

LAW PRACTICE Business

PRACTICAL STEPS IN MARKETING, MANAGEMENT AND FINANCE

HOW TO CREATE AND USE COMPETITIVE INTELLIGENCE

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TIPS FOR LAW FIRMS

BY ANN LEE GIBSON

Competitive intelligence (CI) is an increasingly hot topic within law firms. However, many firms—and the broader legal industry—are still struggling to understand what the discipline of CI is and how it can benefit them. This confusion often stems from equating CI with secondary information or “spying” into competitors’ secrets.

But the truth is that, although CI is indeed based on information, it is created only when that information is analyzed, refined and distilled into something that has very clear implications for decision making. It offers the most benefits to firms where important decisions and actions are being considered—particularly the kinds with big upsides and downsides. In these settings, CI can significantly reduce risk.

The following tips further clarify the CI function and products delivered in a law firm setting. They also include recommendations for firms considering investing in a CI function, as well as for those looking to expand their existing CI investments to reap more strategic benefits.

Know the Parameters:

What CI Is—And Isn't

1 CI reduces risk and identifies opportunities. Several definitions of CI complement each other, but one offered by CI guru Ben Gilad defines CI in a way that is particularly apt for law firms: “the gathering and analysis of information from human and published sources about market trends and industry developments that allows for advanced identification of risks and opportunities in the competitive arena.” (Additional, complementary definitions are listed in the box on page 48.)

Defining CI

The following definitions complement the definition provided by CI guru Ben Gilad. They are gleaned from the Web site of the Society of Competitive Intelligence Professionals, at www.scip.org. Each of the definitions reveals that CI is both a process and a product:

- A systematic and ethical program for gathering and analyzing information about your competitors' activities and general business trends to further your own company's goals.
- A systematic and ethical program for gathering, analyzing and managing external information that can affect your firm's plans, decisions and operations.
- The purposeful and coordinated monitoring of your competitors within a specific marketplace.
- A collection of information pieces that have been filtered, distilled and analyzed and turned into something that can be acted upon.

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2 CI's goals are to create actionable intelligence that provides a competitive edge. Peter Drucker said it well in his 1999 book *Management Challenges for the 21st Century*: "The purpose of information is not knowledge. It is being able to take the right action." Without action, intelligence is wasted.

3 CI doesn't involve espionage. Although CI is rooted in military and political arenas, at the end of the Cold War CI practitioners migrated into business circles to do there what they once did for governments. As CI matured in civil and corporate circles, its activities became transparent and legal.

4 CI has stringent ethical constraints. The Society of Competitive Intelligence Professionals (SCIP) requires all members to sign and adhere to SCIP's Code of Ethics. This code compels all members to behave legally, avoid conflicts of interest, eschew social engineering, and follow all company or firm policies. Any law firm that

employs CI professionals who do not belong to SCIP should require them to sign and follow a similar code while in the firm's employ.

5 CI focuses on more than your competitors. Certainly, CI focuses on competitors, but it also focuses on other elements in the competitive environment, including major clients and prospects and their industries, the economy, politics, culture and technology, which all affect a law firm's ability to compete.

6 Key intelligence topics (KITs) define decision makers' primary intelligence needs. A law firm's KITs consist of the issues at the center of its competitive efforts. These typically include firm strategy, business development, talent acquisition and retention, legal technology, firm structure and other vital topics.

7 Intelligence is more than just information. Intelligence is not produced merely by hitting the Internet

and printing out the search results. Nor is it canned reports about litigation activity or facts about a prospect's past performance. However, an analyst knowledgeable about the KIT under discussion should be able to collect and study relevant "what we know" information and convert that into meaningful "what we should do" implications for decision makers.

8 Tactical CI focuses on the issues and KITs that help a firm win in the short term. The primary customers of tactical CI in law firms are the firm's partners and operational chiefs. As those responsible for taking specific actions that help the firm achieve its goals, they frequently request CI that informs their business development, talent recruitment and firm growth initiatives.

9 Strategic CI focuses on broader trends and developments that inform changes in the firm's strategy. In law firms, those in management are the chief customers of strategic CI. Strategic CI illuminates competitors' future goals and current strategies. It also helps a firm critically evaluate competitors' and the firm's own assumptions about firm culture, structure, capabilities and so forth. It provides early warning to management about imminent changes in the legal industry. It also focuses on clients, with significant diagnostic components that identify and track client and client industry trends. Economic, cultural, technological, geopolitical and other trends that could affect the firm are also tracked and interpreted as they relate to firm strategy.

10 CI cannot predict the future. CI does not produce unassailable, unimpeachable proof of what will happen, and it does not survey

all the attributes of every tree in the forest. Rather, CI's job is to reveal or confirm the existence and shape of the competitive forest and suggest how it may affect the firm's performance.

Follow the Right Steps:

The CI Cycle and Processes

11 Meaningful CI follows a simple process. The CI cycle—as illustrated in the chart below—follows five steps to produce useful, beneficial intelligence. This cycle includes feedback that is necessary to confirm CI's value.

12 The first step—planning and direction. A CI assignment is scoped out by answering questions like: What do we need to know? What do we already know? Why do we need to know it? When do we need to know it? What will we do with the intelligence once we have it? What will it cost to get it? What could it cost *not* to get it?

13 The second step—data collection and research. The type of information collected and the research done will depend on the

KITs or decisions to be informed. Relevant data has probably already been collected by secondary sources and will be available for free or for purchase. Other relevant data may reside in the firm's various information coffers. Still other data may need to be collected personally, through interviews, observations or other forms of primary research.

14 The third step—data analysis and production. Analysis, distillation and synthesis are at the heart of CI, where disparate bits of information are turned into actionable intelligence. Analysis is the means by which one identifies patterns in the data. Some of the analytical tools commonly used by CI workers are benchmarking, trend analysis, win-loss analysis, correlation, conjoint analysis, scenario building, SWOT analysis, simulation/modeling, timelining and personality profiling. CI analysts must then synthesize various patterns and separate industry developments to reveal the bigger picture and identify appropriate actions.

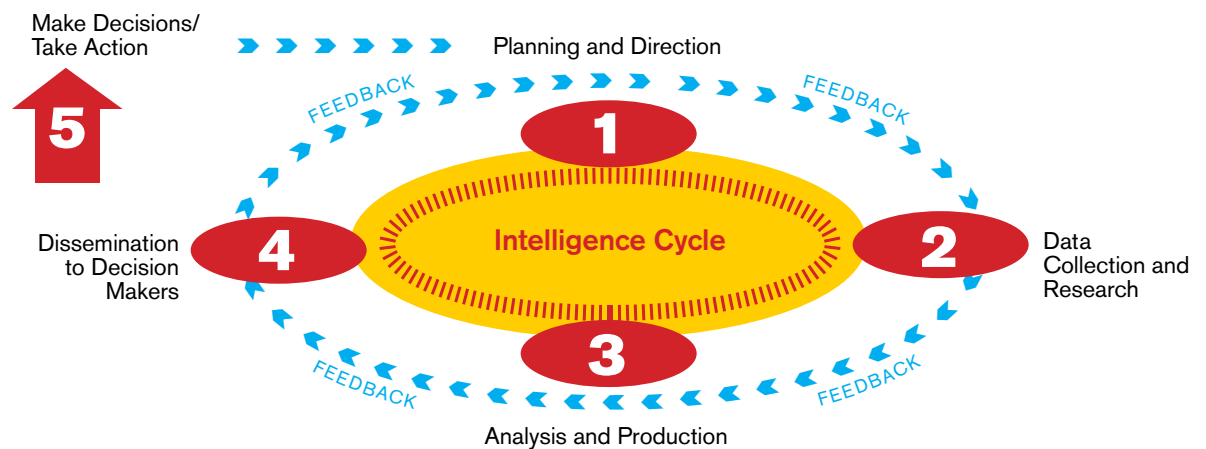
15 The fourth step—dissemination of the intelligence. Intelligence must be packaged in formats appropriate to the intelligence, the decision makers, and the scope of actions to be taken. Sometimes this means e-mail exchanges, other times a detailed hard-copy report, sometimes an in-person presentation. Any written CI report must begin with a brief executive summary that focuses on findings, conclusions and recommendations.

16 The fifth step—decision and actions. Although this step goes beyond the CI function, it is, of course, the whole point of CI. CI's fundamental purpose is to inform these decisions and actions.

17 Feedback about usefulness and ROI. As reflected in the CI cycle chart, feedback is an integral part of the process. While feedback throughout the CI cycle is often appropriate, feedback at the end is critical. Was the intelligence useful, appropriate and complete? How could the CI be improved? Did the

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The Competitive Intelligence Cycle



report provide real insights or just nice-to-know information? Did the analysis clarify the situation? How did the intelligence impact the decisions made? What was its specific value?

18 *CI will never control decisions.* As Lenny Fuld, another CI guru, wrote in his 1994 book *The New Competitor Intelligence*, “Sound business decisions are based on a combination of experience, gumption and intelligence.” Or, as old-time CI practitioners say, “My pay grade isn’t that high.”

Typical CI Assignments in Law Firms: Ideas You Can Use

19 *Identify warm prospects.* The familiar business development activity of “prospecting” is essentially a tactical intelligence function that maps the best matches using filters like these: the firm’s capabilities, companies in its service areas, their legal needs, the firm’s knowledge of those industries, personal connections that the firm has with people in or close to those companies, events that make their needs more critical,

and opportunities that the firm can use to make a connection. The frequent demand for this kind of tactical CI in law firms is why the CI function often first appears in firms’ marketing or business development groups.

20 *Conduct litigation-spotting for current and prospective clients.* Many firms have lit-spotting initiatives to identify and then quickly alert current clients about lawsuits filed against them. Lit-spotting can also provide competitive advantages in certain business development efforts.

21 *Identify emerging litigation issues.* By further analyzing lit-spotting data, over time a firm’s CI unit can identify emerging broad litigation issues for client industries. This intelligence can inform the firm’s business development, organizational and staffing decisions.

22 *Improve new business pitches.* Good tactical intelligence greatly aids partners who, when pitching current clients or prospects, must answer questions like: Should we compete for this business? What solutions and service strategies should we propose? What contents and document attributes should we include in our proposal? How should our team prepare for and behave during the interview? After the pitch, win or lose, how can we improve our competitive performance going forward?

23 *Identify lateral partner candidates.* Firms often involve CI to help their HR and talent groups find and qualify lawyers (particularly at the young- to mid-range partner level) who would be an asset to the firm.

24 *Identify acquisition and merger targets.* Firms that grow through merger and acquisition need reliable intelligence to vet target firms and practice groups. While merger consultants provide much of this intelligence, some firms are also developing their own

CI Resources

- *The New Competitive Intelligence: The Complete Resource for Finding, Analyzing, and Using Information about Your Competitors* by Leonard Fuld. Wiley, 1994.
- *The Secret Language of Competitive Intelligence: How to See Through and Stay Ahead of Business Disruptions, Distortions, Rumors, and Smoke Screens* by Leonard Fuld. Crown Business, 2006.
- *Business Blindspots: Replacing Your Company's Entrenched and Outdated Myths, Beliefs and Assumptions with the Realities of Today's Markets* by Ben Gilad. Probus, 1993.
- *Early Warning: Using Competitive Intelligence to Anticipate Market Shifts, Control Risk, and Create Powerful Strategies* by Ben Gilad. American Management Association, 2003.
- *Competitive Intelligence: How to Gather, Analyze, and Use Information to Move Your Business to the Top* by Larry Kahaner. Simon & Schuster, 1996.
- *Competitive Strategy: Techniques for Analyzing Industries and Competitors* by Michael Porter. Free Press, 1998.
- *Measuring the Effectiveness of Competitive Intelligence: Assessing and Communicating CI's Value to Your Organization* by Jan Herring. Society of Competitive Intelligence Professionals, 1996.
- *Academy of Competitive Intelligence.* This respected organization offers professional certification through public seminars that build CI skills ranging from basic (e.g., intelligence sources and competitive benchmarking) to advanced (e.g., anticipating innovation, scenario analysis and war gaming). The academy’s Web site, at www.academyci.com, offers visitors numerous educational resources and a CI blog.
- *The Society for Competitive Intelligence Professionals.* This professional association of CI workers was founded in 1986. It has 3,000 members and more than 50 chapters throughout the world. Its Web site, at www.scip.org, provides information and education about CI, hosts an active electronic discussion list for SCIP members and has notifications of SCIP’s extensive conference and training offerings.

based on both primary and secondary information sources. Firm-developed intelligence typically addresses targets' capabilities, clients, reputations, locations, leadership, culture, technology, profitability, turnover and other topics.

25 Track emerging client and industry needs to identify new practice areas. As clients' business and legal needs evolve, most law firms would like to be early to market, if not first, with new practices that respond to these evolving needs. An active CI unit that receives assignments from the firm's existing practice and industry groups is well placed to recognize emerging client needs early on, particularly those that cross traditional practice group lines.

26 Explore options for new offices. Decisions about whether to expand to new locations carry big upsides and downsides. To reduce the risk in these decisions, firms can use CI about the target market's level of legal needs, client satisfaction with current counsel, intensity of competition, local talent pools and mobility, recent expansion efforts in the area, market profitability, hot (and not) practice areas and economic climate.

27 Benchmark operations and performance against competitors. Knowing what competitors are doing, how they are doing it, and how successful they are is a basic CI activity. Having such knowledge certainly does not require a firm to mimic competitors' practices, but it definitely provides openings to compete more knowledgeably and best one's competitors.

28 Identify coming sea changes in the legal industry. The goal here is to forecast how those changes will likely interact with the firm's current operations, strategies and positions. Looking back over the past

five or ten years, it is easy to see how much competition among law firms has increased. But in what ways will competition evolve in the *next* five to ten years? What changes will firms be forced to make? How could the firm benefit by anticipating those changes and restructuring itself and reallocating its resources now? Skilled CI units will be able to explore such topics and provide "what-if" forecasts.

29 Conduct exercises to help management plan. In formal scenario-planning exercises, the CI unit is asked to build several future scenarios (often quite different ones) regarding issues, events or the like that might come to pass. Firm leaders are then asked to develop plans for the firm that anticipate one or more scenarios. Finally, firm leaders evaluate the relative benefits of these plans and determine which ones will position the firm best in a variety of possible futures.

30 Plan and facilitate management "war games." Corporations frequently use war games to learn how to respond faster and more effectively to marketplace events, and law firms are beginning to explore war games as well. These role-playing workshops help participants become more realistic about their capabilities, identify dangerous blind spots, anticipate competitors' future moves, test the efficacy of obvious first-reaction tactics, and move quickly to more effective ones. Skilled CI units create briefing books about competitors and industry intelligence, although outside consultants usually facilitate the games.

Establishing a CI Function in Your Firm: Best Practices Pointers

31 First, gauge the firm's culture. Is the firm culture compatible with CI's purposes? Timid firms,

where next year's programs look like last year's programs, will waste monies by spending on CI. A firm should not bother investing in CI if the only decisions leaders make involve repeating previous years' actions.

32 Assess leadership's commitment to using CI. Firms that benefit most from CI have leaders who make timely decisions and take frequent action. At entrepreneurial firms, where planning and accountability are part of the culture, leaders will demand and truly benefit from intelligence that lightens their decision-making load.

33 Staff the CI unit with people who think independently and conceptually. You need bright people who can tolerate ambiguity. Successful CI workers are intellectually curious, closely follow local, national and global current events, and have the intellectual discipline to posit and seek support for competing hypotheses.

34 Staff the unit with people who also understand your clients' business world and the legal industry. Finding candidates with such broad backgrounds can be difficult, but some early CI hires might already be working inside your firm. Look among those in your marketing, financial, library and talent departments. Your attorney ranks might also yield interesting candidates. Many firms are now recruiting CI professionals with successful corporate CI experience who can quickly orient themselves about the legal industry. Other promising hires include legal and investigative journalists and financial and regulatory analysts.

35 Find active listeners. The Turkish proverb, "Listen 100 times, ponder 1,000 times, speak once," is a useful axiom for CI practitioners. The successful ones take great pains to understand accurately their firms' needs.

They are also skilled at collecting useful intelligence from human sources.

36 Put the unit where it can quickly produce tactical wins.

More than half of U.S. law firms with CI units have initially established that function within the marketing or business development groups, to support tactical business development initiatives. Other firms have assigned the CI function to the library, particularly when the library staff possess strong business research or specialty library skills. Still other firms have split the function between marketing and the library.

37 Measure activities and outcomes from day one. As soon as you establish a CI function, require your CI workers to maintain a log of assignments and to digitally archive reports that are produced. Identify and catalog the CI customer, assignment description, KITs and decisions the CI informed, time spent on the assignment (and other costs), user feedback, specific value, and whether the intelligence was requested or provided proactively.

38 Build strong relationships throughout the firm. Some CI theorists believe that as much as 80 percent of what a firm needs to know about its primary clients, prospects and competition is already present inside the firm. CI workers need to cultivate intrafirm relationships so they can readily access information held in the minds of lawyers, marketers and other employees, as well as information stored in the firm's many knowledge bases.

39 Build strong information networks outside the firm. CI requires good relationships with informed and accurate observers of the legal industry and the firm's client industries. This should include publishers, analysts,

reporters, editors, technology vendors, real estate companies, legal placement and executive search firms, public relations firms, governmental regulators, marketers and lobbyists, among others.

40 Build influence one interaction at a time. The goal of CI is to influence decisions. Therefore, decision makers' trust must be earned over time. Ideally, a CI unit's earliest assignments should be tactical in nature, affecting decisions that are less costly. If the unit performs well, news of this good work will spread throughout the firm, and the phone will ring more often with assignments and accolades.

41 Minimize the reference-desk questions. Lawyers frequently ask CI workers questions like, "Can you tell me what, where or when about XYZ?" Responding quickly to such requests helps a CI unit earn the trust it needs to influence more critical KITs and decisions. But as the unit matures and handles more strategic assignments, it must learn how to triage basic information requests. An important caveat, though, is that sometimes a partner's "quick info request" reveals a rich opportunity for intelligence, not just information, to add value.

42 Provide ongoing training to expand CI skills. SCIP and the CI Academy (see the Resources sidebar) provide first-rate CI training, ranging from basic to advanced skills. SCIP's chapter webinars are excellent and often free to members. Other training for law firm CI specialists is offered by the Legal Marketing Association, the American Association of Law Libraries, the Special Libraries Association, and large information aggregators like LexisNexis and Thomson.

43 Proactively phase in to full-fledged CI. Once your CI unit has had visible success with a

range of tactical assignments, you can begin to involve the unit in more strategic KITs (like those described in Tips 24 through 30). Also, by expanding doing good work over time, your CI workers will build some trusting relationships with firm management and particular partners. The CI unit may then look for opportunities to provide these "best customers" with additional insights that can positively impact firm and practice group performance and planning.

44 Measure the ROI. Firm management will want to assess its return on CI investments at least biannually. This involves considering questions like: Who are the CI unit's customers? What types of assignments are they requesting? How do they value the intelligence they receive? How are they using the intelligence? What are the unit's operational costs? And what profits or cost-savings can be attributed to the unit's work?

45 Become adept at recognizing early warnings. The more experience CI unit members gain in analysis and pattern recognition across a range of disciplines, the more readily they will recognize disruptions in those patterns. Such disruptions—particularly those that occur simultaneously or in overlapping practice areas—generate opportunities for your firm to create new, profitable practices and new ways of serving clients better. Obviously, recognizing opportunities affords competitive advantages to firms that see them first and seize them quickly. If you want to be an entrepreneurial, competitive, innovative and top-tier firm in your market, then you will learn to demand reliable CI and realize its benefits in avoiding unhappy surprises and making your most critical decisions. **IP**

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