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ALEXA, MAY I SPEAK ON SHABBAT?

What can't you say when someone's always listening?

Adapted from a shiur by Rav Mordechai Lebhav

Amazon's Echo and similar "smart speakers" are devices that provide information, take orders for goods, or activate any of an array of services in response to voice commands.

They operate by constantly recording ambient sound and listening for a "wake word," which for the Echo is "Alexa." Say the wake word and the device replies, cheerfully offering its assistance.

The question arises: Given that the Echo is recording all the time, may one speak in its presence on Shabbat?

The *Maharal* explains that the definition of "Melacha" – lit. "work" on Shabbat is: creative activity. Because Hashem rested from Creation on Shabbat, we similarly desist from exercising our own creative powers.

The *Gemara* (*Bava Kama* 60, and many places in *Masechet Shabbat*) teaches us that only "Melechet Mahshevet" – lit. "purposeful" work – violates Shabbat. This has several implications for what qualifies as *Melacha*, including that a *Melacha* must be done with thought; must be performed creatively, not destructively; and must not be done *Kil'Ahar Yad*, in an unusual manner.

There is a debate among the *Tana'im* in the case of a *Davar She'Eino Mitkaven* – an unintentional consequence, such as one who pulls a bench across the ground because he wants it somewhere else. Although the action may

dig a groove in the ground—which constitutes *Hofer* – digging, a form of the *Melacha* of *Horesh*—plowing, that is not the bench-dragger's intent.

The *Halacha* follows the view that this is permitted, because it isn't *Melechet Mahshevet*: the perpetrator's intent is to relocate a bench, not to dig a furrow. But this only holds true in a case where the groove would not inevitably result—a *P'sik Reshe*—from the dragging. If the unintended result is an inevitable consequence of the action, one cannot disassociate the result from the action. If dragging this bench will ineluctably produce a furrow, then the creation of the furrow is virtually intentional and meets the requirements of *Melechet Mahshevet*.

Tosafot in *Ketubot* (6a, s.v. *Hai*) cite the view of the *Sefer He'Aruch* that where the unintended but inevitable result is *lo niha leh* – something the perpetrator doesn't specifically desire, the act remains permissible.

While the *Poskim* generally don't follow the *Aruch's* view on its own, the *Mishna Berura* (337) rules that in a case of *P'sik Reshe* involving a *Shvut DiShvut*—a *D'Rabbanan* atop another *D'Rabbanan* (i.e. telling a non-Jew to do something which is *D'Rabbanan*) we can additionally adduce the *Aruch's* view to rule leniently. The Sephardic *Poskim* generally follow the ruling of the *Terumat HaDeshen* to apply the *Aruch's* view even in the case of a single *D'Rabbanan* (see *Or L'Tzion* Vol. 2 3:10 and *Yabia Omer* 4:30).

In the Echo's case, it is debatable whether a *Melacha* is being performed by the speaker whose voice is being recorded.

Even according to the *Hazon Ish's* view that completing an electrical circuit on Shabbat is forbidden *Mid'Oraita*, in this case one is only adding an insignificant load to an exist-

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A Shiur Halacha by Dayan Shlomo Cohen

ABOVE & BEYOND - GOING BEYOND THE LETTER OF THE LAW

Avraham excelled in the Middah of Hessed: lovingkindness. Yitzhak excelled in the Middah of Pahad: fear of G-d. It is interesting to note, that although Yitzhak grew up in the house of Avraham, he nevertheless excelled in his own Middah and didn't just copy his father's traits (similarly, Yaakov's main trait is Emet, in contrast to his father's Middah of fear).

As descendants of Avraham we possess an inherent inclination to do Hessed and are expected to act as such. We tend to think of Hessed as various acts of kindness in the home – opening the door, helping or giving charity. But in business? We think business is business and one can must be aggressive in order to thrive. But there is a concept of Hessed in business as well!

The *Gemara* in *Bava Metzia* discusses two workers who, while carrying barrels for their boss, trip and break the barrels. Are they liable?

How about their wages, do they get paid?

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spotlight

The *Zichron Gershon* Kollel doubled its members after announcing the studying of *Ribbit* – laws of interest – this Z'man! Given the complexities of the laws of *Ribbit*, it was only natural that many outsiders would take advantage of the rare opportunity to delve into this halachically sensitive topic under the auspices of the *Bet HaVaad*. *B'ruchim HaBa'im!*

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ing circuit by speaking. Although the *Shevut Yitzhak* cites stringent views, Rav Shlomo Zalman Auerbach (*Shulhan Shelomo* 308) permits this.

Additionally, one who speaks on *Shabbat* in his Amazon Echo-equipped home is clearly not intending to record his voice. It may happen anyway, but it is obviously not *niha leh* (see Rav Nissim Karelitz's *Hut Shani*, Vol. 1, *Kuntres HaHashmal*.)

Similarly, though there is *Halachic* debate about the permissibility of speaking on *Shabbat* to a person wearing a hearing aid, all agree that one may speak to a third party even if a hearing-aid wearer is listening in, because this result of one's action is too disconnected from the actor.

Another example of this principle appears in the *Havot Da'at* (Y.D. 91:5), who says that an insubstantial result that doesn't benefit the actor is excluded by *Melecheth Mahshevet*. Rav Shmuel Vosner (*Shevet HaLevy* 3:45 and 7:42) permits, on this basis, pouring boiling water into a bowl containing small water droplets. The act is too insignificant to constitute *Melacha*.

Likewise, it would be permitted to walk on the street on *Shabbat* while video of the activity is being recorded by an orbiting satellite.

It would seem that being picked up by the Echo's recorder would be comparable to these examples. The result of the speaker's action, though inevitable, is insignificant, and therefore not prohibited as a *P'sik Reshe*.

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In Halacha, there are various categories of liability: an unpaid guardian

(*Shomer Hinam*), who is only liable for negligence, and a paid guardian (*Shomer Sachar*) who is liable for theft and loss even if they were not negligent (only if the damage was caused by an occurrence completely out of one's control, is a paid guardian exempt).

One such example is a shepherd who passes his flock over a narrow bridge. If one of the sheep falls, the unpaid guardian is exempt, whereas the paid guardian would be liable.

The Gemara in our case of the barrel-carriers, tries to determine whether or not tripping is considered to be negligence. The Gemara concludes that a paid guardian is liable for tripping, and therefore the barrel-carriers must compensate their boss for the value of the barrels. Accordingly, they should also not receive their wages.

Still, the Shulhan Aruch rules that it is fair to exempt them from damage and also to pay them their wages! Because of the risk involved

in such a job and their dealing with expensive merchandise constantly, we must have mercy on them and not withhold their wages. This is an example of going beyond the letter of the law.

Similarly, the Poskim discuss a case of a money-manager that didn't invest the money of his boss properly. The Pithe Hoshen writes that he should also be considered like these poor barrel-carriers and be exempt and paid his wages (there are obvious limits to this Halacha).

There are other examples of going beyond the letter of the law. The Gemara in Bava Batra states that one is allowed to open a shop next to his friend's shop because customer always have a choice to shop where they want. The Aviasaf writes that if one should not open a shop if it will cause a clear loss to the other store owner (i.e. opening a shop at the entrance of a dead-end street). Although Maran doesn't codify this Aviasaf, the Poskim discourage such practices. Similarly, although a large supermarket may open next to a small grocer, it is a form of *Hessed* not to do so (perhaps they can hire the grocer as a manager).

The Daf in Halacha

Bring the Daf to Life!

מסכת מנחות

This Week's Topics

RAV YEHOASHUA GRUNWALD
RAV MOSHE ZEEV GRANEK

- דף ע' Harvesting Chadash, Then & Now
- דף ע"א Cutting Off Branches of Fruit Trees
- דף ע"ב Postponing Kiddush Levana
- דף ע"ג The Mitzva of Eating the Meat of the Korban
- דף ע"ד Ice Cream for Dessert: Does it Require a Beracha?
- דף ע"ה What is a Greek Chaf'?
- דף ע"ו Shehechyanu on Mitzvos

Another example, is one finding two lost objects: theirs and their father's, which should they tend to first? Technically, oneself, as one's own money comes first. Nevertheless, the Shulhan Aruch writes that one who constantly looks out after himself first, will find himself needing others.

Perhaps, one may even make more money by acting with *Hessed* in his business, as all *Parnasah* is from Hashem, and Hashem will see his actions and give him more!



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