
(The Miami Herald, June 1, 2017)
- [UnitedHealth Overbilled Medicare by Billions, U.S. Says in Suit](#)
(New York Times, May 19, 2017).

Season 2, Episode 3: Taking Advantage

Instructor Resources

Below is a suggested structure for class discussion and activities based on this episode. This structure assumes the instructor has assigned students to watch the episode prior to class.

Class Outline:

I. Overview (10 minutes)

- Outline the case and key issues at play.

II. Discussion (30 minutes)

- Open up the floor for class discussion.
- *Discussion questions:*
 - Describe the key dilemmas in the Medicare Advantage fraud cases.
 - Describe the corporate cultures at Freedom Health and UnitedHealth which contributed to encouraging alleged fraud.
 - In what two ways was Freedom Health alleged to have defrauded the government?
 - How is it alleged UnitedHealth's business model depended on fraudulent reporting?
 - What factors, including risks and rewards, do whistleblowers face in coming forward to report fraud?
- *Suggested themes to highlight:*
 - The role corporate culture can play in ethical dilemmas.
 - The risks and rewards associated with coming forward as a whistleblower.

III. Activity: Debate (50 minutes)

- See extension activities on the following page for an activity outline.

IV. Conclude (15 minutes)

Season 2, Episode 3: Taking Advantage Extension Activities

I. Case Summary

Assignment: Prior to class, assign students to write a three-sentence summary of the case presented in the episode. The summary should include an overview of the key issue presented in the case, along with the case outcome.

II. In-Class Debate

Healthcare providers can take advantage of Medicare loopholes to benefit their bottom lines. Tenet Healthcare, which operates hospitals, was accused of multiple cases of fraud across two decades.

Darling International: Tenet Healthcare: In August 2016, Tenet Healthcare was accused of operating a kickback scheme. However, this was not the first time the company had been accused of fraud. In fact, in the early 2000s, the company was accused of overbilling and providing unnecessary procedures. After these accusations, the company restructured its management and brought in over 100 compliance officers. With all this effort, is it really possible they would once again commit fraud?

1. Split the class into three groups: two groups will argue for and against Tenet Healthcare, and the third group will serve as judges. The instructor should print and distribute the applicable article to each group. The judges should read both articles.

Pro: *The most recent allegations of fraud against Tenet are false.*

[Why Can't Tenet Healthcare, a Repeat Offender, Stop the Fraud Scandals?](#)

(Dallas Morning News, August 2016)

Con: *Despite its past compliance efforts, Tenet Healthcare knowingly committed fraud.*

[U.S. Brings New Charges Over Tenet Healthcare Fraud Scheme](#)

(Reuters, September 27, 2017)

2. Distribute the applicable reading assignment to each group and give students time to read independently and discuss as a group (20 minutes). During this time, the judges should read both articles and discuss the key issues at play.

3. Each group should clearly articulate their stance and make an argument as to why they are correct (5 minutes per group).

4. After each group states their case, the judges should pose questions to each group (5 minutes per group).

5. Judges will then leave the room and deliberate, and return with a final verdict and explanation of their reasoning (10 minutes).

III. Editorial

Assignment: Write a 250-word editorial either siding with or critiquing the corporate cultures of Freedom Health and UnitedHealth and the actions of its corporate leadership.

Note: Instructors may choose to ask students to use the ethical frameworks included on pages 4-7 of the *Playing By the Rules* Season Two Guide, or other frameworks appropriate to their class in their analysis.

Key considerations:

- *Explain what you would have done if you were a physician, employee or manager at one of the two companies.*
 - *Describe the factors contributing to your decision.*
 - *How would you weigh the consequences of your decision?*
 - *What effect would your decision have on key stakeholders (shareholders, employees, research teams, the public, consumers)?*
 - *Describe one or two ethical frameworks you would use to weigh your decision.*
- Alternate Assignment: Write a 250-word editorial describing a similar ethical dilemma you have personally witnessed or experienced. Please do not reveal details about identities, company, etc. Apply the frameworks discussed in class and the major trade-offs faced by the main decision maker in the dilemma.

IV. Related Readings

Instructors may choose to assign additional readings for context on the key issues of this episode, either in advance of class or post-class:

- [Medicare Scammers Steal \\$60 Billion a Year. This Man Is Hunting Them](#)
(Wired Magazine, March 7, 2016)
- [What Motivates a Whistleblower?](#)
(Katz, Marshall & Banks, LLP, November 1, 2016).