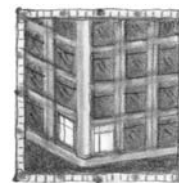


ETHICS: THE LIMITS OF INTELLIGENCE GATHERING

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As Competitive Intelligence (CI) practitioners we are well aware of legal documents such as the Economic Espionage Act of 1996 and various antitrust laws that govern our intelligence activities. One of the first rules we learn in the business world is to never talk to competitors about pricing or price-related topics. What is less obvious are the guidelines for ethics and competitive intelligence.

No prevailing laws guide ethical behavior as it relates to competitive intelligence. Ethics is often a matter of company and personal comfort and culture. As CI practitioners we must give equal consideration and thought to the ethical limitations on intelligence collection. While it may seem like an onerous task, creative means for collecting intelligence fall within both ethical and legal boundaries.

GO FISH

Questions of ethics have recently pervaded my home life as I enter the world of board games with my four year old daughter. I can't help but

identify some parallel ethical questions facing her world and mine. As I played "Go Fish" (a common game among children based on an honor system requiring players to ask another player for particular cards that match their own) I found myself teaching her some basic rules on ethical behavior. I had to explain why it was not right for my daughter, who like any other young child does not take well to losing, to peek at my cards or turn them over in an attempt to see what I was holding when I left to answer the phone or stir a pot of pasta. Her response was "but it's easier for me to know what you're holding Mom." Indeed.

This concept carries over to the competitive intelligence practitioner. Business is like a game -- yes it would be easier to cheat, but we need to play by the rules. In the case of a CI analyst this means collecting data and performing research without turning over the cards.

ABC'S

Gathering and using publicly

available competitive information is part of fair competition. But each of us also has the responsibility to conduct intelligence activities in accordance with the highest ethical standards. Otherwise we substantiate all those outsiders who call our profession spying, certainly not a flattering or accurate depiction of our hard work as analysts.

Our own reputation and that of our companies should never be compromised. When in doubt, think of the public relations rule: Would you want to read about your behavior on the cover of the *New York Times* or worse your parents' hometown newspaper? If your answer is no because it would either cause me or my firm embarrassment or financial harm, then simply do not engage in that activity. (Refer to SCIP's Code of Ethics in Figure 1 for some industry-wide guidelines.)

CAN'T TOUCH THAT

Questions on tricky, grey ethical matters fall into this broad category we call *misrepresentation*. Misrepresentation covers the range of behavior involving deception about your identity with the intent to hide your intentions. Some examples include:

- Lying about who you are, what your job is, and/or the company you work for when asked directly.
- Claiming to be someone you aren't, such as a university student collecting research for a school project.
- Falsely posing as a job seeker to respond to a competitor's employment ads.
- Posting a nonexistent job position to attract applicants from a competitor.

SIDEBAR 1: SCIP CODE OF ETHICS FOR CI PROFESSIONALS

- To continually strive to increase the recognition and respect of the profession.
- To comply with all applicable laws, domestic and international.
- To accurately disclose all relevant information, including one's identity and organization, prior to all interviews.
- To avoid conflicts of interest in fulfilling one's duties.
- To provide honest and realistic recommendations and conclusions in the execution of one's duties.
- To promote this code of ethics within one's company, with third-party contractors and within the entire profession.
- To faithfully adhere to and abide by one's company policies, objectives, and guidelines.

In addition CI analysts can receive confidential information and may be unclear on what to do with it. The answer is simple: you cannot retain confidential information. Period. If you find competitive information that is clearly marked confidential (written reports, computer files, other media, etc.), follow these three steps:

1. Pass the information on to your Company Legal staff.
2. Note under what circumstances you obtained that confidential piece of information and keep that note for your records.
3. Do not copy or retain a copy of the material. Think of it as a hot potato -- dispose of it as quickly as possible.

CREATIVE ALTERNATIVES

Intelligence is an art, not an exact science so our success often depends on our ability to develop creative ways to find information. Much of the information we need can be obtained legally and ethically but the question is how.

The key is tapping human sources who may have the information you need and are willing to talk to you. Leverage your business contacts as necessary for help in making introductions to other sources who may have the information you need. Some valuable human sources you want to tap as you embark on your intelligence collection activities include:

- Academia
- Technology vendors
- Purchasing agents
- Advertising agencies
- Journalists
- Market research firms
- Securities analysts
- Peers at professional meetings and associations
- Recruiters

SOCIAL MEDIA

The good news is that the web provides new **ethical** avenues to

sources around the world for gathering intelligence that were not available even five years ago. The proliferation of social media such as podcasts, blogs, wiki's, and virtual worlds creates new opportunities for gathering new intelligence. What is unique about these new venues is that they are not limited to published sources but provide access to a form of primary intelligence available through the latest electronic media.

What sets these media apart from more traditional sources is that the individuals participating in them are freely volunteering their opinions. The information shared in such venues is honest and raw, not the information usually uncovered in traditional surveys

RULE OF THUMB

When uncertain, refer all your questions regarding legal and ethical intelligence practices to your company Legal Department.

or phone interviews (which can feel more like an official contract than an open dialogue).

For instance blogs provide new opportunities to connect with individuals who provide perspectives on your own firm and your competition. They have something to say about products, trends, unmet needs, unique issues and challenges. The same ethical rules follow when you contact individuals through this media outlet -- do not misrepresent yourself. Identify yourself when asked.

Remember the blunders of Whole Foods CEO, John Mackey, who was caught blogging under a pseudonym, praising his own firm while knocking his competition Wild Oats, in light of a potential merger between his own firm and Wild Oats. His actions were clearly inappropriate and unethical. They caused a public relations nightmare for the company and prompted an investigation by the SEC to see if he violated any laws.

DOTTING I'S AND CROSSING T'S

When gathering information, always document the source. If possible, spell out the details under which you acquired the intelligence. Specifically include the source, the date information was obtained, why the information was provided, and rate the source's reliability (strong, weak, etc.).

When you use consultants as part of your collection process, stipulate that they act in accordance with your own legal and ethical standards. Consultants are viewed as an extension of your firm so do not ask them to do anything that you would not do, or that would violate your company's code of ethics.

The temptation to take short cuts and use unethical means for collecting highly desired information is real. But remember that the actual piece of information you're after is probably not as important as the broader implication of what that intelligence, obtainable or not, means to your organization.

It may not be so important to know whether or not competitor x is introducing a new product or opening a new plant but instead to know the implications of either scenario on one's own firm. Value is provided by preparing your organization for various scenarios, since we know that the future is not certain and cannot be predicted.

I welcome your thoughts and own ideas on this topic.

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