

Ethical Differences: A Literature Review of the Ethics of Competitive Intelligence for the LIS Professional

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Abstract

Library and Information Science and Competitive Intelligence each have different sets of professional ethics. This article examines the ethics of Competitive Intelligence through the lens of Library and Information Science. From a review of the literature, three areas in which ethical problems can occur for the Library and Information Science professional practicing Competitive Intelligence, become apparent. Differences of ethics in the two fields result in ethical difficulties for the Library and Information Science professional in regards to; how data is to be gathered, what is an acceptable means of determining what is ethical, and what rules exists to guide one's actions. This article makes clear how these ethical problems will make Competitive Intelligence difficult for the Library and Information Science professional who wishes to work in that field.

Key words: Competitive Intelligence, Ethics, Library and Information Science, Business Ethics, Library Ethic, Business Ethic

Introduction

It is sometimes hard for Library and Information Science (LIS) professionals to remember that not all information based fields have the same ethics as LIS. *The Integration of Intelligence Analysis into LIS Education* argues that in intelligence analysis fields LIS professionals often face ethical dilemmas when asked to obtain private data possibly via some form of misrepresentation. It flies in the face of the ethics LIS has instilled in them (Jin & Bouthillier, 2010).

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Competitive intelligence is one of many fields that fall under the intelligence analysis umbrella. The term Competitive Intelligence (CI) is defined as “a systematic and ethical program for gathering, analyzing, and managing information that can affect a company’s plans, decisions, and operations” (Miller, 2009, p. 1209). This idea is different from that of Corporate Espionage (CE), a term that conjures in the mind images of black suited men making clandestine dealings in darkened hallways. A brief but thorough introduction to the concept of CI can be found in Gray’s 2010 article *Competitive Intelligence*. In this paper CI may also be referred to as BI- Business Intelligence (BI).

It is the point of this paper to explore what kind of ethical quandaries the LIS professional may face if they chose to enter the CI field. The hope is that this will help to prepare the LIS professional for the realities they may face.

Difference between CI and CE (1.1)

The organization known as Strategic and Competitive Intelligence Professionals (SCIP) makes it clear that the primary difference between CI and CE is that “competitive intelligence is the process of legally and ethically gathering and analyzing information about competitors” (2016). From that, it can be argued that CE represents a failure to abide by these rules. (Miller, 2009) That is to say, if the information in question is gathered in an illegal or unethical way, the gatherer of the information has committed an act of CE.

The question of when CI becomes CE is further elaborated upon in an article by Crane (2005), in which he attempts to determine “at what point does legitimate competitive intelligence gathering cross the line into industrial espionage” (p. 233)?

He argues that, ethically speaking, an act of CI can be considered an act of CE, if it is found that: the nature of the information gathered can be considered as confidential, the tactics used go beyond what is deemed acceptable, or the information was gained with the purpose of being used against the public interest. (Crane, 2005) His argument neatly captures three of the areas in which a LIS professional could face ethical struggles in CI work. The first area relates to questions of how far -by what methods or nature-one should go to gather data. The second area relates to problems stemming from the ambiguity of what is acceptable.

The third area relates to issues around whose interests are being served and what future problems may arise there from.

What are CI Ethics? (1.2)

While the ALA Code of Ethics may be well known in LIS fields, other codes of ethics such as those devised by SCIP are less prominent in the field of CI. (Jin & Bouthillier, 2010) As a result, the notion of what constitutes ethics in CI is still somewhat vague. The basis of the idea is laid out by Erickson (2014) when he says that the ethics of CI are the “ethical principles of conduct that govern an individual in the work place” (Erickson, 2014). This nebulous idea can be augmented with the definition provided by Thomann & Wells (2013), who argue that “the goal of BI ethics are [sic] to facilitate doing the right things for others and for ourselves and to prevent doing harm to others or to ourselves” (p. 20). While an improvement, this still leaves the definition of what constitutes ethics in CI tangled in questions of what is ‘right’ and what is ‘harmful’. It speaks to the highly relative nature of the subject that even all this time after the call for codes for ethical standards by Paine (1991) 25 years ago, the definition of CI ethics still boils down to: be a good person. Being a good person is easier said than done, which is perhaps one reason why it is easier to call for the creation of codes of ethics than to actually produce them.

Data Gathering (2)

What a LIS professional knows they can do, and what a LIS professional thinks they should do, are two different things when it comes to data gathering. It is whether or not the action is carried out that highlights the distinction between the two, which is the practice of ethics. There are many reasons why a person (or company) would choose (or not) to employ a given method of intelligence gathering.

Thomann & Wells (2013) highlight 300 possible areas of sensitivity in regards to ethical data collection, composed of “10 data ethics principles, intersecting with three kinds of data sources, and with 10 data subjects spanning market, competitors, and company” (p. 22). Each of these could be an area of troubling conflict for the LIS professional. At any one of these areas the LIS professional may balk at having to perform actions counter to the principles they have been taught.

Methods of Data Gathering (2.1)

There are almost as many ways of gathering data as there are kinds of data. While the methods by which this is done are themselves interesting, it is not so much the practices of gathering data, as the implications thereof which are of interest to us. Shultz, Collins & McCulloch wrote *The Ethics of Business Intelligence* in 1994. Their work is essentially a side-by-side comparison of two earlier papers, Beltramini (1986) and Cohen & Czepiec (1988). Both of these papers conducted studies on the same set of seven hypotheticals regarding information gathering from competitors via varying degrees of ethical ambiguity. The participants were asked to specify if they believed that; their own company would use the methods in question, they personally would use the methods, and that their competitors would use of the methods.

(Beltramini, 1986; Cohen & Czepiec, 1988) The findings suggest that there is a widespread belief that the competitor is willing to use any and all of the methods discussed to get the desired results. Also of interest was the implication that most CI professionals believed their personal ethical standards were roughly in line with their employers'. (Beltramini, 1986; Cohen & Czepiec, 1988; Shultz et al., 1994, p. 312-313)

This belief that other companies are willing to do whatever it takes does not exist in a vacuum. Zahra (1994) conducted a study of senior executives and their perceptions of the causes and potential effects of questionable CI practices on industries, businesses, and individuals. The study suggests that executives feel that the competitors' willingness to do anything for the information is the highest rated cause of potential unethical CI practices. Furthermore, the highest rated effect of these unethical CI practices was felt to be that they cause distrust among the competition. (Zahra, 1994)

The distrust that results from these unethical CI practices does not exist in a vacuum either. Rittenburg, Valentine & Faircloth (2006) speculate that both the perceived and/or real unethical CI practices of other companies are one of the factors that weaken ethical decision making processes in CI gathering. (Rittenburg et al., 2006) That is to say that distrust in the ethical quality of competitors' CI practices, leads other CI practitioners to use unethical CI practices. All this becomes a cycle, the existence of which has long been suspected.

(Paine, 1991) It is a cycle in which the idea of the amoral competitor breeds suspicion, which in turn breeds unethical CI practices, in turn breeding more suspicion, in turn breeding more unethical CI practices.

This cycle, this atmosphere of villainization and suspicion, is one that is more or less foreign to the LIS profession. A combination of the fifth and eighth points of the ALA Code of Ethics foster an outlook that is encouraging, respectful, fair, and in *bona fides*. (ALA, 2008) Concepts of malice and distrust simply do not enter into the way LIS is practiced. It is highly unlikely that, in a traditional library setting, a LIS professional would suspect another professional of cheating and so decide to cheat as well.

There are some methods of gathering CI data which are palatable to the LIS professional. However, these methods may not always be available to them. In his opinion, Fitzpatrick (2003) feels that the ethically questionable methods of what he calls creative competitive intelligence come from a failure to obtain legal and current CI materials. The materials he references are those which a LIS professional would consider secondary e.g., a job opening, so that it may be analyzed to determine a competitor's future needs. Another way to obtain secondary source data for analysis is by mystery shopping, the ethics of which Ng Kwet Shing & Spence (2002) discuss.

There are unfortunately, few of what a LIS professional would think of as primary resources, e.g., a competitor's internal documents detailing their current market plans. This type of information would naturally not be freely given out to competitors. Generally speaking, there are four ways to obtain these types of resources: the finding and bribing of informants, spying, conducting false interviews or placing false orders, and going through a competitor's trash. None of these practices are considered ethical. (Collins & Shultz, 1996; Hallaq & Steinhorst, 1994; Shultz et al., 1994; Zahra, 1994)

As a result, a LIS professional in a CI position would find himself or herself in a situation where they cannot directly ask for information. They will not be able to do that which is arguably the bedrock of their education. While in an LIS field it might be perfectly acceptable to ask the librarian of a different organization what he or she may know, in a CI setting that would be simply be foolish.

As a result, other methods, some of them irrespective of the privacy and intellectual property rights of others, must be used.

The third and fourth points of the ALA Code of Ethics clearly state that the upholding both privacy and intellectual property rights is paramount. (ALA, 2008) However, one of the intents of CI is to know as much about the competition as possible and that carries with it the implication of ignoring the privacy and intellectual property right of the competitor. LIS professionals are taught that information ought to be freely shared, within the limitations of the creator and copyright. It is not unreasonable then, to suspect that an LIS professional might have difficulties in a CI setting, where information is a zero-sum-game. (Trevino & Waeber, 1997; Zahra, 1994) It is hard to uphold privacy and intellectual property rights when one's job is to effectively ignore both.

Real & Hypothetical Examples (2.2)

CI gathering is something that happens in a variety of fashions. The following articles illustrate how CI gathering is done in practice and in theory. They demonstrate methods of acquiring information in ethically ambiguous ways. Although one could argue that, the articles are examples of what not to do, as some of the actions that take place in the texts could be considered unethical.

Confessions of a Corporate Spy is written by Chidi (2013) a competitive intelligence officer, who has done a variety of jobs for numerous companies.

In it he mentions how he gathered the information in certain places and how he adjusted his methods to certain situations. (Chidi, 2013) With that, is an article in *The New York Times* by Kaminer, (2011). Her column asks whether or not by the act of writing something in public you give up the right to call it secret and to what extent that leeway goes? (Kaminer, 2011) For the LIS professional, both ultimately ask the question of how far one is willing to push the boundaries of both privacy and intellectual property rights (ALA, 2008) *Spies, Lies and KPMG*, by Javers, (2007) is a piece which recounts the story of how the accounting firm KPMG was infiltrated by the CI firm Diligence, by a man posing as a British intelligence officer. (Javers, 2007, p. 86-88).

For the LIS professional looking to go into CI, this might be an informative read. While the man's actions are hard to justify ethically, this article may be useful as a kind of warning. As an example of the methods others in the CI field are willing to use, it may stimulate thought on whether or not this is a field a LIS professional is willing to work in.

Lastly, there is a 2007 article by the CAS Committee on Professionalism Education. The article presents a fictional instance of a woman who works at home - after working for one company and becoming employed by another- and debates the merits of using the documents she has access to from her previous employment to provide information for a new employer. The piece also offers an approving and dissenting opinions of her actions. (*The Battle between Good and Legal*, 2007) In terms of LIS the question essentially becomes: if I have the information can I use it? This unfortunately is a situation that can only be answered when the questions of privacy and content have been addressed. As those are situation ally dependent variables, there is no hard-and-fast part of the ALA Code of Ethics that can be applied. (ALA, 2008).

Ambiguities (3)

Ultimately, the question of what is ethical is relative to the individual, or group. Thomann & Wells (2013) illustrate the dimensions of ambiguity in CI. They point out that this ambiguity stems from the intersection of ideas on; right versus wrong, what is right for an individual, and what is right for the community (Thomann & Wells, 2013). As none of those things are universal in nature, so can ideas as to what constitutes ethical CI practices vary not just from person to person but from place to place. This reality was highlighted by Hallaq & Steinhorst (1994) who found that "rural residents tend to be more conservative and less approving of questionable methods of information gathering" (p. 787).

Ethical Guidelines (3.1)

Differences in ethical opinions are, one can argue, instances of intellectual freedom. And just as peoples' opinions change from person to person, so too do opinions change from group to group and from place to place on what constitutes ethical and unethical CI practices.

(Hallaq & Steinhorst, 1994) However, this ethical ambiguity is not necessarily an easy thing to grapple with, for those who practice CI. Wines & Napier (1992) contend that as businesses continue to grow around the world “managers will be faced with translating moral values into business decisions and actions appropriate for various cultures.

It is crucial that managers understand the implications of the decisions and actions they take in light of the application of moral values and codes” (p. 840). In short, CI professionals will have to learn to play by the rules of their hosts, rather than by their own rules.

Often CI professionals decide if something is ethical or not by evaluating the matter based on their opinions. (Charters, 2001; Collins & Shultz, 1996; Trevino & Weaver, 1997) This allows CI practitioners to feel empowered, and when empowered they take more notice of ethical issues. (Chen, Sawyers & Williams, 1997) Furthermore, this awareness of moral issues increases their engagement in moral decision-making. (Jones, 1991)

However, this abundance of moral thinking is not always a good thing. It can lead to a profusion of opinions on a given topic, none of them necessarily definitive. Take, for example, the matter of deception. At the tip of the iceberg, a paper by Kimmel & Smith (2001) “provides a conceptual starting point for developing a more complete understanding of deception in marketing research, including an ethical analysis from the viewpoint of consequentiality and deontological theories of moral reasoning” (p. 663). The idea of deception is a running theme in most of the papers discussed in this work. Each author has their own opinion on when omission becomes lying or what exactly qualifies as misrepresentation. (Beltramini, 1986; Charters, 2001; Chibi, 2013; Cohen & Czepiec 1988; Collins & Shultz, 1996; Hallaq & Stienhorst, 1994; Javers, 2007; Ng KwetShing & Spence, 2002; Paine, 1991; Shultz et al., 1994; Trevino & Weaver, 1997; Zahra, 1994)

There is at least one suggestion as to how to address this abundance of intellectual thought: by the implementation of industry wide agreements on what is ethical. (Trevino & Weaver, 1997) This would be a positive thing, as the result would be a code of ethics custom made for the field, and not one selectively edited for the conveniences of CI practitioners.

(Charters, 2001) Then CI professionals could be better and further educated in these ethical guidelines, which some have argued, is a necessity to prevent unethical CI practices.

(Fitzpatrick, 2003) If this is successful, it will help to create an environment in which the CI professionals enjoy doing the moral thing, which in-turn will enable an ethical work environment to prosper that encourages ethical behavior. (Hartman, 1998) There is, unfortunately a problem with the proposed plan from the LIS point of view. For anyone to try to impose a set of rules of the nature described, would require a fair deal of repression of the intellectual freedom of those whom hold differing points of view from the orthodoxy trying to be imposed.

One cannot impose one person's set of ethics on another without ultimately forcing the latter to abandon their beliefs, which is a form of repression and censorship. That is something the ALA Code of Ethics cannot allow. (ALA, 2008) Thus, the LIS professional, who might naturally seek to impose some manner of order on this abundance of ethical thinking, would find himself or herself faced with a reality, in which by attempting to impose some kind of uniformity, they would curtail the very ethical rules they believe.

Corporate Codes (4)

What people are willing to do is one thing; what a company is prepared to endorse its employees doing is another. While corporate codes of ethics for CI professionals exist, they are not perfect. In the case of the LIS professional, these imperfections can lead to some troubling problems.

Codes of Conduct (4.1)

While codes of ethics for corporations have existed for some time, they have not always been applicable to CI. One of the first authors to draw attention to this was Paine (1991). She highlights the lack of corporate guidance in CI.

This issue is still being addressed today; take for example, *Ethics in Business Intelligence* by Erickson (2014).

The article itself is not necessarily important for what it says, so much as it is by and large another call for the corporate world to put forth ethical guidelines in regards to CI. What makes it notable is the language Erickson uses in now thoroughly computer based, in keeping with the technology. It is a marked contrast to some of the more manual methods discussed elsewhere. (Collins & Shultz, 1996; Hallaq & Stienhorst, 1994; Zahra, 1994)

We will take as granted the idea that something must be lacking in corporate codes of CI policy, otherwise there would not be a reoccurring call for them. One of the main problems is likely that "CI practitioners feel very much on their own, relying on personal background and intuition to make tough ethical decisions" in their day to day practice (Trevino & Weaver, 1997, p. 71). There are two likely reasons for this.

The first is that these codes of conduct are too vague to be of situational use in the activities of CI professionals. (Trevino & Weaver, 1997) This idea is compounded by the results of one study which found that "the fact that most of our respondents could not recall their codes' specific content strengthen our argument that the codes' primary function may be to signal whether or not ethical behavior is expected in the organization" (Adams et al., 2001, p. 208). This idea is supported elsewhere as well.(Collins & Shultz, 1996) The other reason is that the majority of the content of corporate codes relates to the prevention of illegal, but not unethical, actions by employees. (Collins & Shultz, 1996)

There have been suggestions of how to remedy this problem. A frequent suggestion is for management to establish and reinforce ethical codes both in policy and in action.

(Adams et al., 1994; Erickson, 2014; Paine, 1991) In regards to the nature of those codes, some have suggested that a company's code should be binding on all CI agents and that the company in question should seek out and hire only agents whom adhere to similar ethical standards as the company. (Shultz, et al., 1994) Others who are of the opinion that a code should be based on principles and not situations that might arise. (Charters, 2001)

Let us take a step back and reexamine this situation for the point of view of a LIS educated CI professional. We know that CI practitioners will end up filling in the gaps in the ethical code for themselves. (Trevino & Weaver, 1997) We know that CI practitioners are given to fill in the missing bits of the code with their own principles (Charters, 2001) We know that the code in question is supposed to apply to the whole organization (Shultz et al., 1994) How, then, is the LIS professional supposed to react? By this strange set of rules, the LIS professional is in a situation which contradicts the seventh guideline of the ALA Code of Ethics. In this situation, one's personal convictions would be necessary to perform one's professional duties, and thus necessitate one's personal beliefs to interfere with both the task required and representation of the employer, something upon which the ALA does not look kindly. (ALA, 2008) As a result, the LIS ethically educated person would have some philosophical issues to resolve.

There is another point worth making in regards to corporate codes of ethics. Charters (2001) hold that the ultimate goal of an effective corporate code is to be "one that imbues the organization with a [ethical] culture that maintains itself even if the policy is removed" (p. 46). It is likely that this was the kind of policy that Hartmann has in mind when he describes a work atmosphere in which people enjoy doing the ethical thing. (Hartman, 1998)

However, when combined with the fact that ethics of CI are an easy thing to overlook until one gets caught breaking them, things begin to change. (Ng KwetShing & Spence, 2002, p. 352). The combination of these ideas leads to a situation in which employees enjoy doing the unethical thing, because it makes them happy to get the requested data, or they at least prefer it to the consequences of acting ethically. (Charters, 2001) If we examine this state of affairs again, we see that the LIS professional would be in sticky situation.

In this particular instance, if someone were to do the ethical thing, and as a possible result not obtain the requested data, as opposed to doing the unethical thing and obtaining the requested data, doing the ethical thing would be a detriment to the employer. That would make it a case in which one advanced their own private interests at the expense of the employer, which in turn would be in direct conflict with the sixth guideline of the ALA code of ethics. (ALA, 2008) The complexities of the situation would be counter the LIS professional's ethics.

Larger Questions (4.2)

Should a LIS professional find himself or herself in a position of CI management, they will find that the decisions they make will have consequences beyond the immediate future. They will be in a position to guide the future shape of CI. Thomann and Wells submit a chart of 24 areas of discussion for building a business case for ethical CI. (Thomann & Wells, 2013) Each of these areas can also be seen then as an area for potential future guidance in CI. Those LIS professional who do enter positions of CI management will have to answer the kind of questions that help others to think about the consequences of their actions or what message they wish to send as managers. A few items which will help spark those kinds of questions are mentioned below.

One interesting piece comes from Langnau, (2003), asks questions not only of privacy, but also of whether or not data should be analyzed in certain ways. Both of these questions have different answers from the LIS point of view. In regards to the former question, the LIS field has a great respect for privacy. (ALA, 2008) From that, one might logically consider if the people whose private information is being gathered ought to be told. However, to do so might risk the cessation of the private data in question, and so would be a detriment to the company.

In regards to the latter question, LIS holds that information should be distributed to all those who ask (ALA, 2008) Yet, further analysis of the data in question could lead to further invasion of privacy. Which is acceptable?

Jordan & Finkelstien, (2005), ask the question of what should the chairman of a company should do once he has discovered that his employees have violated the company's principles but not the law. If we assume that the employees in question were doing their job, then we may say that their actions were ultimately for the good of company. However, to punish those employees for doing their jobs (presuming the chairman felt the need to do so) would be for the chairman to follow his own private interests at the expense of the employer's. This is something LIS does not condone. (ALA, 2008) Does that mean the actions of those employees should be allowed to continue despite the inherent LIS ethical issues?

For their part, Kurtz, Schuler & Sleeper (2010) ask the question of what should the vice president one company do with unsolicited competitor information? What would the consequences of his actions be, and how could the competitor better protected their secrets in the future? Questions of unsolicited information aside, let's consider how the competitor might do to further protect him or herself. One intuitive answer would be to increase security.

However, one could argue that to increase security is to increase censorship (in that increased security mean decreased access), an idea LIS does not support. (ALA, 2008) Furthermore, is not possible that increased security will only increase questionable CI practices, as others have argued? (Paine, 1991)

Conclusion (5)

We have attempted here to explore the kind of ethical quandaries LIS professionals may face if they enter the CI field.

The CI profession is one filled with secrecy and suspicion, as opposed to the comparatively more open and honest LIS profession. It is a field where the LIS professional is going to have to adjust to an inability to directly ask for information, as well as to a professional disregard for privacy and intellectual property. The field of CI is one where, in order to impose some kind of standardization, the opinions of others will likely have to be censored. The field of CI is one in which an employees' personal convictions and professional duties are inextricably intertwined and the one cannot be done without the other, save by being completely amoral. Finally, the field of CI is one in which LIS professionals who decide to act according to the LIS code of ethics, would also be people who follow their own private interests at the expense of their employer and fellow employees.

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