

CAN THE MFA BE RESCUED FROM THE OVERDEMANDINGNESS OBJECTION?

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AN INVITED RESPONSE TO Espen Dyrnes Stabell (2024), “An Excusability Principle For Firms Under the Market Failures Approach,” *Bus Ethics J Rev* 11(4): 22–27,
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ABSTRACT

In Endörfer and Larue (2024), we argue that Heath’s Market Failures Approach makes excessive epistemic demands on market participants in imperfectly competitive markets. Stabell attempts to salvage the MFA by supplementing it with an excusability principle. He claims that managers may be excused when they cannot uphold their duty, either because of epistemic uncertainty or because of problems posed by the Theorem of Second Best. Here, we respond that Stabell’s excusability principle cannot save the MFA from the overdemandingness objection: when the MFA is overdemanding, agents cannot have an obligation to act upon its recommendations. However, if there is no obligation, there is no need for an excuse.

THE MARKET FAILURES Approach (MFA) to business ethics, as developed and defended by Joseph Heath (2014), is concerned with the professional moral duties of managers in a market economy. According to Heath, the ultimate function of the market is to achieve Pareto-efficient allocations of goods and services. An allocation is Pareto-efficient when no one can be made better off without making

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anyone else worse off. Under conditions of perfect competition, competitive market equilibria will be Pareto-efficient. However, in the real world, there are no perfectly competitive markets. Market failures, such as positive and negative externalities, information asymmetries, monopolies, or public goods are omnipresent and prevent the market from reaching Pareto efficiency.

Consequently, Heath argues that in these circumstances, managers have a moral duty to refrain from taking advantage of (or creating) market failures. Instead, they ought to follow heuristic imperatives, such as “do not seek tariffs or other protectionist measures” or “minimize negative externalities,” in order not to disrupt the market’s capacity to generate Pareto-efficient allocations (Heath 2014: 37).

In our article “What’s the point of efficiency? On Heath’s Market Failures Approach” (Endörfer and Larue 2024), we argue among other things that the MFA makes excessive epistemic demands on market participants when markets are not perfectly competitive. More precisely, our claim is that some of the MFA heuristics (such as “minimize negative externalities”) demand the impossible from market participants: They must exchange at market-clearing prices in order not to exacerbate market failures. Unfortunately, market-clearing prices can only be revealed in a perfectly competitive market which, by definition, does not suffer from market failures. Since they do not have access to information which could only be produced in such an ideal, perfectly competitive market, it is overdemanding to require market participants to avoid contributing to market failures (Endörfer and Larue 2024: 10).

In his insightful reply, Espen D. Stabell (2025) defends the MFA against our overdemandingness argument. He does so by supplementing the MFA with an excusability principle. Stabell (2025: 25) states:

If firms fail to minimize market failure or promote efficiency while acting according to the efficiency imperatives – either because of epistemic uncertainty or the more structural problem posed by the second best theorem – they should be excused for this failure.

The upshot of Stabell’s argument is that even if managers (or firms) are excused for actually exacerbating market failures because of their unawareness of market-clearing prices, they are not “relieved of the

duty to promote Pareto efficiency or of minimizing market failure” (Stabell 2024: 26), even if they have an excuse for why they did not discharge this duty. (Stabell’s response thus seems to be in line with Heath’s own discussion of excuses in the MFA, since Heath [2014: 37] also argues that excuses do not eliminate duties not to exacerbate market failures.) Stabell points to two excusing factors: First, the general epistemic uncertainty resulting from not having access to information produced in perfectly competitive markets and, second, the Theorem of the Second Best (TSB).

Our response

Our response to Stabell in a nutshell is this: If there is no obligation, there can be no excuse. In what follows, we explain why Stabell’s argument fails both with regard to general uncertainty about market-clearing prices as well as with regard to the TSB.

The medical analogy

Let us begin with the first. Stabell (2024: 25) motivates his argument from excusability with an analogy from medical doctors:

Consider the case of a doctor who, because of epistemic uncertainty, might have trouble diagnosing a disease, but still has to operate. Since it cannot be expected that doctors always achieve the aim of promoting the health of their patients in such situations, there should be room for excusing them if they fail to do so—given, of course, that they have done what is (morally and professionally) required of them as doctors.

We believe the analogy misses the point of our argument. Medical doctors typically do have the capacity and therefore the professional obligation to correctly determine the health conditions their patients suffer from. In some exceptional cases, we might excuse doctors for misdiagnosing their patients even though they should have known the correct diagnosis. However, medical doctors do not have any obligation to gather information about massively complex systems which could impact the health of any particular patient of theirs now or in the future. In other words, we do not ask of our doctors to display god-like epistemic capacities. They cannot have an obligation to display such capacities simply because they cannot have god-like epistemic capacities.

Contrary to the professional ethics of medical doctors that Stabell discusses, the MFA does require market participants to have god-like epistemic capacities. It might be helpful to be much more concrete about how pervasive the overdemandingness issue is for market participants in general. For example, consider the textbook case of a negative externality in which a factory produces spray deodorant and dumps toxic byproducts into a nearby river. The factory thereby reduces production costs, but it also imposes external costs on the people living downstream of the factory. Due to the lower production costs, the factory will produce more than the efficient quantity of deodorants and can reduce the price at which they offer spray deodorants below the efficient, market-clearing price. However, this deviation from the market-clearing price can bleed into other markets: Consumers will begin to buy more spray deodorants, rather than rolling deodorants, or they will use the savings from the lower price of spray deodorants to buy other goods, such as apples, or shoes. Hence market failures are rarely contained within one market, but their effects will typically spread to other markets and cause inefficiencies in the entire economy (for instance, as shown by Greenwald and Stiglitz 1986).

The interdependence of nearly all markets in modern economics creates serious problems for MFA-obedient managers: in order to actually know the precise degree of the distortion (i.e. how much higher or lower the actual price for spray deodorant is in the presence of some market failure than the market-clearing price), they would need to know how the demand for spray deodorants changes when the price for rolling deodorants, apples, pears, wind turbines, and so on changes. This is clearly overdemanding – it would require god-like epistemic capacities. Hence, because managers cannot have a duty to exercise god-like epistemic capacities, we may have good reasons to think that Stabell's excusability principle will not apply to the MFA. There is no need for an excuse when there is no obligation in the first place.

Theorem of the second best

Let us now move on to the TSB, which is central to both Heath's discussion of the MFA and to Stabell's reply to our criticisms. In Lipsey's and Lancaster's (1956: 14) own words, the TSB states that "nothing can be said a priori about the welfare and efficiency effects

of a change which permits the satisfaction of some but not all of the Paretian optimum conditions.” In other words, outside of perfect equilibrium conditions, the welfare effects of a change in allocations cannot be known. If this is correct, the result shows that there is no reliable, *a priori* heuristic which could tell us how to get closer to Pareto efficiency—this includes the MFA heuristics. If the MFA heuristics do promote efficiency, they at best do so by accident. For instance, when there is one monopolist, other market participants might increase efficiency either by selling below monopoly prices, at monopoly prices, or above monopoly prices themselves. We simply cannot know *a priori* for any particular case.

Conclusion

This brings us back to Stabell: When a market failure is already present, should we excuse market participants for failing to bring about efficiency by adhering to the MFA heuristics? Arguably not, because they could not have an obligation to know how to bring about efficiency in the first place! This is so precisely because according to the TSB, it is impossible for anyone to know *a priori* whether following or violating the MFA criteria will bring about efficiency. We thus conclude that market participants without god-like epistemic capacities cannot have any obligation to adhere to the MFA heuristics in order to safeguard efficiency, since they cannot realistically have the capacity to do so. Since they cannot have an obligation, they do not need an excuse.

However, this does not entail that at least some of the MFA heuristics may constitute genuine moral obligations for market participants. Our main point is simply that if they do, there are potentially far better candidates for their justification than efficiency which could ground them, such rights-based justifications, straightforwardly consequentialist justifications, or fairness justifications, and so on. We leave open here which justifications amount to suitable candidates.

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