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Marketing and Minority Civil Rights: The Case of Amendment 2 and the Colorado Boycott

Sankar Sen

The position marketers adopt on minority civil rights issues can have significant economic consequences. Consequently, marketers are faced with the complex task of ascertaining whether and how to adopt a position on particular minority civil rights legislations, while trying to gauge the effect of that position on their stakeholders and profits. The author examines the confluence of marketing and minority civil rights by considering the case of Amendment 2 and the ensuing Colorado boycott. He traces the events that led up to Amendment 2, describes the consumer backlash that followed, and assesses the economic impact of the boycott. He then discusses the lessons proffered by the Colorado case to marketers regarding their involvement and possible role in this domain of public policy.

"I don't see why anyone would stop buying a product because some crazy law got passed."

—Tom Richter (founder, Manufacturer's Association of Western Colorado)

"Imposed Morality Has a Price"

—placard protesting Colorado's Amendment 2

Minority civil rights are typically articulated outside the realm of consumption. It is not surprising then, that marketers have traditionally remained relatively disengaged from the political and legislative spheres in which such issues are usually conceived, formulated, and instituted. Yet, the position marketers adopt on such public policy issues can, today, have significant economic consequences. Since the historic Harlem, New York (1941), and Montgomery, Ala. (1956), bus boycotts, people have become increasingly willing to express their dissatisfaction or satisfaction with specific minority civil rights legislations by exercising their sovereignty as consumers to economically punish or reward the supporters and detractors of such legislations (Gelb 1995). Consequently, marketers are no longer at liberty to ignore this domain of public policy, even if they do not perceive it to be directly related to their businesses. Instead, they are faced with the complex task of ascertaining whether and how to adopt a position on particular minority civil rights legislations, while trying to gauge

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the effect of that position on their major stakeholders and profits. Moreover, doing so after such legislations have been instituted may not be enough. Marketers actually may need to proactively participate in the legislation of minority civil rights to foster legislative outcomes that best suit their consciences and pocketbooks.

The minority group at the center of today's civil rights arena is defined not by race, gender, or ethnicity, but by sexual orientation. Legislative battles over the civil rights of gays and lesbians are being waged in several counties and states across the country, and the debate over whether homosexuals constitute a legitimate minority group in need of civil rights protections has wholly occupied the nation's consciousness. Thus, not surprising, nowhere in recent years has the confluence of minority civil rights and marketing been more evident in this country than in the boycott ensuing from the recent passage of Amendment 2 in Colorado. Although the events leading up to and subsequent to the passage of Amendment 2 were played out in terms of citizen ballot initiatives, democratic votes, and judicial intervention, its only real consequence to date has been in terms of a widespread and concerted boycott of the state and its businesses. Although the amendment is unlikely ever to take effect—having been recently struck down by the U.S. Supreme Court—the state and its resident businesses stand to lose, according to some estimates (*Boycott Colorado* 1995), as much as \$120 million as a result of economic sanctions. Thus, the primary fallout from the controversy over whether protecting Colorado's gay and lesbian residents from discrimination constitutes special rights or equal rights has occurred in the marketplace. And though Colorado businesses evinced a wide range of responses to the amendment, their reaction, by definition, revealed a relatively narrow understanding of how and the extent to which such a minority civil rights legislation could affect them directly:

Rebecca Vories was appalled when Colorado voters unexpectedly approved Amendment 2 [but] she didn't figure on the vote affecting her directly. She figured wrong. Before the November election, [her firm, Infinite Energy, which provided marketing and promotions for energy-efficient products and environmental programs] was asked to join a team working on a project for the Los Angeles Department of Water and Power. After the election, Vories was notified that she was being excluded from the project. 'The feedback I got was that DWP didn't want me involved because I'm in Colorado ... every contract counts. This hurts a lot' (Fuller 1993, p. D3).

In this article, I trace the events that led up to Amendment 2, describe the consumer backlash that followed, and assess the economic impact of the boycott. I then discuss the lessons proffered by the Colorado case to marketers regarding their involvement and possible role in this domain of public policy.

Legislative Background

On November 22, 1992, a majority of Coloradans (53.5%) voted in favor of a ballot initiative named Amendment 2. This amendment to the Constitution of the State of Colorado, which added a new section (30b) to the Bill of Rights (Article II), reads as follows:

No Protected Status Based on Homosexual, Lesbian, or Bisexual Orientation.

Neither the State of Colorado, through any of its branches or departments, nor any of its agencies, political subdivisions, municipalities, or school districts, shall enact, adopt, or enforce any statute, regulation, ordinance, or policy whereby homosexual, lesbian or bisexual orientation, conduct, practice or relationships shall constitute or otherwise be the basis of, or entitle any person or class of persons to have or claim, any minority status, quota preferences, protected status, or claim of discrimination. This section of the Constitution shall be in all respects self-executing.

In effect, Amendment 2 repeals all existing ordinances and policies in Colorado that protect gays and lesbians from discrimination in housing, employment, and public accommodations on the basis of their sexual orientation and prohibits the passage of similar state or local government antidiscrimination laws in the future. Under the Colorado constitution's "home rule," which gives cities power to control their own governments, the elected officials of Aspen, Boulder, Crested Butte, Denver, and Telluride have ordinances prohibiting discrimination in employment, housing, and public accommodations on the basis of sexual orientation. A governor's executive order similarly protects employees in the state government. A legislative statute prohibits sexual orientation discrimination in health insurance coverage. Three state universities and one school district include sexual orientation in their antidiscrimination policies. All these laws and policies would be rendered invalid by Amendment 2 (for details, see Wilkens 1993).

Amendment 2 was sponsored by Colorado for Family Values (CFV). This Colorado Springs nonprofit organization was founded in early 1991 with the mission to

pro-actively lead and assist those opposing the militant homosexual attack on traditional values; to act as a resource equipping grass-roots efforts through education and training of like-minded organizations and individuals across America dedicated to preserving the fundamental freedoms of speech, association, assembly, belief and conscience protected by Colorado's Amendment Two; to preserve the right to disagree with and resist, in a civil and compassionate manner, the forced affirmation of the homosexual lifestyle (Colorado for Family Values 1993).

Colorado for Family Values claims that it is a "home-grown ... true grass-roots" movement (with "the vast majority of funding [coming] from private individuals in the form of regular monthly support") whose position "against the militant homosexual agenda [is] not based on religious views but rather on a concern for fairness and true civil rights" (Colorado for Family Values 1993). However, other sources (Brooke 1995; *Economist* 1994) indicate that CFV is part of and largely funded by a national network of far-right religious organizations that include the Christian Coalition and the National Legal Foundation (both affiliated

with Pat Robertson), Lou Sheldon's Traditional Values Coalition, Focus on the Family, Concerned Women for America, Summit Ministries, and the Eagle Forum.

Amendment 2 was born out of the volatile history of gay rights ordinances that sprung from home rule-based initiatives in various Coloradan cities. In December 1973, the Boulder City Council added sexual orientation and marital status to its antidiscrimination ordinance. However, the action was challenged and sent to voters who removed sexual orientation from their antidiscrimination law only to restore it in November 1987. In February 1977, Aspen added sexual orientation to its antidiscrimination ordinance, and it went unchallenged. In November 1988, however, Fort Collins voters rejected adding sexual orientation to their city's antidiscrimination ordinance. In October 1990, the Denver City Council adopted a human rights ordinance that banned discrimination in employment, housing, and public accommodations on the basis of a variety of characteristics, including sexual orientation. In November 1990, a group named Citizens for Sensible Rights began a petition drive to remove sexual orientation from this ordinance. Around the same time, the Colorado Human Rights Commission's recommendation, which was based on documented evidence of discrimination, that the state legislature include sexual orientation in state civil rights protections was defeated. In December 1990, however, Governor Romer issued an executive order protecting state employees against discrimination based on sexual orientation (for chronological details, see Colorado Legal Initiatives Project 1995).

Colorado's laws enable residents to initiate or change legislation by putting an issue on the ballot if it is supported by a requisite number of voters' signatures. Moreover, whereas amendments to the state constitution emanating from the legislature require a two-thirds majority, citizen petition votes require only a simple majority (Blomberg 1993). In March 1991, Kevin Tobedo and Tony Marco formed CFV to fight a proposed antidiscrimination ordinance for Colorado Springs. After their efforts led to the Colorado Spring City Council's rejection of the antidiscrimination ordinance in April 1991, they started circulating drafts of a proposed constitutional amendment at the state level to forbid passage or enforcement of gay rights laws in Colorado. Approximately eight months after filing its proposed ballot initiative on July 31, 1991, CFV delivered petitions with approximately 85,000 signatures to the state. Secretary of State Meyer ruled that there were enough valid signatures to put the initiative on the ballot (Colorado Legal Initiatives Project 1995).

Opponents of Amendment 2 could not affect it prior to the referendum because of the Colorado Supreme Court's tendency to review the legality of ballot initiatives only after the legislation has been adopted (Wilkens 1993). Therefore, seven gay and lesbian activists started meeting in May 1992 to discuss possible post-election challenges if Amendment 2 passed (Colorado Legal Initiatives Project 1995). This group became formalized as the Colorado Legal Initiatives Project and began drafting the complaint and recruiting a legal team. Other groups, such as the Equal Protection Organization of Colorado and Equality Colorado, formed to fight Amendment 2 around the same time or shortly after the amendment was approved.

Ten days after the passage of Amendment 2 on November 2, 1992, Colorado Legal Initiatives Project, working in conjunction with ACLU of Colorado (co-counsel) and Lambda Legal Defense and Education Fund, sued the state in the Denver District Court, claiming that the amendment was unconstitutional. The plaintiffs in the *Evans et al. v. Romer* lawsuit were nine private citizens, the Boulder Valley School District RE-2, the City and County of Denver, the Cities of Boulder and Aspen, and the City Council of Aspen. On December 23, this legal team filed a motion for an injunction in Denver District Court that would keep Amendment 2 from being enforced until a trial on its merits was held. On January 15, the day Amendment 2 was supposed to go into effect, District Court Judge Jeffrey Bayless granted an injunction, stating that the amendment was likely to be ruled unconstitutional because it violated the right of due process and equal protection under the law as guaranteed by the Fourteenth Amendment to the U.S. Constitution. Bayless held the state to the standard of "strict scrutiny" because Amendment 2 concerned a fundamental constitutional right. Four days later, the state appealed to the Colorado Supreme Court (Colorado Legal Initiatives Project 1995; Wilkens 1993).

In the meantime, Telluride voters and the Crested Butte City Council passed ordinances prohibiting discrimination based on sexual orientation. On July 19, 1993, the Colorado Supreme Court upheld the District Court's injunction. The Court stated that Amendment 2 violated the fundamental right to equal participation in the political process because it "fenced out" an identifiable group of people from participating in the political process. The State Attorney General's Office appealed to the U.S. Supreme Court two months later, but the court refused to hear the state's appeal at that stage of the case. In the meantime (October 12–22), the *Evans et al. v. Romer* trial was held before Judge Bayless, who, on December 14, 1993, ruled that Amendment 2 was unconstitutional and could not be put to a vote of the people, because equal participation in the political process was a fundamental right. However, he found no evidence that gays and lesbians were politically vulnerable or powerless and refused to rule that they as a group deserved protected status as a minority (Lindsay 1993).

The state appealed to the Colorado Supreme Court, which heard oral arguments on June 30, 1994. On October 11, 1994, in a six-to-one decision, the Colorado Supreme Court upheld the lower court's ruling that Amendment 2 was unconstitutional. The court ruled that any legislation infringing on the "fundamental right to participate equally in the political process" by "fencing out an independently identifiable class of persons" must be subject to "strict judicial scrutiny" (i.e., the legislation must be shown to be "necessary to support a compelling state interest" and must be "narrowly tailored to meet that interest"), which the defendants failed to do (Charlier and Wade 1994, B16; Greenhouse 1995, A17).

In December 1994, the Colorado Attorney General's Office appealed once again to the U.S. Supreme Court. The court decided on February 21, 1995, to hear the Amendment 2 case and the oral hearings began on October 10, 1995. On May 20, 1996, the U.S. Supreme Court struck down Amendment 2 in a six-to-three majority (Greenhouse 1996).

It ruled that Amendment 2 violated the Constitution's Equal Protection Clause by singling out the state's homosexuals to deny this "solitary class" the right to participate equally and fully in the political process. In his dissenting opinion, Justice Antonin Scalia asserted that the ruling had "no foundation in American constitutional law" and in its imposition on the "normal democratic means" through which the amendment was ushered in, it was, instead, "an act ... of political will" (*New York Times* 1996, A21).

Consumer Backlash: The Colorado Boycott

The passage of Amendment 2 unleashed what has been called the "largest civil rights boycott in U.S. history" (*Boycott Colorado* 1995, p. 000). Several groups were involved in organizing a boycott of Colorado and Colorado products. The most prominent group, Boycott Colorado, begun by gay rights activists, called for a national boycott the day after Amendment 2 was passed in November 1992 (Caudron 1993). This group endeavored to serve as a clearinghouse for the boycott and raise national consciousness about the passage of Amendment 2 and its implications in terms of civil rights, while lobbying extensively to get persons, groups, and businesses to cancel any plan or arrangement that would bring money into Colorado. These efforts included an in-state "buycott" designed to patronize businesses that supported equal rights for all people and boycott those that did not. A second boycott organizer was New York Boycott Colorado (NYBC). Coordinated by New York impresario, Chip Duckett, NYBC went beyond banning travel to Colorado and called for a ban on all products produced by companies based in Colorado, such as Samsonite Luggage, Texaco, and Coors Brewing Company (Atchison 1993). Other lesser known groups, such as Coloradans and Californians for Fairness in the Nation, pitched in to help build a consensus for the boycott (Sahagun 1995).

Sue Anderson (Director of Equality Colorado) articulated the objectives of the boycott as follows: (1) to provide a visible deterrent to the institution of antigay civil rights initiatives in other cities and states of the United States, (2) to, more specifically, send a message to chambers of commerce and other leaders in targeted states that they need to fight such initiatives from the start, (3) to serve as a symbolic act of solidarity by groups and persons around the country who support civil rights for *all* people, (4) to provoke discussion and conversation about the issues faced by lesbians, gays, and bisexuals, and (5) to encourage people to come to Colorado to help undo Amendment 2 (Anderson 1993).

As a result of these organizers' efforts, a major boycott of Colorado was underway by 1993. Involvement in the boycott was widespread and the vast majority of official boycotters were mainstream organizations. A list of 112 official boycott participants released by Boycott Colorado in July 1993 included prominent persons, such as Barbra Streisand, Madonna, Jonathan Demme, and the Kennedy family; a variety of educational, professional, legal, religious, and political associations and organizations ranging from the American Sociological Association to the Southern Christian Leadership Conference; several cities and municipalities (e.g., New York, Boston, Chicago, Los Angeles, Philadel-

phia, San Francisco); universities (e.g., Harvard University, Rutgers University); and a wide range of businesses. Several companies pulled their businesses out of the state and some canceled partial or complete relocation plans to the state.

Examples include the following: the 1046-member United States Conference of Mayors moved its summer 1993 meeting to New York City from Colorado Springs, which cost the state \$500,000, as well as an estimated \$1 million in negative publicity. The National Center for Social Studies canceled a 4000-person Denver convention with estimated revenues of \$4 million. The American Association of Law Libraries canceled its 5000-person Denver convention. The Association of College Unions-International switched its 1993 regional conference from Colorado Springs to Tucson, Ariz. The Women's Sports Foundation put a stop to \$1 million worth of construction contracts for its National Hall of Fame in Colorado Springs. Cities such as Atlanta, Boston, and Baltimore banned all city contracts with Colorado businesses. New York Mayor Dinkins cut off official travel to Colorado in December 1992, and the Los Angeles City Council voted to ban all official travel to Colorado and outlawed any new business with Colorado companies. In late December 1992, the *New York Times* (1992, p. A16) endorsed the national boycott of Colorado for the state's support of a "bigoted anti-gay initiative." Laurel Entertainment's production of the television miniseries of Stephen King's *The Stand* was moved to Utah from Colorado, and the locale of the NBC hit series, *Frasier*, was moved from Denver to Seattle. Ziff-Davis, a New York-based publishing house, decided against building its \$100 million headquarters and bringing up to 6000 high-paying jobs into the state, and Xchange, a San Francisco-based software distribution company, canceled the company's relocation to Fort Collins (Case 1993; Caudron 1993; Fahys 1996; Romano 1993a, b; Saunders 1994).

Boycott Colorado suspended its boycott in December 1994 after the Colorado Supreme Court ruled that Amendment 2 was unconstitutional. However, according to the group, many civil rights groups and others continue to boycott Colorado because of the sustained threat to gay rights in the state. Moreover, if Amendment 2 had been upheld by the U.S. Supreme Court, the national boycott of Colorado would have been expected to resume (*Boycott Colorado* 1995).

Impact on the Economy

What impact did the boycott have on Colorado's economy? The absolute losses were significant. While the state estimates losses in lost convention and tourism business of approximately \$40 million (Greenhouse 1995), *Boycott Colorado* (1995) claims that by industry-standard estimates, convention, tourism, and entertainment deal losses since 1992 and into the next millennium will cost Colorado as much as \$120 million.

Although a wide range of businesses suffered, the effect of the boycott on different industries was varied. For example, durable goods manufacturers remained largely unaffected, whereas revenues in the film business plummeted to \$13 million in 1993 from an average yearly amount of approximately \$28 million (Bronikowski 1994a). The hardest hit was the tourism and convention-related hospitality industry. This included approximately 8000 restaurants, the

hotels and motels, the resorts and convention centers, and the ski areas (Caudron 1993; Romano 1993a). Three months into the boycott, approximately three dozen conventions had been canceled. Denver alone is believed to have lost \$38 million in canceled conventions (Sahagun 1995), and the boycott has been attributed as the primary cause for a 8% drop in the city's tourism from 1992 to 1993 (Bronikowski 1994b). Convention hotels, such as the Scanticon Hotel Resort and Conference Center (Englewood, Colo.), lost thousands of room nights that represent hundreds of thousands of dollars worth of business. Of the 83 people and/or organizations and businesses included in Boycott Colorado's spreadsheet of revenue loss estimates, approximately three-fourths were tourism- and convention-related.

However, in relative amounts, the losses, at least in the short run, were minimal. Let alone the Colorado economy of \$75 billion, the boycott-based losses amounted to a small fraction of even the state's tourism dollars (Fuller 1993). Since 1987, Colorado's annual tourism revenues grew by almost \$1.2 billion to a record of \$5.9 billion in 1992 (8.5% of the gross state product). Similarly, the food service industry generated \$3.3 billion (6.5% of total retail sales) in 1992 revenues (Romano 1993a). Even if the state lost \$120 million, that represents approximately 2% of the state's yearly tourism revenues and only .16% of its total yearly revenues. This was corroborated by the finding that the boycott did not significantly affect the bottom line of a majority of businesses. Two-thirds of the members polled by the Greater Denver Chamber of Commerce indicated that their businesses had not been affected by the boycott. This pattern also was reflected among companies in Colorado Springs (Caudron 1993).

However, an estimate of the boycott's toll on Colorado is incomplete without a consideration of the long-term damage to the state's image from all the negative publicity generated by the boycott. More than 4200 news clippings appeared in the national media within two months of the referendum, publicizing Colorado's moniker as the "Hate State" and sullying its progressive image (Caudron 1993). A gay man traveling to the West Coast through Colorado called the attorney general's office to inquire whether he would face arrest or personal violence at the Denver airport (Mitchell 1996). These perceptions were fueled, in part, by media coverage of celebrity vacationers and speculation about whether they would abide by the boycott. More generally, Colorado emerged from the national media's coverage as a state that had "passed a mean-spirited, anti-gay measure," and as a "sore loser" that went "crying all the way to the U.S. Supreme Court [when the measure] was quickly ruled unconstitutional" (Mitchell 1996, p. E-05). As a Denver brew pub owner, John Hickenlooper, states, "[A]s important as the economic impact of the boycott is the social impact. [Colorado] has always prided itself on individual freedoms and civil liberties ... and now, to get this reputation" (Romano 1993a, p. 35). In summary, though some may consider the financial damage in the short term to have been minimal, a long-term erosion of the state's image may contribute more significantly to Colorado's economic losses.

Marketer Reactions to the Boycott

Its monetary impact notwithstanding, the boycott engendered significant concern in the business community; one

third of the members of the greater Denver Chamber of Commerce believed that their own firms would experience a direct negative impact from the passage of Amendment 2 and two-thirds believed that the state's economy and image would suffer (Fuller 1993). After the initial surprise at the passage of Amendment 2 and the ensuing boycott, marketers responded by "plung[ing] into a ... regional crash course in political activism and damage control" (Fuller 1993, p. D3) by using myriad marketing strategies to battle Colorado's allegedly undeserved image as the "Hate State" and minimize the image's adverse economic consequences. In the words of Steve Demos, president of White Wave (a nationally distributed natural-foods manufacturer in Boulder), who did not feel a noticeable financial impact of the boycott, "Even if there is no true economic pressure, businesses are now being forced to look at gay rights and to review their internal policies to make sure they are not vulnerable or exposed" (Caudron 1993, p. 54).

Colorado businesses initiated a range of marketing activities to allay consumer discontent and demonstrate their support of gay rights. In particular, several Denver-area businesses and community groups joined together to form the Colorado Alliance for Restoring Equality, a nonprofit coalition committed to overturning Amendment 2. Among other marketing efforts, this group held statewide town meetings on the issue. Individual companies that did not have nondiscrimination policies covering sexual orientation adopted them and those that did publicized their positions. In a concerted public relations effort, Vail's shops and hotels passed out fact sheets about the amendment, and nondiscrimination messages were posted at the base of Aspen, Snowmass, and Buttermilk mountains. To alter tourists' attitudes toward the state, the city of Aspen, Aspen Skiing Company, Denver Center for Performing Arts, and the Denver Metro Convention and Visitor's Bureau directed advertising campaigns at select target markets. Schenkein/Sherman Public Relations, one of the largest public relations firms in the region, donated its services to organizations and advised them to both examine whether their corporate values were in line with those of their stakeholders and better manage their public relations by training employees to adroitly handle inquiries from customers. The high-technology industry was particularly responsive in aligning its marketing efforts against Amendment 2. A computer software company provided \$1 million in seed money to establish a foundation that would underwrite projects to educate people about cultural diversity. Quark, a computer software producer, asked all of its vendors and financial institutions to institute policies barring discrimination on the basis of sexual orientation or risk losing Quark's business (Fuller 1993).

Other marketers, particularly of consumer products, were more careful about speaking out for gay rights in fear of alienating certain market segments. For example, Coors Brewing Company resisted taking a position on the issue because it counted both opponents and proponents of Amendment 2 amongst its customers. According to its spokesperson, John Fellows, "For every consumer you please with a political stand, you will have another consumer who is displeased" (Caudron 1993, p. 54). Similarly, the Scanticon Hotel Resort tried to assuage one constituency without offending another by training its sales personnel to

simply provide factual information about the amendment to concerned customers. At the same time, it courted the Colorado conference business by suggesting that conferences give their business to Colorado instead of a state that might be boycotting it (Fuller 1993).

Lessons for Marketers

Amendment 2 and the subsequent boycott served as a "wake-up call" (Caudron 1993, p. 54) to businesses both inside and outside the state. According to Fellows, "Now that the issue is out in the open, I wouldn't be surprised ... if more companies did write language addressing nondiscrimination of gays into their policies" (Caudron 1993, p. 54). However, in the case of Coloradan marketers, such actions in the aftermath of the boycott seemed to signify too little, too late. What then, in general, do marketers need to do? Although it is clear that they cannot afford to ignore the legislation of minority civil rights in their macroenvironment (e.g., county or state), it is less clear how they are to effectively negotiate this domain of public policy to better serve themselves and their stakeholders. I now outline and discuss a few lessons that emerge for marketers from the Colorado boycott.

1. Keep Abreast of Minority Civil Rights Issues in Your Cities, Regions, and States

Many marketers today have equal-opportunity employment policies in place. However, this may not be enough. As the consequences of minority civil rights legislations are increasingly felt in the consumption domain, marketers must monitor such activity at the local, state, national, and perhaps even international level as an integral part of their macroenvironmental scanning. This includes (1) keeping abreast of not only the minority civil rights legislations in place, but also those that are being initiated or are in the legislative pipeline, and (2) monitoring public opinion about such legislations among all significant stakeholder groups: employees, customers, marketing channel members, as well as the local and general publics. The gay civil rights landscape in this country, for instance, is a particularly contentious and volatile one that requires a marketer's continual attention. As of May 1996, petitions to place Amendment 2-like referendums on the November ballots are being circulated in Idaho, Oregon, and Washington. Since November 1992, initiatives similar to Amendment 2 have passed in Cincinnati, Ohio; Alachua County, Fla.; and several counties and towns in Oregon. However, other statewide initiatives, such as the antigay rights measure in Maine, have been defeated by voters.

Keeping abreast of the evolving status of minority rights legislations is particularly important for those companies that, because of their nondiscriminatory employment practices, feel immune or protected from adverse developments in such civil rights issues in their macroenvironment. Economic sanctions stemming from an unfavorable minority civil rights legislation in a specific region are unlikely to distinguish between those businesses that have antidiscrimination policies in place and those that do not. Many companies targeted by the Colorado boycott had previously instituted personnel policies that specifically prohibited discrimination on the basis of sexual orientation. For example,

a boycott was called of Coors beers despite this company having had such a policy in place since 1978 and being the first Fortune 500 company to include the words *sexual orientation* in its affirmative action policy. Ironically, consumers may expect more of such companies in helping combat what they perceive as adverse civil rights legislations. For example, in its boycott efforts, NYBC singled out Celestial Seasonings—a company that many Colorado gays regard as having an exemplary antidiscrimination corporate record—because of Morris Siegel's, its chief executive officer, refusal to take a high-profile stand against Amendment 2 (Atchison 1993).

2. Understand the Issues Underlying Particular Minority Civil Rights Legislations

After familiarizing themselves with the status of minority civil rights legislations in their macroenvironment, marketers must articulate their position on the specific legislations that are in place or in the process of being instituted. Although most marketers today may, in general, favor civil rights for minority groups, articulating a position on a specific legislation and its consequences may be more complex and difficult than might be imagined. Amendment 2 exemplifies the paradoxical Escher etching-like issue frames that inform most minority civil rights debates and legislations. Whereas the proponents of minority civil rights view the protection of minority groups from discrimination as an essential step in helping these groups achieve *equal rights* with the majority, opponents claim that such protections confer *special rights* that are not accessible to the majority. Not surprising, the debate surrounding Amendment 2 from the grass-roots organizations in Colorado to the U.S. Supreme Court was cast very much in these alternate issue frames of special rights versus equal rights.

Colorado for Family Values's strategy in promoting Amendment 2 to Coloradans revolved around their selective use of specific issue and wording frames that rendered gay rights *special* and, therefore, unjustifiable. Research (cf. Sen and Morwitz 1996) suggests that the majority, in its stance on minority civil rights laws, is particularly sensitive to its position relative to the minority. In particular, the perception that such legislation puts the minority group at an advantage relative to the majority renders it less justifiable in the latter's eyes than if such legislation is perceived to remove a relative disadvantage suffered by the minority group and thus places the two groups at an equal level. Thus, it is not surprising that CFV emphasized only one of two alternate perspectives on four related facets of gay rights, which rendered these rights as special privileges that actually hurt others.

First, CFV painted gays as an advantaged rather than a disadvantaged group. Using, among other support, a 1991 *Wall Street Journal* survey, but ignoring data indicating both discrimination against homosexuals in the military, housing, and employment, as well as an increase in violent crimes against them (NGLTF Policy Institute 1992), CFV, echoing the opinion of the dissenting Supreme Court Justices, presented this minority group as "affluent, well-educated and [politically] powerful" (Colorado for Family Values 1992, p. 8). Second, it presented homosexuality as a choice rather than an inherent trait. Citing select, often out-

dated, and some scientifically suspect research (Pankratz 1993), CFV presented homosexuality as something a person *does*—"a sex-addicted and tragic lifestyle" (Colorado for Family Values 1992, p. 8)—and can therefore change, and not something a person *is* that is immutable (Colorado Legal Initiatives Project 1995). Third, CFV cast the debate of gay civil rights in the language of scarcity by suggesting that "disadvantaged minorities [would] lose hard-won gains if gays gain protected class status" (Colorado for Family Values 1992, p. 8) whereas gay civil rights legislations typically entail the addition of sexual orientation to a broad list of classifications that are already legally protected from discrimination. Colorado for Family Values did so, in part, by contrasting the economic, educational, and political status of other minority groups, such as African-Americans, with those of homosexuals and implying that institutionalized discrimination against the former was evidence of lack of discrimination against the latter. Relatedly, it suggested that gay rights actually would curtail the "basic freedoms" of heterosexuals because it would legitimize the homosexual agenda to "destroy the family," "aggressively ... convince children that they should consider homosexuality," and "attack churches nationwide" (Colorado for Family Values 1992, pp. 2, 5). Fourth, and most important, CFV, justifying discrimination as merely the freedom to choose, categorically equated the ability to claim discrimination with special rights:

Opponents have falsely alleged that a claim to discrimination is part of an American's equal rights, and that any form of discrimination—on any basis—should be prohibited. Nothing could be further from the truth.... Nowhere does American law grant blanket immunity from discrimination.... To discriminate is to choose.... Actually most reasons for discrimination are not only permissible, but essential to freedom.... Our legal system grants immunity from discrimination only to members of groups which have (1) been systematically discriminated against in an economically, educationally, and culturally demonstrable way, (2) which are readily identifiable by an immutable trait and (3) which have no ready political recourse. These criteria form the judicial foundation for the entire framework of protected status in America. (That's why a claim to discrimination *is* a special right.) To do away with them is to destroy hard-won gains achieved by African-Americans, Hispanics, women, the disabled and more (Colorado for Family Values 1993).

However, the majority opinion behind the Supreme Court ruling suggests that, from a judicial perspective, prohibiting a specific group from access to protection from discrimination is a violation of not special but equal rights. In the words of the majority opinion,

[Colorado's] principle argument in defense of Amendment 2 is that it puts gays and lesbians in the same position as all other persons. So, the state says, the measure does no more than deny homosexuals special rights. [However,] the amendment withdraws from homosexuals, but no others, specific legal protection from the injuries caused by discrimination, and it forbids reinstatement of these laws and policies.... [W]e cannot accept the view that Amendment 2's prohibition on specific legal protection does no more than deprive homosexuals of special rights. To the contrary, the amendment imposes a special disability upon those persons alone. Homosexuals are forbidden the safeguards that others enjoy or may seek without constraint.... We find nothing special in the protections Amendment

2 withholds. These are protections taken for granted by most people either because they already have them or do not need them.... We must conclude that Amendment 2 classifies homosexuals ... to make them unequal to everyone else (Justice Anthony M. Kennedy cited in the *New York Times* 1996, A21).

Research also suggests that people confuse the issue of protective legislation with minority status, affirmative action, preferential treatment, employment quotas, and special rights (Hibbard 1994). Thus, it is probably no coincidence that the most contentious issue in Amendment 2, the ability of gays to claim discrimination, was presented at the end and not the beginning of a series of clauses—such as minority status, quota preferences, and protected status—that the public is much less readily willing to accede to homosexuals. Moreover, people often suffer from a yes- or yea-saying bias in responding to questions (cf. Oskamp 1977). Amendment 2 was phrased in such a way that a positive vote signaled a lack of support for gay rights ordinances, whereas a negative vote signified the approval of extant gay rights laws. As one voter states, “It looked like, when we were voting against [Amendment 2], we were actually voting for it” (CNN 1996). Evidence suggests that these wording and issue frame choices were effective; polls after the passage of Amendment 2 revealed that Coloradans were convinced that they were voting against “special rights” for gays and lesbians and not voting against laws to protect homosexuals from discrimination (Brown 1993).

Thus, in the process of articulating their stance on minority civil rights legislations, marketers must look at the underlying issues from multiple perspectives. And no matter what final position they adopt, marketers owe it to themselves and their stakeholders to think hard and clearly about the fundamental issues at hand and bypass the heated but ultimately obfuscating rhetoric that often informs the debate over such public policy issues. Reports suggest that many marketers, similar to other Coloradans, did not resist Amendment 2 because they expected the amendment to fail at the polls (cf. Fuller 1993). Perhaps they felt so, in part, because they anchored on their own opinions and views. Yet, if they had more clearly and objectively identified and seriously considered the competing perspectives informing the debate, they might have been better able to predict, and perhaps been better prepared for, the amendment’s endorsement at the polls.

3. Be Proactively Involved in Affecting Minority Civil Rights Legislations

Although many marketers were against Amendment 2, they did little to oppose its passage. And as the boycott indicates, taking a stance after the passage of this particular legislation was, in some senses, too late. Thus, one of the most important lessons emerging from the story of Amendment 2 is that once marketers have articulated their position on a minority civil rights legislation, they must get proactively involved in ensuring that the legislative outcomes they favor are achieved. The Colorado situation highlights several reasons for doing so. First, it may be more difficult to influence such a public policy measure after it has been instituted. For marketers against this amendment, getting Amendment 2 reversed after it was passed by Coloradans was clearly a more Herculean task than its defeat at the polls would have

been. In fact, resentment among the targets of such economic censure can only make matters worse for marketers. For example, Coloradans, ostensibly annoyed at being labeled bigots and boycotted, favored Amendment 2 by an even larger margin a year after it was passed: Only 37% of Coloradans polled by Talmey-Drake Research and Strategy in October 1993 said they would vote to repeal Amendment 2 (Brown 1993). Moreover, many Coloradans may have felt unfairly targeted for passing an amendment that would have probably been voted in elsewhere. Thus, any role marketers could have played in affecting public opinion on this issue after its passage was rendered more remote by Coloradans’ escalated commitment to their prior stance, however unfavorable for marketers that stance might have been.

Second, marketers looking to do right by their minority group stakeholders can actually end up hurting them more than other stakeholder groups by not taking a proactive stance on legislation supporting the former’s civil rights. For instance, because a significant percentage of Colorado’s tourism workers are gay or lesbian, the boycott ultimately hurt them disproportionately (Romano 1993a). Moreover, losses to gay businesses were particularly high: Business in the Denver gay bars fell by 20% and gay bed-and-breakfasts across the state lost as much as 75% of their business (Jesus 1993). More generally, cities, such as Denver and Aspen, that had voted against Amendment 2 were hit hardest by the boycott (Brooke 1995).

Third, the precedent set by the passage of a particular minority rights legislation in one geographical area may have an adverse multiplier effect on the fortunes of marketers that operate in multiple geographical markets. The success of Amendment 2 in Colorado spawned a cottage industry of antigay laws, amendments, ordinances, and charters across the country (Booth 1994; Brooke 1995), which possibly exacerbated the problems of marketers that also have major operations in these regions or nationwide. Finally, certain stakeholders may perceive a marketer to be more principled if it takes a proactive stand on a minority civil rights legislation and sticks by it in the face of subsequent adversity rather than appear to capitulate to the demands of a particular stakeholder group, often at the cost of alienating others (Rubel 1995).

What the Colorado marketers did after the boycott points to the actions marketers, in general, can take to influence the outcome of minority rights legislations in their favor. For example, marketers in favor of minority civil rights can ensure that their “own house is in order” (Caudron 1993, p. 54) by adopting and publicizing their own antidiscrimination policies to support or counter an impending legislation. More generally, marketers can lend both their financial and expertise-based backing to a two-pronged strategy to achieve the desired outcome for an impending legislation. First, and most important, marketers can launch a publicity campaign aimed at the local and political publics in their region to foster appropriate attitudes toward the impending legislation. For instance, when Arizona became the object of a \$250 million boycott in 1989 because of its refusal to recognize Martin Luther King’s birthday as an official holiday, Arizona’s hospitality industry launched a successful grassroots campaign to change the mind of its own residents, which resulted in Arizona voters approving the holiday in

1992 (Charlier 1993). Second, marketers may want to undertake a publicity campaign that alerts the general public to the issues at stake. Although advertising to change outsiders' unfavorable perceptions after the passage of a minority rights legislation may run the risk of being viewed as "frivolous" (Charlier 1993, p. B7) and largely cosmetic, doing so before its passage may reassure stakeholders and help galvanize them into appropriate action. Marketers that are skittish about publicly adopting a stance that might be viewed as controversial by some stakeholders can reduce their visibility by forming and contributing to coalitions or groups of concerned businesses, such as Colorado Alliance for Restoring Equality (Fuller 1993).

Clearly, conscience cannot be dictated. However, marketers do have a responsibility to support policies, both internally and externally, that "are a true umbrella to all concerns, because business is nothing more than an extension of its people" (Steve Demos, president of White Wave, cited by Caudron 1993, p. 54). Therefore, marketers no longer can afford to remain silent on minority civil rights initiatives and legislations in their macroenvironment; they must broaden their marketing activities to include (1) the monitoring and clear comprehension of such minority civil rights issues, (2) the articulation of conscionable positions that are in their stakeholders' best interest, and (3) the proactive advocacy of legislative outcomes that are in line with these positions. Doing so entails not only the allocation of significant marketing resources to these activities but also the institution of incentive and evaluation systems that reward marketing managers for undertaking and publicizing activities involving this domain of public policy (cf. Gelb 1995).

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