

# Global Code of Ethics and Competitive Intelligence Purposes: an Ethical Perspective on Competitors

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## EXECUTIVE SUMMARY

This article discusses the ethical problems faced in those investigations where competitors are the central objects of the study. A conceptual framework is developed that helps build ethical boundaries between information collection techniques. The model will employ four fundamental variables, the analysis of which will lead to the progressive selection of collection techniques. The final outcome will primarily depend on the strategic purposes of decision-makers. The model helps resolve ethical dilemmas that can arise in the competitor information gathering process in domestic and global markets. In addition, this article will present a new approach to the treatment of corporate ethical consciousness.

## KEYWORDS

business and professional ethics, competitor research, conceptual framework, information gathering techniques, internationalism

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## INTRODUCTION

Competitive intelligence (CI) is defined as the systematic process of gathering, classifying, analyzing and distributing information regarding competitors,

markets, and industries. CI is secured using ethical and legal practices and is integrated into the strategic decision-making process (Sammon, Kurland, & Spitalnic, 1984, Vella & McGonagle 1988, Prescott & Miller, 2001). In this regard, one of the primary objectives of this article is to introduce a conceptual framework which helps organizations, faced with competitive intelligence (CI) research, to establish which collection techniques are ethically acceptable in a specific context. 'Intelligence purposes' will be introduced as a main part of this framework. Another primary objective of this article is to discuss approaches to CI through which firms can embrace a multinational code of ethics. This topic will be explored by using a conductive approach to those individuals displaying ethical conduct when faced with a decision on whether to accept a type of gathering technique in a specific context.

This article will commence by defining the way CI and ethics have been approached in the literature and will identify the types of codes. The intention of this initial discussion is to provide a general overview of CI and ethics, thus providing a starting point for discussion of the main subject. Next, four variables which establish the elements of a business research code of ethics will be described. This article will then describe the types of collection techniques that are used in business research and will illustrate the core group of variables impinging on the selection of these techniques which are culture, principles and moral consciousness, collection techniques, and purposes. This model will suggest a sequential process that will lead to the selection of the collection techniques. A model is then proposed that will integrate all of the variables in three different levels. To further illustrate this model, the relationship between strategic purposes and moral judgment in the method of gathering information is examined. This concept is based on the idea that intelligence purposes interfere with the organization and modify the attitude of the information gatherer. Finally, the article will discuss how individuals could use the same conceptual model to select techniques according to their business principles. This article will conclude by suggesting a new approach based on the idea that a structure exists for defining a global ethical standard.

## **Building Blocks**

### **Business, Marketing and Competitive Intelligence Ethics: Who are the Stakeholders?**

Business ethics has received significant attention in the last two decades. There is considerable literature to be found on this topic. Evidence of the awareness of business ethics is provided by the numerous publications that are dedicated to this topic. The traditional focus of business ethics is the firm itself, and how its activities influence the external environment and its stakeholders (Goodpaster, 1991).

Little attention has been dedicated to the idea of the competition being regarded as one of these stakeholders of business ethics (Camacho, Fernandez, & Miralles, 2002, Manley, 1991). Competitors have been treated with an unfair perspective, having, for the most part, been excluded from the stakeholder group. Freeman (1984) broadly defined the stakeholder as "any group or individual who can affect or is affected by the achievement of the organization's objectives". According to Spence, Coles and Harris (2001), competitors should be included in the broad definition of a stakeholder group. Several of the business disciplines, however, view the relationship between ethics and the firm's competitors in very different ways.

Instead of broaching the idea of the competitor as a primary focus of ethical discussion, marketing science has devoted more effort to the relationship between the researcher and the object of the investigation. The discipline of marketing focuses primarily on the consumer and how the firm can positively or negatively interact with the customer or end-consumer. Ethics in marketing research is focused on studying the relationship between the researcher and the respondent (Murphy & Laczniak, 1992) and the customer (Ferrell, Hartline & McDaniel, 1998). Academic and professional literature on competitive intelligence has devoted significant attention to the topic (Beltramini, 1986; Cohen & Czepiec, 1988; Paine, 1991; Hallaq & Steinhorst, 1994; Schultz; Collins & McCulloch, 1994; Trevino & Weaver, 1997; Hamilton & Fleisher, 2001; Prescott, 2001). In the discipline of CI, the competitor and the competitive arena are the main object of study. Hence, the end-consumer and

business environment are seen as a marginal interest.

According to Malhotra and Miller (1998), the ethics models proposed in the literature, concentrate more on business in general as opposed to a specific focus on the consumer or the competitor. The moral responsibility of business, marketing, and competitive intelligence, however, are not mutually exclusive. All of them are concentrated in three different areas with different foci and priorities. Moreover, the view that there is a distinction regarding the effort that any one of these disciplines dedicates to each stakeholder can be reinforced by the idea that moral consciousness varies significantly between different types of researchers and organizations. The concept was suggested by Ferrell, Hartline, and McDaniel (1998) who concluded that “marketing research companies enforce their codes of ethics to a greater degree than corporate research departments.”

Moral conscience develops when firms look at the relationship they have with their environment and the players in it, and how this rapport evolves over time. All business research, which uses internal or external sources, will have a specific group of stakeholders. Tena and Comai (2001) suggested three key objects of the company and therefore the three main groups of stakeholders for any organization:

1. Competitors and firms
2. Generic environment
3. End-consumers

As discussed earlier, the three perspective of the business ethics discipline can be perceived when the object of the study is considered. These perspectives are summarized in Figure 1 which presents the parallel between the moral conscience and the focus of a specific research. For instance, if a firm is focused on the general environment (e.g. ecology), business ethics comes into play. However, if the analysis is concentrated on the consumer responses of a strategic product development, the ethics will be dealt with from a market research perspective.

## Code of Ethics: a Classification

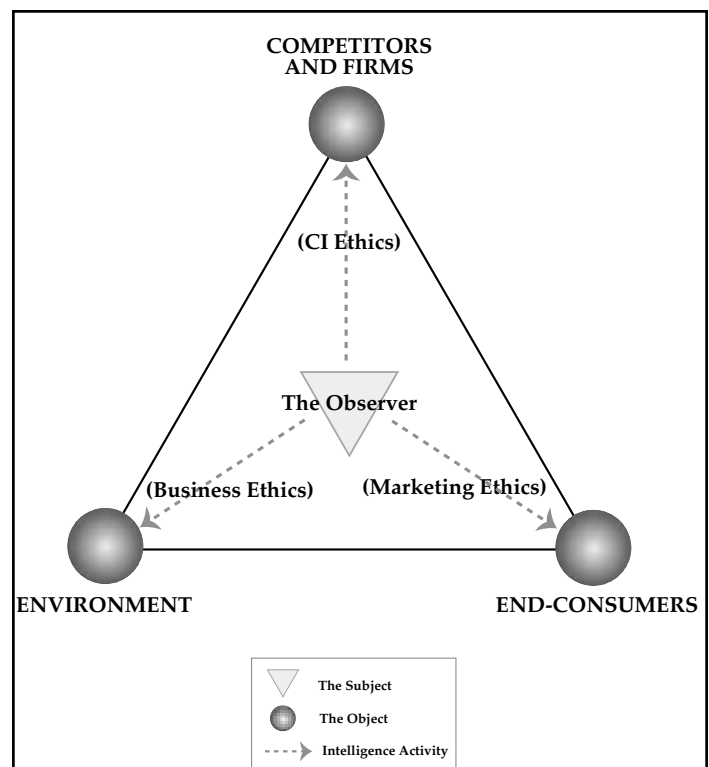
There are many ways of codifying ethical standards. A review of the literature indicates that there are five types of codes:

### 1. Flexible Code

The flexible code provides some general guidelines for conduct. This type of code is open to interpretation and can drive firms in different ways. For instance, the Society of Competitive Intelligence Professionals (SCIP) publishes a code of ethics to be adhered to by members in their professional activity (Society of Competitive Intelligence Professionals, 1997). Although SCIP members are expected to follow the ethical standards, there is sufficient leeway for interpretation. Nolan (1999) noted that practitioners adhere to the SCIP code of ethics act in various ways (e.g., by restricting different types of primary and secondary collection techniques).

### 2. Rigid or Regulatory Code

The rigid or regulatory code is a normative type of code and it is usually referred to in articles or statements as “dos and don’ts”. The rigid form can be seen as a contract that the firm signs with its environment and stakeholders. Once a company’s code of ethics has been structured, it should formulate a set of



**Figure 1: The Relationship between subject, object, and focus in intelligence collection and analysis**  
 Source: Adapted from: Tena & Comai (2001).

applicable guidelines that would help practitioners to follow them in their daily work. "In developing a moral culture, a corporation must formulate clear ethical strategies and structures, taking into account opportunities and risk, resources and competencies, personal values and preferences, and economic and social responsibilities" (Andrews, 1980).

### **3. *Storytelling, Case Study, Narrative, or Anecdotal Approach***

This type of code is generally applied by educational organizations, which undoubtedly make a significant contribution to ethical awareness. Studies regarding conflict of interest and ethical dilemmas are widely used in business school courses. Frankel (1989) would classify this type of code as an educational code, the main purpose of which is to put forward how a code can benefit the profession when it is dealing with ethical problems. From practical experience, ethical awareness can be beneficial and very effective. For instance, J.C. Penny Company developed many cases and descriptions of dilemmas in its "Statement of Business Ethics" (Society of Competitive Intelligence Professionals, 1997).

### **4. *Golden Rules***

This approach is based on the following ethic: "I will not do anything that may now, or in the future, harm, or embarrass, the corporation" (Fuld, 1995) or "don't do what you do not want others to do". This instinctive code of ethics can be promptly assimilated from practitioners but does not allow any corporation to establish a thoughtful ethical conduct.

### **5. *Question and Answer Approach***

Suggested by Nash (1981), this approach relates to an individual assessing a decision by answering 12 questions. This type of process helps individuals when they are confronted with a problematical decision.

Each system has pros and cons and can have a specific aim. Frankel (1989) defined the 3 main purposes of a code as:

- a) aspiration: which emphasizes self achievement
- b) educational: which underlines the importance of ethical wisdom

- c) regulatory: which offers guidelines

An organization can embrace one or all three purposes according to its style. It is generally accepted that restricted codes will offer less flexibility and interpretation and the individuals who agree to them will be less likely to get into conflict of interest. Restricted codes of ethics are very useful for people with problematic decisions to make (Kahaner, 1998).

Conversely, Lozano (1999) stressed the difference between regulated and self-regulated codes. The former may be close to the codes of ethics adopted by specific professions, which includes competence and responsibilities. However, this type of code is not sufficient to enhance an ethical maturity and for Lozano (1999), it needs a second dimension. The self-regulated or "educative code", as defined by Frankel (1989), includes a certain degree of interpretation, reasoning, and adaptability to a specific circumstance.

Regardless of which code is chosen, the firm would need a minimum degree of flexibility in order to adapt its standard and moral consciousness to external and internal conditions. Ethical standards, therefore, must be open to systematic and ad-hoc revisions, which are a part of the corporate learning process.

## **The Four Variables: Ethics Dimension**

Ethics in CI is not a simple issue. It is complex because many factors are in play at the same time. A review of the specialized and general business ethics literature suggests that there are many variables that interrelate in any ethical model. An expression of this would be the model proposed by Malhotra and Miller (1998) in which the authors integrate all of the main stakeholders in marketing.

A holistic stakeholder approach to ethics incorporates four main variables that affect competitors' moral judgment and relationships with other stakeholders:

- Variable 1: Questionable Methods
- Variable 2: The Business Context: Regulation, Business Rules, and Geography
- Variable 3: Cultural and Ethical Principles
- Variable 4: Competitive Intelligence Purposes



## Variable 1: Questionable Methods

The first variable includes the collection techniques or methods that have been widely discussed in the specialized literature (Paine, 1991; Parad & Banner, 1997; Schwebach, 1998; Washington Researchers 1998; Nolan, 1999; Prescott, 2001).

Since CI was defined as the systematic activity of gathering, analyzing, and distributing information about the competition and the business environment, the area experiencing most difficulty in respecting ethical boundaries during the whole process has been the collection activity. Sawka (2001) defines the collection activity as “fraught with risk”. Information gathering processes make strong use of primary research, which is broadly recognized as the most valuable source of information in competitive intelligence. According to Charters (2001), the collection activity is not the only one able to deliver competitive advantage. In fact, intelligence comes from a process that employs many activities. Research is a cyclical activity between collection and implicit or explicit analysis of the data. We collect information, we analyze it concurrently, and if we need more information, we search for it, and analyze it again in order to obtain the answer required.

Collection techniques can include several classifications. Paine (1991) categorized any suspicious collection activity into three groups: misrepresentation, improper influence, and covert surveillance. Prescott (2001) introduced four categories into which company collection activities can be separated: deception, undue influence, covert intelligence, and unsolicited intelligence. By re-examining the content of both analytical models we can make the following observations.

- *Legitimate* activities are those that are respected, agreed, and accepted either formally or informally by broader society (e.g., the firm, the government, or the stakeholder).
- *Misrepresentation* or *covert intelligence* techniques are those in which the name of the investigating company is not fully disclosed, partially hidden or distorted. The purpose of using misrepresentation is to change the rival consciousness about

the identity of the party interested in securing the information and, consequently, to reduce the level of aggressiveness perceived from the targeted company. It can be carried out by an independent research company, defined as a “smoke-screen” or “screening” (Washington Researchers, 1998). Another example is when a manager calls himself a member of the ‘marketing department’ instead of ‘competitor intelligence’ on his business cards or when he removes his name tag when he approaches a competitor’s stand at a trade fair. Another example is when a firm hires a student to collect information claiming that the research is for the university.

- Similarly, *improper influence* and *undue influence* has a lot in common. This category classifies those techniques that use psychological persuasion. For instance, love affairs, which may be used from intelligence agents to get key information, can lead to the destruction of the counterpart’s reputation (Parad & Banner, 1997).
- *Improper means* or *false purposes* occurs when the objective or purposes of an interaction is not clear to the other party. The best example of this is that of improper job interviewing of a competitor’s employees where the objective is to collect competitor information rather than select and employ professionals. The hotel group Marriott was faced with this case when it wanted to enter the hotel management business. At the time, the luxury hotel chain engaged a recognized consultant and interviewed various managers of a competing chain (Dumaine, 1988). The controversy of elicitation technique can be included in this category. “Elicitation is gaining information through direct communication, where one or more of the involved parties is not aware of the specific purpose of the conversation.”<sup>1</sup> Doubts concerning the subject of elicitation, are clearly recognized today and have quite a long tradition. In a 1977 survey by *Industry Week* (as reproduced in Porter & Rangan, 1992) “camouflaged questioning and drawing out of competitor’s employees at technical meet-

ings" was seen as 50% ethical and 50% unethical but entirely legal and very effective.

- *Unsolicited or accidental intelligence* is not really a technique but the use or the distribution of this information can be open to ethical discussion. An example of accidental intelligence would be the case of the New York office of Lexis-Nexis which received a fax in which a competitor was describing details of a product with the idea of sending it to a customer (Parker, 2002). Another example is when you are sitting in the same airplane and at your side you have an employee of a competitor that is reading her/his next presentation.
- *Other techniques* are those that cannot be classified into any of the above categories. These techniques can be: hiring people away from competitors, industry leaks, garbage-sorting, technological or personal surveillance, interrogation, persuasion, bribery and so on. Some of these are illegal, some unethical.

One of the difficulties that collectors have to deal with is conflict of interest. The success of getting the information needed is directly correlated to the effectiveness of the operation and the result of the research. "In the day-to-day race for revenue, ethics can get lost" (Kahaner, 1998). The race can be seen, even at strategic level, in the obsession with achieving the dominant position. Johnson and Maguire (1988) defined a list of several ethical research techniques and "dirty" activities that can be classified as business espionage. This situation, however, is more evident at operational levels involving tactical activities or short-term projects where both employees and external contractors can rub out the ethical boundaries. When analysts have to solve the jigsaw puzzle, they will be under pressure to find the missing piece (Porter & Rangan, 1992).

The dilemma between ethical techniques and effectiveness is the full satisfaction of decision maker needs. A contribution in this field was made by Schwebach (1998) in which he compared 59 collection techniques by investigating the effectiveness and the ethical value that sales people perceived from them.

Similar lists of practices or situations were mentioned by Wall (1974), Beltramini (1986); Cohen and Czepiec (1988) and Parad and Banner (1997).

Conflict of interest becomes more apparent in projects that are less strategically oriented. For instance, if you want to study competitor moves for the next 5 years, you may be interested in following signals of competitors' intentions and beliefs rather than rush to their garbage to get a valuable piece of information. Indeed, Schwebach's (1998) work was focused on the type of information that sales people reported to the company and he concluded that when the type of intelligence used was from a sales representative, it was more tactical.

It should be considered whether or not unethical behavior (in order to gain more information or to gain it more rapidly) will help in a particular task or in the whole project. If the project is based on multiple tasks, an unethical collection activity will not add any significant value. Contrasting with Charters (2001), this judgment is a problem because any piece of data can differentiate enormously in its value. This is the reason why some collectors can fall into unethical behavior. However, unethical behavior does not pay in the long term. What would be the risk that a firm could run? Kahaner (1998) and Fuld (1995) stressed the relationship between ethics and monetary harm. Kahaner (1998) remarks that "probably the most important reason for good behavior is to keep your company out of court, avoiding legal entanglements and costs". Collection activity is one part of a whole process. It does not mean that, by acting illegally, the answer will be found. In fact, intelligence comes from the analysis of information, which manifests either concurrently or after the collection process. The Society of Competitive Intelligence Professionals (2004) argues, "most information that can't be found through open-source collection and ethical inquiry can be deduced by using a variety of analytical tools"

Professional researchers ought to be well-trained and must sign a non-disclosure agreement that will induce respect for both company and competitor trade secrets. The intelligence process would be at a greater disadvantage if it could be proved that it was a conscious matter rather than a passive activity. Ignorance cannot be tolerated from a professional engaged in qualitative research activities. Indeed,

"moral blindness does not excuse corporations from culpability. A corporation, like an individual, has the responsibility to pay attention to, and seek out, ethical facts" (Hoffman, 1986). A CI project, in which knowledge of competitors is the main subject of information gathering, is not the only type that can hold ethically questionable methods that are both tacit and explicit. "Properly trained CI professionals generally know how to stay out of legal trouble, though they (a) cannot explain their actions in legal terms and (b) tend to be more conservative than what the law allows." (Fuld & Company, 2001).

## Variable 2: The Business Context: Regulation, Business Rules, and Geography

The business context represents the second main variable in which the following topics can be classified:

### Regulation and Business Rules

The term "rules" used in business is a clear example that business has long been compared to a game and that this plays a central part in forming business attitudes. Porter (1985) introduced the concept of bad and good competitors. Porter's classification is based on the behavior of the players: good are those firms that respect and follow industry rules and do not reduce industry profitability and bad are the companies that do not follow industry rules. However, what are the rules and where do they come from? Does the firm accept these rules?

The controversial topic of ethics and its boundaries in investigation doesn't have the same limits as those given as opinions in an open discussion. For Beversluis (1987) "business is a game and the ordinary constraints of morality do not apply and that one is not able to survive in business if one is too ethical". This legitimacy in part depends on the culture, beliefs, and experience of the businesspeople. However, regulation changes controversial business issues in law. In this sense, regulation can help to formalize established and accepted rules. In the US, when the Economic Espionage Act (EEA)<sup>2</sup> of 1996, was introduced, its function was to protect trade secrets from economic espionage and it represented the formalization

of investigative conduct rather than bringing in a tangible change. Horowitz (1999) argues that the EEA "adds federal criminal penalties to activities which were already illegal under state law".

Law can be seen as the formalization and acceptance of general business rules such as when an informal agreement is formalized into an official contract. In fact, ethics can be considered as a "gentlemen's agreement" when referring to business society - conferring trust and respect of common rules between two or more parties. If there is an issue regarding an information gathering technique, there is no law that regulates this behavior. "Traditionally, the highest and best form of competition was thought to reflect a striving for excellence by each competitor. Interfering with a rival's efforts, or even taking advantage of a weakness, was regarded as a departure from the ideal." (Paine, 1991). If the rules were accepted by the majority of organizations, there would be less incomprehension in business and moral attitude. Weiss (2001) argues that "essentially there needs to be a balance between the ideal ethical code, and an ethical code that will benefit the industry and as well as the players within it so that companies are not encouraged to take an unfair advantage". When potentially unfair rules are no longer accepted or tolerated by society, government can normalize these rules by developing a regulation for them (e.g. competition law).

The theory of contract (ArruÒada, 1998) deals with this issue by identifying formalized agreement with the parties involved in a specific issue. Rawls (1971) introduces an interesting conceptual framework that allows parties with different interests to build a group of rules and principles that respect a minimal level of justice. In the competitive arena, the analogy could be seen when all competitors and all firms accept and respect rules and principles that would regulate the competitive game. It perhaps forces new entrants to formally accept these agreements. Porter's (1985) concepts of rules must be seen as those characteristics that differentiate one industry from another such as channels, standards, barriers, economy of scale, etc. In general, industry rules can be different in their essence but are the same if they are viewed in terms of their acceptance.



## Information Accessibility and the Law

Another factor that influences ethical attitudes is the degree of accessibility to specific types of information. The competitive intelligence community claims that between 80-90% of competitive information is freely available in the environment and the remaining 10-20% is not required to understand competitors' activity. Other authors such as Rouach and Santi (2001) believe that 20% of all CI information is collected from such "grey areas" and 25% of it will come from illegal sources. The issue is that the remaining information can sometimes be so critical that it could change the outcome of the project. These two aspects are related to the sources of information used in the gathering process. Through open sources we do not always get just public information. However, what is public information? Schultz, Collins, and McCulloch (1994) define publicly available data as the type of information provided by a "Öcompetitor who has either chosen or is required to make this information public knowledge". Is a competitor allowed to get information from a rival's suppliers even if he is not pretending to be another person? To frame the discussion, two main classifications can be used.

- The first classification is defined as *degree of confidentiality* accorded to confidential or critical information, which gives to the company a sustainable competitive advantage. The loss of that information, which can be defined as trade secrets, can considerably affect the company. The Economic Espionage Act, created in 1996 to protect US trade secrets, considers prototypes, production processes, or codes as trade secrets.
- The second classification, referred to as *degree of accessibility*, can be related to the ability of a rival to obtain the information sought. From the perspective of security, it represents the level of protection or countermeasures established by the company.

Comparing the first and second categories, it is possible to define four different states. To make the discussion straightforward, the focus will be on accessible but confidential information. Obtaining information from open sources "is legal in the majority of

instances" (National Counterintelligence Center, 1997). Trade secrets are defined as existing when "the owner thereof has taken reasonable measures to keep such information secret; and the information derives independent economic value, actual or potential, from not being generally known, and not being readily ascertainable through proper means by the public." (National Counterintelligence Center, 1997). However, does a firm have the right to collect information even if the secrets are not properly protected? For instance, in a case in which a photographer was discovered to be taking aerial pictures of a new chemical plant owned by a leading chemical firm, the photography was judged to be industrial espionage even though he was taking the picture from public airspace. DuPont showed that there was no way of protecting the plant from being photographed from the air and that, through the analysis of the picture taken, it would have been possible to have discovered the nature of a secret formula (Johnson & Maguire, 1988).

## Geographical Context

The nation state/country is a further factor that interferes in an organization's conduct. For example, American, Swedish, German and Japanese professionals act in different ways and each one will legitimize their own techniques (Becker & Fritzsche, 1987). For instance "in France, as in other countries, almost any method used to collect information is considered moral and ethical by their standards" (Kahaner, 1998). In Switzerland "any action that could affect the fortunes of a Swiss firm could be seen as a violation of the nation's industrial espionage statutes" (Porter & Rangan, 1992). The difference can even be seen in the U.S. where laws differ between states. When garbage is 'found' on public property, it is considered, by the law of some states, as abandoned stuff. "In some countries, bribing company officials to receive contracts is considered a standard way of doing business" (Kahaner, 1998). Whatever the type of standard is, geographical location represents an influential external variable in the firm's business management.

From a corporate social responsibility point of view, firms are responsible for the changes that can interfere with the external environment. To a certain extent, both are mutually interacting. This is not only the case for those companies acting nationally, but



even for those that develop international information retrieval systems. Anecdotal evidence reflected the difference in collection methods that were used by local experts in different countries for the same assignment (Klein, 1998). Firms must restrict the type of collection methods to those compatible with their own code and vice versa. A firm must accept the restrictions that a country imposes.

When a firm goes international, it must obtain a through understanding of the local business rules and culture and it must respect them. CI professionals have to revise their codes when they conduct intelligence projects around the globe (Prescott & Miller, 2001). Establishing international projects is a challenge to avoid getting involved in ethical dilemmas. To a certain extent, flexibility and adaptability is required. Setting up an international code of ethics could be difficult even if (as Prescott & Gibbons (1993) believe) "international codes of conduct must be consistent with the consensus of the profession worldwide, and be relevant to professional practice in the countries in which they operate". If it seems that it is quite difficult to meet and gain mutual consent regarding a code of ethics across companies in the same business, what will be even more difficult is its application in other industries and countries.

### Variable 3: Culture and Ethical Principles

This third variable directs attention to the individual culture and principles if these distinctive aspects are formed by the external and organizational context. First, culture will be discussed and then, the four imperatives, or categorical ethical principles will be considered.

#### Culture: External, Corporate, Group and Individual

Any business has to deal with a specific and molded environment that influences individual and collective values. This concept was introduced by Berger (1963) when defining the cognitive interdependence of two environments, the personal and the external. Lozano (1999) identified the way to achieve the conditioned freedom of a person. Three distinctive levels on which the business ethic can be focused

were set out: the system, the organization, and the individual. According to Lozano (1999), business ethics is more focused on the organization although his work suggests that there is an additional intermediate level between the corporate and the individual: the collective or group level which has significant influence on an individual's attitude, beliefs, and reasoning. In some aspects, it is possible to define four different external conditions that affect the individual.

##### 1. External Environment

This condition includes legal, cultural or geographical determinants. Moreover, the family is a conditioner for a person's ethical maturity.

##### 2. Corporate

The relationship between corporate and individual culture was studied by Hoffman (1986) who defined how a corporation could achieve moral excellence when there is moral respect and cohesion of both the individual with his moral autonomy, and the corporation with its policy, objectives, and culture framework. Both are part of the system and are related. For Cohen and Czepiec (1988) "corporate culture has a strong effect on employee attitudes towards gathering corporate intelligence". However, the recent scandal of ethics that has implicated Procter & Gamble, a major company in the consumer industry, with its direct rival Unilever (Prescott, 2001), opens the discussion on the acceptance of ethical guidelines as opposed to personal code. According to Charters (2001), individual reasoning is not boundless and there are personal interpretations. To avoid this, a cross-fertilization between people and groups is highly recommended. An interesting influence between group and individual ethics as related to the type of entrepreneurial environment was explored by Kreuze, Luqmani, and Luqmani (2001).

##### 3. Group Behavior

This condition has been studied for a long time by means of group theory which defined the relationship between individuals and the group. Etzioni (1988) studied the "I" and "We" paradigm and argued that individuals are "deeply affected by how well they are anchored within a sound community".

#### 4. Individual Moral Conduct

The moral conduct of an individual can differ due to religion, education, attitude, etc. Individual behaviour also differs with demographic characteristics such as age, sex, or place. Hallaq and Steinhurst (1994) asserted that rural people seem to assimilate ethical attitudes better than urban people. Moreover, they asserted that the group of practitioners that had less professional experience would employ lower ethical standards than those that had more work experience. In support of the study, Wall (1974) observed that older executives were less likely to approve suspicious collection activity than the younger ones, even if there were no significant differences when the executives were asked to provide an opinion for extreme cases. Once the constraining codes of ethics are ignored, individual codes play a significant role in the definition and limitation of collection techniques. "CI practitioners feel very much on their own, relying on personal background and intuition to make tough ethical decisions" (Trevino & Weaver, 1997). Schultz, Collins, and McCulloch (1994) argued that the investigations are usually performed using personal judgments rather than following a corporate code.

The more ethics form a part of a company's training, the more the company's culture will achieve a higher moral state. Kohlberg (1981) established that moral maturity goes through 6 different stages, hierarchically interrelated and divided into three levels: pre-conventional, conventional, and post-conventional. A prerequisite for reaching the next level is to have been through the one before. The genesis of a moral consciousness in a company is an egocentric way of thinking and the highest level will be achieved when categorical principles are applied.

By looking at how people think about competitors and business in general, it is possible to see how a company perceives its competitive role in the industry. Broadly speaking, the artifacts or mottos that persist in today's manager's mentality influence their business behavior. CI seems culturally in line with the 'warfare' concept and sees the competitors as an enemy. Calof (2000) discussed the concept in that CI serves as a threat evaluation rather than an opportunity detection. Indeed, anecdotal observation shows that there are companies that believe that business is

warfare or similar to a 'jungle' and fighting is a 'weapon' employed to survive rather than to collaborate. In Kohlberg's (1981) work, this idea would be classified as the first stage of moral maturity, the *pre-conventional* level.

In contrast, the cooperative strategy of some firms will be categorized as the second stage, the *conventional* level. A rule can emerge, be defined, and maybe accepted when an organization (person or group of people) views its own activity by using the counterpart perspective. This exercise allows companies to rethink its own attitude and relationship with any counterparts, partners, and actors that can be influenced and affected by the company. Brandenburger and Nalebuff (1996) suggested that "putting yourself in the other players' shoes and playing out the game" is a useful approach to understanding the consequence of a firm's decision and action. The competitor centre perspective requires an extraordinary aptitude in those practicing it because CI practitioners, often perceive that competitors engage in espionage more than their own company (Cohen & Czepiec, 1988).

In the second level, the *conventional* stage, trust and behavior positively affect the relationship between stakeholders and other companies. In this stage competitive rules are formally defined as well as the relationship between the competition. For instance, the "co-opetition" relationship suggested by Brandenburger and Nalebuff (1996), can lead to a synergistic growth of the industry between competitors and partners.

The third level of Kohlberg's (1981) moral maturity levels, the *post-conventional*, will be achieved when people create contracts with society; or in the case of CI, with their competitors. Wilson (2000) argues that "the public standing of a corporation rests fundamentally on the execution of its social purpose - to serve society by providing needed goods and services - rather than on its ability to maximize profits".

## The Four Imperatives

At present, ethics is largely discussed in biological and clinical research where interesting lessons can be learned. The relationship between bioethics and business ethics was studied by Fisher (2001), who claimed that bioethical principles "provide a common framework that individuals who hold differing normative

positions can adopt when debating the issues.”

The four imperatives can be seen as the formal expression of personal culture. This article will use this specific group of imperatives as a way of significantly manifesting the potential limitation of the collection technique under restricted categorical principles of ethics. However, there may be other different principles that could be applied to the issues of ethics. For instance, an interesting contribution in this area was suggested by Charters (2001) with the CHIP model. The model defines four areas of study: community virtues, harm, individual, and personal virtues. However, to emphasize the critical perspective, it may be useful to employ the principles that are applied in biological and psychological science:

- principle of harmlessness
- principle of beneficence
- principle of autonomy
- principle of justice

These four universal principles can be applied to CI inquiry, although they are fairly rigid and they could considerably restrict the action of investigations. However, as discussed previously, the aim of this application is to develop awareness and critical reasoning regarding information acquisition methods. When firms use people as sources for obtaining information, ethics comes into discussion.

### 1. *Harmlessness*

This principle seeks to safeguard competitor, environment, and consumer dignity and their rights. This utilitarian perspective emphasizes the safety of the object studied by restricting the inquiry. The main idea is not to damage the competitor’s position and not to obtain critical or confidential data from them. It is generally accepted that the investigator has the right to study the competitive environment but, at the same time, he/she has the obligation to preserve it. For instance, industrial property protection formula such as the Economic Espionage Act or the World Patent Office are created to protect companies from trade secrets misappropriation.

### 2. *Beneficence*

This principle can be seen as a reinforcement of the first principle. It means that the researcher should not only pursue the objective to avoid damage but also to improve his/her competitor’s situation. Cooperative activities or partnerships are well appreciated but if relationships are too strong they may create some conflicts in other areas. Intelligence used for building industry barriers will lead to negative effects for consumers in the form of, for instance, price increases or lower quality. Anti-trust laws, for instance, can be seen as the result of this principle by preserving economic freedom and avoiding monopoly competition. Anti-trust can be also included within the next two principles.

### 3. *Autonomy*

This principle gives the investigated elements the freedom of decision. This perspective seeks to give the firm complete information regarding the investigation. As previously discussed, the idea of autonomy can be seen at the moment firms agree to play the game by accepting implicit and explicit business rules. Theoretically, firms make contracts within the business environment as well as with the competition.

### 4. *Justice*

This principle is concerned with the type of investigation used. Firms should use the same investigation techniques, independently of the object studied. An application of this concept is the international principle of conduct. For example, is a country or a region right to carry out economic intelligence activities for a particular group of firms by using public funds?

These principles are quite strict for CI applications and therefore it can be concluded that there are few collection techniques able to respect all four principles. However, the argument in the following section shows that a collection technique can encompass differences not in nature but in purpose.



## Variable 4: Competitive Intelligence Purposes

This final section will focus on the strategic reasons of decision-makers for their intelligence gathering processes. The concept of the four purposes in competitive intelligence was introduced by Tena and Comai (2001) and relates to the reasons that decision makers have for requesting information. Intelligence purposes can be defined as the way in which information is employed or used in the company, in accordance with top management's objectives and priorities (Tena & Comai, 2001). Sometimes, purposes announce the strategic objective of the company at a specific time. The four purposes are:

### 1. *Neutral Intelligence*

This type of intelligence is collected by scanning the environment for a general purpose. When firms start exploring a new market, or when they want to detect possible changes in an unknown environment, they will adopt a neutral or general posture. Usually, neutral intelligence is the first to be used in an explorative phase and will be followed by other types of intelligence gathering as shown below.

### 2. *Rival Intelligence*

This type of intelligence focuses on competitors. In this scenario, the information that decision makers need can be very specific. Firms collect information because they want to "outsmart, outmaneuver, or outwit the other contenders" (Fahey, 1998).

### 3. *Collaborative Intelligence*

This type of intelligence tends to support a mutual enrichment with the other party. Intelligence is used primarily to understand if the other competitor or firm is suitable for a possible partnership. A good example is when the firm's intelligence unit is engaged to help a due diligence activity.

### 4. *Defensive Intelligence*

Defensive intelligence deals with a type of collection activity where the company wants to preserve its position in the competitive environment according to rules, laws, and business activities. Here the defensive intelligence is a proactive gathering process where the

information collected will be used for defensive purposes. Defensive intelligence can have three main objectives: forecasting a threat, maintaining the status quo, and protecting the firm from illegal/unethical action. It represents a sort of protective but active commitment of a company to its environment.

Independent of the objective, intelligence purposes can vary over time and the type of project. For instance neutral intelligence can change to collaborative intelligence when it detects that the study in question may deal with opportunity. In contrast, neutral intelligence can evolve into defensive intelligence or morph into rival intelligence when management's perception of the environment becomes more competitive.

## Building the Model

This next section of this article introduces a framework that selects the collection techniques according to the variables previously discussed. To accomplish this, two main assumptions are first discussed and subsequently the framework that will generate a specific code of ethics will be discussed.

## Awareness

Intelligence purposes will have a significant influence on moral consciousness and attitude. Paine (1991) observed that "the traditional ideal (business practice) recognizes a fine but important distinction between using competitor information constructively to guide strategy formulation and using it destructively to undo the competition. This distinction is largely a matter of the attitude or spirit in which economic rivalry is undertaken rather than its results." Once strategic purposes are converted into intelligence purposes and formally declared or maybe perceived by the collector, they will have a significant influence on the individuals gathering information. CI analysts have to identify the strategic implication of the information and the reasons why internal clients need that type of information. By evaluating these needs and applications, purposes become promptly available to the researcher. Once purposes are identified they will start to play an important role. Here the assumption is that once the purposes are understood, people will

have a different posture/attitude in the intelligence process. Imagine you are a professor of a graduate course in CI in which the final project for a student is to monitor and analyze a company. Consider the same situation in which a student is told that the research will serve not only for an examination, but for information input to a competitor. Would the student act and plan the research differently? When Berger (1998) had to deal with his first collection effort on a competitor retail price list, he was able to test directly how lying makes people nervous. Berger's example demonstrated that research behavior can be affected by personal moral consciousness about what is right or incorrect.

## Inducement

One of the main objectives for the discussion of this assumption is to understand how far intelligence purposes play a key role as selection criteria. The famous statement "The ends justify the means" that Niccol  Machiavelli coined in his 1513 book, *Il Principe* (Anselmi, Menetti, & Varotti, 1993), provides the starting point for a discussion of the relationship that may exist between purposes and mediums. Entirely against the principle of autonomy, the "Machiavellian" idea suggests how far or closed this thinking could be in the mind of the practitioner. The discussion of what the different implications are between the intelligence purposes comes from questions that are not easy to answer. For instance, do I have the right to address competitors' employees, without resorting to direct questions? Do I have the right to sit outside a company and observe their movement? Do I have the right to use technological instruments to acquire manufacturing processes? Each purpose will now be discussed in a specific context

## Defensive Intelligence

Defensive intelligence is a good starting point to introduce the discussion. As defined previously, defensive intelligence represents the active engagement of a company to find information regarding hostile, unethical and illegal rival activities. There are several examples that can illustrate the concept. For instance, surveillance instruments such as cameras are used for

defensive purposes. It would be slightly different if these instruments were used to detect competitors' activity with no defensive or security purpose. The approval of the Economic Espionage Act in 1996, which authorizes agents of the Federal Bureau of Investigation to investigate and fight trade secret crimes, shows how far government investigation can be applied under defensive purposes. To a certain extent, defensive purpose seems to support more permissive arguments to legitimize the action. As such, this infers greater permissiveness for a company to adopt some aggressive techniques when faced with a defensive situation rather than any other type of situation.

## Rival Purposes

On the other hand, there is rival purpose. An example of rival purposes can be seen in the case of the U.S. Court of Appeal where a judge decided not to condone photos of a chemical plant taken from the air because it was supposed that the photos were taken for purposes of industrial espionage even if the pilot claimed that the air space was free (Johnson & Maguire, 1988). The judge recognized that, even if the firm had been aware of the threat and its vulnerability and the impossibility of taking countermeasures, the other firm did not have the right to get that information. In some aspects, this activity deals with the previous principle of harmlessness. "Once you start trying to find information that your competitors are protecting, then you enter risky territory" (Fuld, 1988). Therefore, rival purposes induce less permissiveness regarding collection processes.

## Cooperative Purposes

Cooperative purpose may offer more permissiveness to the researcher rather than rival intelligence. The idea is that, in this game, the two companies would add greater value and mutual benefit from their involvement in the research. Due diligence is a good example to illustrate a case where the intention is to build a partnership and so the researcher is allowed to directly reach the company and ask for references and detailed information.

## Neutral Purposes

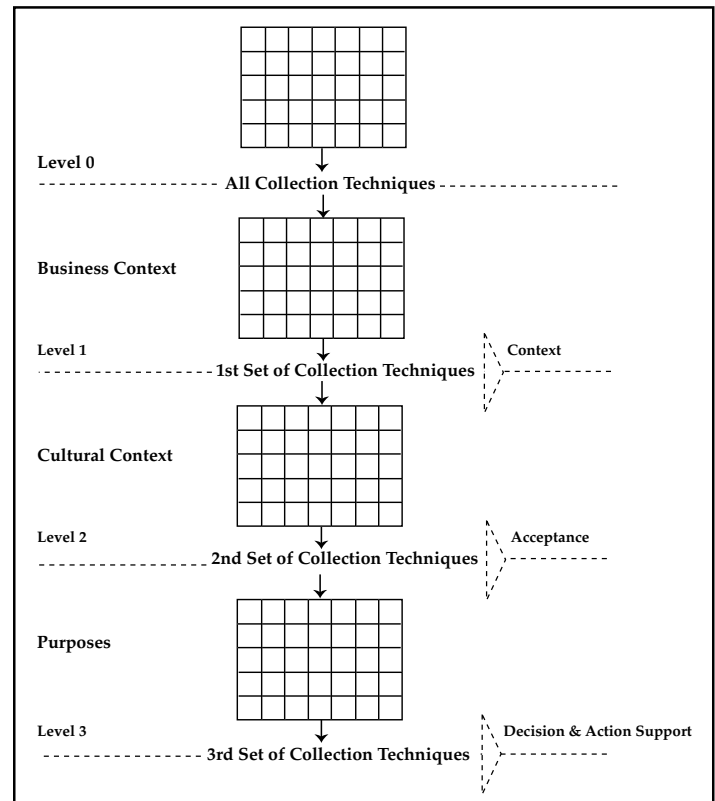
Neutral purpose is used constantly in systematic intelligence activity. A good example of neutral intelligence is when firms investigate three foreign markets for selling their product. Neutral purpose does not seem to induce collectors into a conflict.

## The Ethical Framework: Combining Variables and the Code of Ethics

It is postulated that a sound base for an ethical discussion on competitor intelligence starts when personal and corporate moral codes apply to more than one issue at a time. Indeed, Kohlberg's (1981) post-conventional level will only be achieved when people apply moral consciousness to more complex issues. The intention here is to integrate some of the key variables previously discussed into a single model that establishes a selective process that will help an organization to define its own collection techniques. The starting point of the model is the recognition that any possible collection technique available for competitive research will be accepted by the company according to its business environmental, its cultural context and its intelligence purposes. The final outcome corresponds to a set of collection techniques which will be sanctioned by the corporation.

Figure 2 shows a process that employs 3 different filters to achieve the final outcome. First, all possible collection techniques are considered in the model (Level 0) and are compared with the business context. Those collection techniques that are considered acceptable according to a country's regulatory and legal standards will pass through to the next filter (Level 1). The second filter is to compare the remaining collection techniques with the second variable: culture. Once the collection techniques are selected and morally accepted (Level 2), the final filter compares them with reference to the strategic purposes of the organization. This step gives a set of accepted and legitimate collection techniques that can be applied according to the type of intelligence activity (Level 3).

This model requires an adaptive approach to the organization, in accordance with the four intelligence purposes. Even if the organization adopts a rigid code of ethics, purposes allow the company four choices in any situation. There are several implicit purposes that



**FIGURE 2: THE ETHICAL COLLECTION TECHNIQUE FILTER**

are difficult to perceive from an external and even internal perspective. In any project, there could be some hidden purposes that the investigator does not see immediately.

## An Approach to a Multinational Code: the Common Mental Spectrum

This last section deals with the way an individual classifies a collection technique and how this could differ with regard to the degree of permissiveness. This difference could be the same when the chosen techniques are compared between two parties. In other words, individuals will have proportional differences in their evaluation of collection techniques even if they have different backgrounds in business contexts and culture. This debate originated from various studies where attitudinal variables were compared between different groups of respondents (Furash, 1959; Wall, 1974; Hallaq & Steinhorst, 1994).

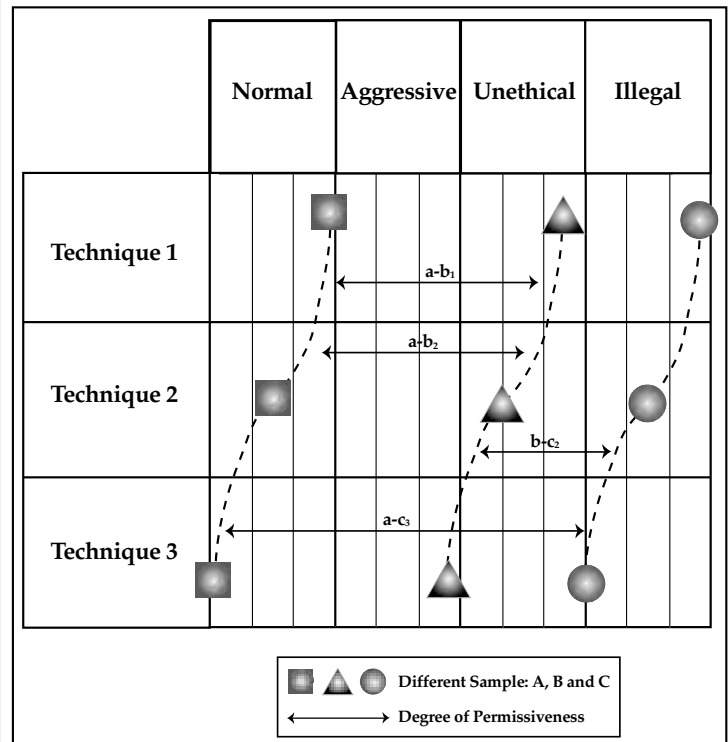
A graphical explanation is illustrated in Figure 3



which presents four main collection techniques: normal, aggressive, unethical, and illegal. The areas are delineated by three boundaries. Figure 3 also proposes 3 people, A, B, and C that have to evaluate a set of techniques according to their own beliefs. The segments (1), (2) and (3) will represent the collection technique. All three people now classify the collection techniques by marking a point on the area that they believe to be convenient and afterwards, draw a line that combines all solutions.

On the horizontal axis of the matrix shown in Figure 3, it can be observed that the solutions from A, B, and C are different. However, each solution differs proportionately as illustrated from the segments a-b, b-c and a-c that connect A with B, B with C and A with C. In other words, between A, B, and C there is a different degree of permissiveness (a-b, b-c and a-c), however, this degree will remain constant in any of the situations. For example, the degree between A and B, when the answer is given to question 1 (a1-b1), will be the same for the answer of question 2 (a2-b2). Person A will be the most permissive individual and, in contrast, C will be the individual with the most moral restraints. Moreover, A, B, and C can also refer to homogenous groups of people.

The supposition of this article is that the spectrum will be the same. This does not mean that people will accept similar techniques but, rather, they will have proportional divergences in the way they classify collection techniques. This last assumption can give rise to a few speculations. One is the idea that multinationals will now have access to a new framework prior to the building of a global code of ethics. The way that multinational firms can accomplish this is by trying to educate their various country level units that have more permissiveness to alienate their degree of permissiveness to the level expected from headquarters. Once the education has been achieved to a satisfactory level, all country level units will act by using the same framework. Hence, the code of ethics will be accepted by the whole corporation. In this way, the universal company ethical codes will be able to include cultural and socio-economic factors as discussed early in the article and introduced by Cohen, Pant, and Sharp. (1992).



## Conclusion

The primary objective of this article was to develop a framework to guide development of ethical codes of conduct for CI activity. The article concludes with three summary points:

### Robust Codes Reduce Conflicts.

Codifying what the company is or is not allowed to do, is often the traditional starting point for the long journey into the rough terrain of legal and ethical code building. This approach, however, will not help solve the entire spectrum of conceivable ethical dilemmas that invariably arise. For this reason, companies require a holistic ethical structure that permits the introduction of an ethical conscience to resolve ethical dilemmas. Indeed, even if ethical standards are well defined and legitimized by the company's legal department, collectors will inevitably be confronted with new dilemmas. Therefore, an adaptive model is needed and a continuous learning process should be adopted by firms who aspire to be highly ethical.

## **Purposes as Key Variables in Solving Dilemmas**

This model applies several variables to the selection process of the final collection technique. The selection can follow a normative process (step by step) to a conclusion with a restricted set of collection activities that will be validated by the entire organization (see Figure 2). Intelligence purposes, the last variable of the model, play a central role: first, by selecting the technique according to the context and second, by solving possible ethical conflicts.

## **Common Mental Structures Induce the Universal Nature of the Code.**

People have a common path when they choose between collection techniques. They will differ in the permissiveness which induces their thinking regarding the variable to work on. When a company wants to establish a universal code, however, the very permissiveness variable itself becomes the key driver. In other words, to elevate the grade of ethical awareness, a corporation should work to reduce the grade of permissiveness. By using cultural awareness training programs, which have been shown to be an influential instrument (Delaney & Sockell, 1992), firms can actively reduce unethical behavior.

If collection techniques are included in the code of ethics as examples, employees will have a better guide to follow through which to put corporate ethical policy into practice. To encourage better ethical attitudes, the collection activity should be developed internally by the firm's own personnel. If international research is done using external recruiters, it is important to examine their ethical beliefs. Klein (1998) asserts that it is convenient to establish ethical guidelines and discuss them with the consultancy firm before starting the project. A code of ethics should not be merely adopted as a protective perspective but should also enhance the morals and values of the organization. Although the first perspective is the most persuasive argument for establishing a code of conduct, the second perspective should also be considered as equally important. Ethics should be part of the corporate learning scheme as suggested by Lozano (2002). It should be integrated in the whole organization and should employ systematic processes for re-

viewing, correcting, and enhancing higher ethical values of the firm.

As the issue of business ethics illustrates, corporate social responsibility is not only focused on action but on significant corporate strategic positioning. Therefore, ethics cannot be thought of only at the second level of "If a competitor would do it, I will do the same". Cohen and Czepiec (1988) argue that practitioners assume that they could legitimize dishonest gathering techniques only to the extent that competitors are adopting the same or more aggressive techniques. A global ethical conduct enhances a corporate identity not only for the organization when thought of as "aims by itself" but it also increases its competitive standing. Horowitz (1999) argues that "seeking competitive information in a legal and ethical manner is an integral component of healthy competition". A positive attitude is representative for other players and may prevent future unethical attitudes.

## **Implications for the Future of CI**

This article offers a new conceptual framework that helps build ethical boundaries between information techniques and helps resolve ethical dilemmas that can arise in competitive intelligence and/or competitor information gathering. Moreover, this article presents a new approach to the treatment of a global corporate ethical consciousness by identifying similarities in individual behavior. Possible implications of this model for the future of CI are an improved protection of competitor stakeholders, improved protection of firms and CI professionals from legal action, and an improved protection of the firm's reputation as well as that of the CI profession.

## **Notes**

1. FM 34-60, Appendix A, Counter-Human Intelligence Techniques and Procedures. (see the point: "A-I-6. Elicitation"). The term "interview" is the legal correspondent of interrogation. It is illegal to compel a person to talk. This military "field manual" can be obtained from: <<http://www.fas.org/irp/doddir/army/fm34-37/ref.htm>>.

2. Economic Espionage Act of 1996 can be obtained from the National Counterintelligence Center < <http://www.ncix.gov/nacic/reports/fy97.htm#rtoc24>>.

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