



The Ethics of Competitive Intelligence

P&G's Bad Hair Day

In spring of 2001, John Pepper, then chairman of Procter and Gamble, discovered that members of P&G's competitive analysis department engaged in corporate spying practices at its rival corporation, Unilever.¹ The spying operation gathered about eighty documents detailing Unilever's plans for its U. S. hair care business over the next three years, including information on its launch-plans, prices, and margins.^{2,3} This information came as a complete surprise to Pepper, who had not commissioned nor condoned this operation.

How exactly did P&G gain this information? First, managers at the company hired an outside firm to undertake the operation. These corporate spies allegedly operated out of a safe house, known as, "The Ranch," which was located in Cincinnati, the same city as P&G's headquarters.⁴ The spies participated in "dumpster diving" operations, or as some in the industry called it, "rubbish archeology." This included rummaging through dumpsters on Unilever's property in search of unshredded documents containing key strategic plans. Dumpster diving was not thought to be a common practice in mainstream corporate America. Prior to this incident, corporate intelligence experts purported that searching for competitive secrets in a rival's trash was an anomaly. When questioned about the prevalence of such a practice, Alden Taylor, head of corporate intelligence at Kroll Associates Inc. responded, "This is the sort of thing that gives legitimate business intelligence a bad name. What we do is much closer to specialized management consulting than it is donning Neoprene suits and diving into dumpsters."⁵ And Donald Greenwood, a Houston security consultant confirmed this sentiment by stating that upstanding companies would rarely engage in such questionable behaviors. Neither individual knew about P&G's exploits when they made these comments. Obviously not all corporate intelligence firms share Mr. Kroll's and Mr. Greenwood's viewpoints.⁶

In addition, P&G had their competitive intelligence operatives misrepresent themselves to Unilever employees, claiming that they were market analysts, journalists, and students – although P&G denied this accusation.⁷

Pepper and other P&G executives were aware that their snooping did not violate U.S. law, but only that they, "violated [their] strict guidelines regarding [P&G] business policies."⁸

All's Fair in Love, War - and Hair

P&G and Unilever are fierce competitors in the shampoo industry. P&G, the world's largest producer of hair care products, owns brands such as Pantene, Head and Shoulders, and Pert, whereas, Unilever owns competing brands, Salon Selectives, Finesse, and ThermaSilk. P&G is trying to increase its position in the industry by introducing new brands, like Physique, and buying others, like Clairol.

What's in a Name? Competitive Intelligence vs. Corporate Espionage

Growing international competition means that companies are under increased pressure to uncover what others in the industry are doing. An article in the *Pittsburgh Post Gazette* stated that, "Managers have ignored, denied, and/or subverted the role of intelligence in creating shareholder value. Due diligence is best demonstrated when a business decision such as an acquisition has intelligence as its foundation. Utilizing the best available intelligence will not guarantee success but it will certainly help you make more value-creating rather than value-destroying decisions."⁹

Many competitive intelligence agencies frown at using the term "espionage," which refers to illegal information gathering, to describe their profession. According to Bill Weber, executive director of the Society of Competitive Intelligence Professionals (SCIP), most information can be garnered through overt means. Weber says that, "The internet has created a wealth of stuff that just has to be analyzed."¹⁰ The key to a good corporate intelligence "spy" is to know where to get the information and how to get it quickly. And in some cases, the spies are simply perspicacious observers. John Nolen, Chairman of the Phoenix Consulting Group, a competitive intelligence firm, says that his investigators glean information by positioning themselves in executive airport lounges near the headquarters of the company under investigation. "We pick up what people leave lying about in the workspaces, or listen to people talk on their cell phones in such environments."¹¹ In other words, the data they want is data that is being traded or discarded in the public arena. But in other cases, these firms use more questionable tactics, including "dumpster diving" or interviewing staff by posing as executive recruiters. In the former situation the firms will find photocopies of important documents, thrown away because they were off-center or blurry. And in other situations these investigators may not even attempt to conceal their identity. Mr. Nolen stated that, "about 85 of every 100 people are willing to talk to us right off the bat."¹² In describing his tactics, another intelligence professional said that, "I will approach you and I will introduce myself to you, and we'll exchange cards... My card will say 'competitive intelligence,' and it will have the corporate logo on it, so it will all be above board."¹³

Some consider their job to be to simply listen to what others have to say and then bring that information back to their client.

Sleuthing for a company is an increasingly popular career choice. The SCIP says that its membership has more than doubled in the last six years.¹⁴ And U.S. companies spend a total of \$1 billion a year on competitive intelligence programs.¹⁵ This is in contrast to the \$45 billion that Fortune 100 companies lost to thefts of proprietary information in 1999.¹⁶ This amount continues to increase. But since “successful corporate espionage doesn’t come to light... it’s hard to gauge how much there is.”¹⁷

Was Dumpster Diving Illegal?

According to a London-based expert on corporate security, much of the law on intelligence gathering is “a muddle.”¹⁸ In fact, P&G’s rifling through dumpsters on public property crossed no U.S. legal boundaries; however, these laws vary from country-to-country, as well as state-to-state.¹⁹ In some states, trash is treated as abandoned property and is freely accessible. In others, the law depends on if it is located in the organization’s own dumpster or one owned by a refuse company.²⁰ While most competitive intelligence practices are unregulated, experts in the field suggest that corporations use the “sniff test” to monitor their own behavior. This means asking oneself, “how would this look on the front page if it were to come to light?” If the answer is “bad,” then plans should be scrapped or altered.²¹

Corporate Code of Ethics as a Guidepost

If no laws were broken in the P&G/Unilever case, what does P&G’s code of ethics say about how to deal with the situation? P&G’s *Values and Policy Booklet* begins with a letter from the current CEO, A. G. Lafley. Below is an excerpt from that letter:

Procter & Gamble’s reputation is earned by our conduct: what we say and, more important, what we do; the products we make; the services we provide; and the way we act and treat others. As conscientious citizens and employees, we want to do what is right. For P&G, this is the only way to do business. To conduct our business with integrity in a lawful and responsible manner, we have to be alert to situations that pose ethical questions.²²

The booklet goes on to state:

“While P&G competes hard to achieve leadership and business success, the Company is concerned not only with results, but with how those results are achieved. We will never condone nor tolerate efforts or activities to achieve results through illegal or unethical dealings anywhere in the world.”²³

And in directly addressing the issue of competitive intelligence practices, it states:

“We collect competitive information through proper public or other lawful channels but do not use information that was obtained illegally or improperly by others, including through misrepresentation, invasion of property or privacy, or coercion.”²⁴

Unilever also has a similar statement, which it terms the *Code of Business Principles*. The code states that:

We conduct our operations with honesty, integrity and openness, and with respect for the human rights and interests of our employees. We shall similarly respect the legitimate interests of those with whom we have relationships... Unilever believes in vigorous yet fair competition and supports the development of appropriate competition laws. Unilever companies and employees will conduct their operations in accordance with the principles of fair competition and all application regulations.²⁵

What Precedent is there for the Practice and Disclosure of Competitive Intelligence?

In the summer of 2000, the Oracle Corporation admitting to accusations that it authorized a covert intelligence-gathering operation on three lobbying groups funded by its chief-rival, Microsoft. According to an article in the *San Diego Union-Tribune*, “The clandestine operation came to light in June, after janitors reported they had been offered hundreds of dollars [\$1,200, to be exact]²⁶ in cash for the trash removed from the offices of the Association for Competitive Technologies, a group lobbying on behalf of Microsoft in its federal antitrust case.”²⁷ Confronted with this revelation, Oracle chairman and founder, Larry Ellison told reporters, “All we did was try to take information that was hidden and bring it to the light. I don’t think that’s arrogance. That’s a public service.”²⁸

Oracle was allegedly looking for evidence that Microsoft was paying the lobby group to influence its anti-trust case. Following this incident’s unearthing and the announcement that Ray Lane, its chief operating officer, quit, Oracle shares fell 13% and a JP Morgan analyst downgraded Oracle’s rating to “market performer.”²⁹

Similarly, in early 2001, Kraft Foods, the nation's biggest food producer, sued its largest rival in the grocery pizza business, Schwan's Sales Enterprises. According to the suit, Kraft accused Schwan's of benefiting from "deception and subterfuge" to gain secrets about its plans, research on consumer preferences, and other "highly valuable information" related to the frozen pizza industry. Schwan's Tony's, Red Barron, and Freschetta brands are direct competitors of Kraft's Tombstone and DiGiorno pizza brands. Unrelated to the suit, a freelance corporate intelligence agent asserted that Schwan's had paid him to find out when Kraft planned to unveil its industry-riveting rising crust frozen pizza three years earlier.³⁰ In the suit, Kraft alleged that a manager at a market research firm, hired to do consulting for Kraft, then left the firm for a job at Schwan's and brought a large store of trade-secrets with him. The suit also alleged that the manager sent hundreds of sensitive documents about Kraft's product line to his home computer before leaving for Schwan's.³¹

The topic of pizza competition may seem like small potatoes (or should we say, small tomatoes); however, sales of frozen pizzas are growing at more than 7 percent a year, fueled in large part by consumers' love of the rising-crust product.³² Thirty-seven percent (\$1 billion) of the frozen pizza market share belongs to Kraft, and a close 30 percent (\$750 million) belongs to Schwan's.³³

Pepper's Dilemma

Chairman Pepper is confronted with the knowledge that his subordinates participated in activities that are not in violation of the law, but are in violation of the corporation's principles and values. In a highly competitive industry this information is beneficial for the corporation's plans and product development. At this point, the knowledge that P&G has gleaned information from Unilever has not been discovered by its rival and is likely to never be discovered. What should Pepper do?

Endnotes

¹ Serwer, Andy. "P&G's covert operation an intelligence gathering campaign against Unilever went way too far," *Fortune Magazine*, September 17, 2001, p. 42.

² Barnes, Julian. "Unilever wants P&G placed under monitor in spy case," *The New York Times*, September 1, 2001, Business/Financial Desk, Section C p.1.

³ Devaney, Polly. "P&G brushes with infamy in spy case," *Brand Strategy*, November 2, 2001, p. 13.

⁴ Serwer, Andy. "P&G's covert operation an intelligence gathering campaign against Unilever went way too far," *Fortune Magazine*, September 17, 2001, p. 42.

⁵ King, Jr., Neil, & Bravin, Jess. "Corporate Spy business a growing concern Oracle's dumpster-diving incident not as rare as some in the industry would like to think," *Wall Street Journal*, July 3, 2000, Metro B4.

⁶ King, Jr., Neil, & Bravin, Jess. "Corporate Spy business a growing concern Oracle's dumpster-diving incident not as rare as some in the industry would like to think," *Wall Street Journal*, July 3, 2000, Metro B4.

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⁸ Business Wire. "Fortune reveals case of corporate espionage by Procter & Gamble against competitors," August 30, 2001.

⁹ Prescott, John E. "Espionage, ethics, and 'competitive intelligence,'" *The Pittsburgh Post-Gazette*, October 9, 2001, Business p. E3.

¹⁰ Edgecliffe-Johnson, Andrew. "Tricks of corporate spying trade: Going too far can put a company's reputation at risk," *Financial Times* (London Edition 1), September 1, 2001, Comment & Analysis p. 9.

¹¹ Edgecliffe-Johnson, Andrew. "Boom time for 'dumpster divers,'" *Financial Times* (London Edition 2), September 4, 2001, Companies and Finance International p. 29.

¹² Edgecliffe-Johnson, Andrew. "Boom time for 'dumpster divers,'" *Financial Times* (London Edition 2), September 4, 2001, Companies and Finance International p. 29.

¹³ Glater, Johnathan D. "No secret's safe from these sharp eyes," *The New York Times*, September 12, 2001, Workplace Section G p. 1.

¹⁴ Glater, Johnathan D. "No secret's safe from these sharp eyes," *The New York Times*, September 12, 2001, Workplace Section G p. 1.

¹⁵ Lauria, Joe. "Oracle caper lifts lid on America's corporate spies," *The Sunday Times*, July 9, 2000.

¹⁶ Gallun, Alby. "Kraft takes aim at Red Baron in pizza spy fight: Lawsuit says former Nielson exec stole sensitive data," *Crain's Chicago Business*, 24(8), p. 1.

¹⁷ King, Jr., Neil, & Bravin, Jess. "Corporate Spy business a growing concern Oracle's dumpster-diving incident not as rare as some in the industry would like to think," *Wall Street Journal*, July 3, 2000, Metro B4.

¹⁸ Edgecliffe-Johnson, Andrew. "Tricks of corporate spying trade: Going too far can put a company's reputation at risk," *Financial Times* (London Edition 1), September 1, 2001, Comment & Analysis p. 9.

¹⁹ Burns, Jimmy. "Bribes and trash archeology: Competitor intelligence," *The Financial Times*, April 11, 2002, Survey – corporate security p. 5.

²⁰ Edgecliffe-Johnson, Andrew. "Tricks of corporate spying trade: Going too far can put a company's reputation at risk," *Financial Times* (London Edition 1), September 1, 2001, Comment & Analysis p. 9.

²¹ Burns, Jimmy. "Bribes and trash archeology: Competitor intelligence," *The Financial Times*, April 11, 2002, Survey – corporate security p. 5.

²² Procter & Gamble. *Our values and policies* [Brochure], 2005, p. 2.

²³ Procter & Gamble. *Our values and policies* [Brochure], 2005, p. 3.

²⁴ Procter & Gamble. *Our values and policies* [Brochure], 2005, p. 16.

²⁵ Unilever. *Our principles* [Brochure], 2005, p. 1.

²⁶ Lauria, Joe. "Oracle caper lifts lid on America's corporate spies," *The Sunday Times*, July 9, 2000.

²⁷ Bigelow, Bruce V. "Tinker, Tailor, Soldier, Spy," *The San Diego Union Tribune*, December 24, 2000, Books p. 3.

²⁸ Bigelow, Bruce V. "Tinker, Tailor, Soldier, Spy," *The San Diego Union Tribune*, December 24, 2000, Books p. 3.

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³⁰ Winter, Greg. "Kraft sues big pizza rival over loss of trade secrets," *The New York Times*, February 20, 2001, Business/Financial Desk, Section C p. 2.

³¹ Gallun, Alby. "Kraft takes aim at Red Baron in pizza spy fight: Lawsuit says former Nielson exec stole sensitive data," *Crain's Chicago Business*, 24(8), p. 1.

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