

How Far Can Primary Research Go?

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The cover story in the very first issue of *Competitive Intelligence Magazine*, in April-June 1998 (“Navigating through the Legal/Ethical Gray Zone: What Would YOU Do?”), reported on a SCIP survey that posed a number of scenarios about what constitutes ethical behavior for competitive intelligence (CI). Since then there have been a number of high profile incidents showing that some people do not treat competitive intelligence ethics seriously.

Such cases also show how important an ethical code actually is. And it’s not just about adherence to SCIP’s Code of Ethics; it’s about basic business ethics.

It is too easy to phone a competitor and request information, claiming that it’s “to help with a student dissertation” or ask for detailed information while posing as a customer when there is no intention to purchase anything. Even worse than the “big lie” is the covert theft of information - when an employee takes trade secrets to a new company.

Ultimately, however, all such tricks are liable to be found out, and competitive intelligence professionals within the company (and the consultants they use) just bring themselves, and their firms, into disrepute. At best, it will result in bad press; at the worst, a court case that could lead to bankruptcy.

Ethical Questions About Primary Research

The question arises as to what forms of primary research are ethical. Is it legitimate for a company to ask a third party to purchase goods on its behalf? In this case, the third party is a genuine customer; it’s just that the goods will then be passed to the competitor. In the strict sense, if the purchase is accepted, then the resulting information is in the public domain. Is this ethical?

What about phoning a competitor, or asking a consultant or friend to phone, to ask for a copy of the competitor’s marketing brochures, or price lists or other material, without identifying who wants the information or why? In the book of Leviticus there is a command that says, “thou shalt not put a stumbling block in front of somebody who is blind” (Leviticus 19:14). Is this what we are doing in such cases—hoodwinking competitors into sending information that would be refused if they could just see who would be getting it? The same circumstances apply when speaking to a competitor’s customers, suppliers, or other stakeholders.

The SCIP Code of Ethics is clear about condemning misrepresentation, and expects that the enquirer should give his or her name and company. However a third party can legitimately do this while acting on behalf of their client, and the competitor will not realize the real purpose of the inquiry. Is this ethical—or should such enquirers say who they are working for?

Business Ethics, Honesty, and Fair Play

The foundation of business ethics follows a “do as you would be done by” approach. Honesty and fair play are prerequisites. Thus, on first glance, the above situations would appear to breach ethical behavior. However, if this argument is followed through to its logical conclusion, virtually all primary competitor research could be viewed as unethical. Even visiting a competitor’s exhibition stand and picking up brochures, or attending a business seminar where the competitor was speaking could be viewed as suspect. The trouble with this view is that the only legitimate form of competitor research would involve secondary sources.

Ultimately, however, such an approach would not be beneficial to companies or to customers. Take, for example, an industry where all companies follow such a code of ethics. Unless the penalty for breaching this ethical code were particularly severe, it would be in the interest of companies to break the code so as to gain a commercial advantage. Those companies that kept to the code might feel self-righteous, but their less ethical competitors would gain by obtaining and using competitive intelligence against them. Even if they got caught, as long as the punishment were less than the potential gain, there would be a benefit to unethical behavior. If the punishment were severe, but the risk of capture small, then again, some companies would attempt to gain from unethical behavior. This can be modeled using game theory (see Sidebar 1).

An additional drawback to a pure ethical code would be that companies following it will be slower to learn best industry practices, resulting in a marketplace that is not transparent. Instead of there being a market where companies look for differences so as to distinguish themselves from competitors, lack of knowledge would result in a mixture of companies that fail to meet customer needs adequately—either by being too similar or too dissimilar to one another.

Although an argument can be made for a pure ethical code, ultimately this is not in anybody’s interest. Instead, an ethical code such as the one postulated by SCIP becomes a way forward by offering a “half-way house.” Thus it would be legitimate to purchase competitor products—either directly or through a third party. Third parties can ask for information without declaring how it will be used or who will use it. Further, if the competitor makes assumptions about the questions that are incorrect, then the third party should not need to let the competitor know that they are working on a false assumption.

At the same time, enquirers should respect all requests for confidentiality – and should not misrepresent themselves, saying that they are somebody they are not. However, to ensure that any code works the penalties for non-adherence need to be severe. Legislative routes for seeking redress need to be low cost, but result in high punitive penalties.

Achieving a Balanced Code

Essentially, there needs to be a balance between the ideal ethical code, and an ethical code that will benefit the industry and the players within it so that companies are not encouraged to take an unfair advantage. Through its Code of Ethics, SCIP has demonstrated a commitment to ensuring ethical CI. The role of SCIP

Game Theory

The choice between behaving ethically or unethically can be modeled using a game theory approach. Game theory is a tool that has its origins in economic theory and can be described as a methodology for modelling interactions between two or more players in situations where the players can make decisions on how to behave under specific circumstances. Essentially, it can be viewed as a way of analyzing strategies mathematically. Game theory usage has become more common in business decision-making—especially after 1994 when three game theoreticians (John Nash, John Harsanyi and Reinhard Selten) were awarded the Nobel Prize for Economics.

The following model shows how unless there is a high risk of getting caught and punished, unethical behavior is inevitable. **G** is the potential gain, **R_c** is the risk of getting caught, and **P** is the resulting penalty. The values for **R_c** and **P** vary between 0 and 1, where 0 is no penalty or risk, and 1 is 100% chance of capture or a punitive penalty that would wipe out all gains. Further, the total risk (**R_c P**) will also lie between 0 and 1 but, except for when both R_c and P are 1 or 0, will be lower than each individual element.

	Ethical Company	Unethical Company
Ethical Company	0.5G	$GR_c P$
Unethical Company	$G(1-GR_c P)$	$0.5G(1 - R_c P)$

Where two ethical companies fight between each other, the potential gain can be viewed as equal. Two unethical companies will also be equal, although the risk of capture and the resulting penalty will reduce this by a factor equal to the risk multiplied by the gain. Thus, if the risk of capture and penalty is high, the reward to the ethical company will be higher, as the unethical company loses out. If the likelihood of capture is 100% and the penalty is punitive, then the ethical company gets all the rewards. As the risk decreases, there will be an increasing likelihood for unethical behavior, because it is in a firm’s interest to behave unethically where the risk of capture or penalty is sufficiently low. For each value of risk below 1, there will be an equilibrium position where it will be in the interest of a proportion of firms to behave unethically. The only way to ensure ethical behavior then, will be to ensure that the penalty and risk of capture are both high. Where both the risk of capture and penalty are low, ethical companies will make smaller profits, and will thus not be serving the best interests of their employees or shareholders.

The theory behind this model is based on the evolutionary stable strategy models used to look at animal behavior and conflict first described by John Maynard Smith and George Price (Nature, 246, 15-18, 1973). Where there are a large number of companies in the industry, it is possible to calculate the expected proportion of companies that will behave unethically for any particular value of risk using a formula where the proportion behaving unethically equals $(3-3r)/(4-r)$ where **r** is the total level of risk (i.e. **R_c P**). In the US, **r** appears to be fairly constant and high. As a result unethical behaviour is relatively rare. There are markets where **r** is much lower and unethical behavior is much more common in all its forms (bribery and corruption as well as industrial espionage). CI analysts need to be aware of these risk factors, so as to protect confidentiality when dealing in different markets.

in promoting ethical competitive intelligence practices should go beyond simply publishing the code and requiring members to adhere to it. SCIP needs to actively campaign for ethical behavior in business—and take action against members who work for companies that break the code by mixing ethical CI with industrial espionage. In the short-term this may lead to a drop in membership, as less ethical members leave. In the long-term, it will transform SCIP into a truly professional organization in the vanguard of promoting a culture of ethical business practice world-wide.

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References and Related Reading

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