



FULD & COMPANY

The Global Leader in Competitive Intelligence



Statement of Ethics

A Guide for Employees and Clients

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Fuld & Company Statement of Ethics

Fuld & Company does not and will not engage in any intelligence gathering activities deemed illegal or in conflict with our industry's stated code of ethics. Doing so would run contrary to Fuld & Co.'s stated commitment to comply with the professional codes of ethics, as espoused by SCIP (Society of Competitive Intelligence Professionals) and AMA (American Marketing Association). Specifically, we have adopted a formal policy stating that we will:

- Comply with all client policies regarding the collection of information for competitive intelligence. If Fuld & Company's guidelines (see sections below) and those of the client are in any way in conflict with one another, we will abide by the stricter standard.
- Comply with all applicable laws, including the Uniform Trade Secrets Act and the U.S. Economic Espionage Act of 1996.
- Fully respect all requests for confidentiality of information.
- Accurately disclose all relevant information, including one's identity and organization.
- Promote and encourage full compliance with these ethical standards within Fuld, with third party companies, and within the entire profession.
- Respect and avoid conflicts of interest in accepting and performing work for clients.

Fuld & Company has a longstanding reputation as a top-tier firm. The firm could not have achieved this reputation without strict compliance with best practices in legal and ethical competitive intelligence. We take this aspect of our business very seriously and actively take steps to ensure that our staff members are educated on the firm's ethical guidelines such that we can prevent circumstances in which these guiding principles may become inadvertently compromised. Fuld & Co. has found that when research-related employees are adequately trained, conscientiously aware of the company's values, and allocated a manageable workload, legal/ethical concerns are clearly minimized.

Most important, we will never engage in any illegal activity or conduct research in such a manner that would place Fuld & Company or its clients in jeopardy. Nor will our staff engage in actions that will conflict with the Fuld employee policy on ethics (see Just the Facts™ below).

Ethical Considerations for Clients

Excerpted from *The New Competitor Intelligence*, Leonard M. Fuld (John Wiley & Sons, 1995)

Ethics and Legalities

Most of the information you will need is in the public domain and will not infringe upon any laws or personal ethics. That point aside, most lawyers will also tell you that what is legal is not necessarily ethical. Laws may vary from state to state, and from country to country, but they exist and their boundaries are clear.

In the world of ethics, boundaries can become dangerously fuzzy. That is why it is often easier to discuss and set legal limits on what kind of information you can gather and how to collect that information. Personal ethics vary widely and often involve individual, rather than group decisions.

For a more complete discussion on the subject of intelligence and ethics, I refer you to *Ethical and Legal Guidelines* (Chapter 9) of *Monitoring The Competition* (Fuld, John Wiley & Sons, 1988).

The Legal Issues

News articles worldwide frequently offer stories of patent infringement, outright theft, and all sorts of illegal acts. Some of these illegalities are easy to understand and require little discussion. Other information-related legislation, such as antitrust, enter the realm of the arcane and are little understood by the average business person. At the same time, every intelligence analyst needs to realize what those legal limits are and how to comply with them.

The first rule: Contact your company's legal department for details on laws affecting your industry or business activity. Surprisingly, you might discover very few instances where Legal will tie your hands. In any case, as the axiom goes, ignorance is no excuse in the eyes of the law.

Antitrust and Sharing Information

Antitrust laws in the United States explicitly prohibit companies from fixing prices or exchanging price information. The legislation's primary goal is to stop companies from conspiring to monopolize markets. One way an analyst could contribute (at least on the surface) to monopolizing these markets would be to swap prices with an employee at a competing company. The Justice Department might see this act as an attempt to control a market.

For more information on antitrust laws and their impact on overall business activities, I recommend reading the *Antitrust Compliance Manual: A Guide for Counsel, Management and Public Relations*, Walker B. Comegys, Practising Law Institute, NY, April 1986).

Ethical Considerations . . . What Are Your Personal Limits?

Make no mistake: A person collecting information can be as aggressive as any sales person trying to win an account or a purchasing manager who tries to win the best deal with a supplier. Your goal is to gather and use information properly to help your company. It is a legitimate job and a necessary one. Just as a sales person or a purchasing manager can step over the ethical line, so can the intelligence analyst. Because this is a dilemma

that potentially must be addressed on a daily basis, it's important that you consider the following questions early on in the process:

- How should I represent myself?
- Do I identify my sources in a report?
- Did I "trick" the individual into giving me the information?

There are no simple answers to these questions. Many times the answer lies with the particular circumstance, and to establish general rules could be dangerous. Yet, nearly everyone feels there is that moment when they may be stepping over some sort of line. The quickest way to find that line is through the Harm Rule. Michael Sandman, Senior Vice President at Fuld & Company, was asked, in his former position as Chief Operating Officer for a division of Dexter Corporation, to sign an agreement that went as follows:

The Harm Rule

"I will not do anything that may now or in the future harm or embarrass the corporation."

The rule drives home the point that unethical behavior can quickly translate into lost dollars. Most information-gatherers who keep the Harm Rule in mind will find themselves stopping at the same point, often a conservative point. They will ask themselves if they are possibly causing harm to their company by going one step further. If the answer is yes, they will stop.

Do's and Don'ts For Your Company

I have saved this section for last, because formal codes of ethics are only useful if they are read. If a code is vague or difficult to memorize, it becomes an unused fixture. Nevertheless, organizations need to establish some sort of code if for no other reason than to declare a position.

The Society of Competitive Intelligence Professionals, based out of Alexandria, Virginia (www.scip.org), has published the following ethical guidelines:

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

In 1988, Fuld & Company also published its guidelines, known as

The Ten Commandments of Legal and Ethical Intelligence Gathering

1. Thou shalt not lie when representing thyself.
2. Thou shalt observe thy company's legal guidelines as set forth by the legal department.
3. Thou shalt not tape-record a conversation.
4. Thou shalt not bribe.
5. Thou shalt not plant eavesdropping devices.
6. Thou shalt not deliberately mislead anyone in an interview.

7. Thou shalt neither obtain from nor give price information to thy competitor.
8. Thou shalt not swap misinformation.
9. Thou shalt not steal a trade secret (or steal employees away in hopes of learning a trade secret).
10. Thou shalt not knowingly press someone for information if it may jeopardize that person's job or reputation.

Some Simple Precautions

Again, all the rules and guidelines in the world may not prevent careless -- and potentially expensive -- mistakes. From my clients' experiences, I offer the following precautions:

"Just the Facts M'am" . . . Do Not Editorialize

Report the facts with few adjectives. Avoid hyperbole altogether. One analyst for a large manufacturing company decided to play Ian Flemming and punctuate his text with phrases such as "surreptitious," "surveillance," and "dominate." The first two imply illegal activities. In truth, the report backed up all the findings and the intelligence was developed in the open and above board. Unfortunately, the phrasing told another story. The word "dominate" can set off all kinds of antitrust alarm bells --and did.

As it usually turns out in cases such as this one, the report found its way to the competitor who was the subject of the study. The competitor chose to sue. The law suit was costly in two respects: first, the client spent almost three years in court accumulating legal fees; second, the client also had to disclose some trade secret information in order to defend its case. In the end, the client successfully defended its case, but gave away a great deal of information in the process.

The lessons learned here include:

- State the facts with little or no dramatization, no "purple prose."
- Support all statements with sources (either printed documents or interview transcripts)
- Avoid flashpoint words, such as dominate that could set off an antitrust law suit.

Just the Facts™

Ethical Policies for Fuld & Company Employees

We would like to pass along—in plainspoken language—our policies about how to gather and treat the information you handle for Fuld & Company. It is our aim to conduct ourselves in a professional and ethical manner. Please speak with your Project Manager if any of these policies are unclear.

Begin telephone calls by (1) asking your questions. (2) When asked to identify yourself, give your full name, and (3) if also asked where you are calling from, state “Fuld & Company,” or the Fuld subsidiary you may be calling from, (4) and the company phone number or direct dial phone number as well, when asked or when you need to receive a call back. Never misrepresent yourself. Do not make a false statement.

- It is not necessary to be specific regarding identification of the client or the purpose of the project, but it is our policy to gather information in a truthful, professional and ethical manner.
- If you are asked at some point in the conversation to identify the nature of your business, state that you work for a research, consulting, strategic or business analysis firm, or another phrase that accurately describes the various services we offer. If appropriate, refer the source to the Fuld or subsidiary Web site.
- Never induce or pressure a source to disclose information they have specifically categorized as proprietary, confidential or a trade secret. Making use of information you know to be confidential is illegal and unethical, regardless of the manner in which you obtained the information.
- If you believe information has come into your hands illegally, or through someone who was breaking a confidentiality agreement when disclosing it, bring the information to the attention of your Project Manager.
- Never disclose a client's name to a source or to anyone outside the firm. Unless you are told otherwise, consider all project, client or project information confidential, and do not discuss it with anyone outside the company or in public places.
- Do not pay a contact for information, unless a Project Manager at Fuld & Company has approved that payment in advance. (Small honoraria, when paid, are usually limited to doctors or other professionals. You are never to pay a competitor's employee).
- Never talk directly to a client without first receiving permission from the Project Manager.
- Never remove project information from Fuld & Company offices, including papers, data disks or other project-related information, unless you have first received permission to do so from the Project Manager.
- Most importantly, conduct yourself in a professional and ethical manner. Use common sense. If you believe your actions in gathering information are questionable, it is likely that they are. Ask your Project Manager for guidance and support.
- Remember, the manner in which you conduct yourself is not only a reflection on you as a professional, it also reflects how Fuld & Company is viewed by potential clients and others in the marketplace. Our reputation is important, so please act accordingly.

Related Fuld & Company Sources

For other articles and white papers published by Fuld & Company on the subject of competitive intelligence ethical and legal guidelines, we recommend you read or view:

Finance and Tech Signal Bold Attitudes on Ethics, WSJ.com – March 7, 2011

How Competitive Intelligence Rules Encourage Cheating, Harvard Business Review – December 20, 2010

Raconteur on Business Ethics, Raconteur Media – May 18, 2010

Corporate Spy Games, CNBC - September 12, 2007

The Secret Language of Competitive Intelligence, Leonard M. Fuld, (Crown Business, NY, 2006)

Intelligence Gathering on Gut Instinct Rather Than on Knowledge, Fuld & Company White Paper – May 2001

The New Competitor Intelligence, Leonard M. Fuld, (John Wiley & Sons, NY 1994)

Just the Facts™, Fuld & Company's guidelines for its analysts

What Is Competitive Intelligence?, Fuld & Company website

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