

“Factors that influence ethical and legal practice of competitive intelligence in the property sector a conceptual model”

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SECTION 3. General issues in management

Tshilidzi Eric Nenzhelele (South Africa)

Factors that influence ethical and legal practice of competitive intelligence in the South African property sector a conceptual model

Abstract

In spite of ethical concerns surrounding the practice of competitive intelligence (CI), firms in the property sector practise CI ethically and legally. No research has been conducted to establish the factors that influence firms in the property sector to practise CI ethically and legally. This research aimed to explore the literature to establish factors that may influence property practitioner firms to practise CI legally and ethically. The research was qualitative in nature and used content analysis to analyze the collected data. The research established eight factors that may influence property practitioner firms to practise CI ethically and legally.

Keywords: competitive intelligence, competitive intelligence ethics, competitive intelligence code of ethics, competitive advantage, decision making, property sector, real estate

JEL Classification: M54.

Introduction

The South African property sector is respected worldwide, attracts foreign investors and strives to gain public and consumer trust (EAAB Annual Report, 2008/2009). It enables economic growth, creates employment, wealth, inheritance and collaterals, eradicates poverty, and fosters transformation (EAAB Annual Report, 2012/2013). The property sector also redresses the aftermath of apartheid, offer educational opportunities and fulfils the constitutional rights of citizens (EAAB Annual Report, 2013/2014). As a result, the South African property sector is vibrant and very competitive (EAAB Annual Report, 2013/2014). In order to provide quality services to the consumers and remain competitive, property practitioner firms practice competitive intelligence (CI) (Nenzhelele, 2015). However, there have been ethical concerns regarding CI practice. This led to CI being confused with industrial espionage (Yap & Rashid, 2011). Despite all ethical concerns surrounding the practice of CI, property practitioner firms practise CI ethically and legally (Nenzhelele, 2015). To date, no research has established the factors that influence property practitioner firms to practise CI ethically and legally. This study aimed to explore the literature to establish factors that may influence property practitioner firms to practise CI ethically and legally.

1. Literature review

1.1. The South African property sector. The South African property sector is regulated by the Estate Agency Affairs Board (EAAB), which was established according to the Estate Agency Affairs Act, 112 of 1976 (EAAB Annual Report,

2008/2009). The EAAB is hosted by the Department of Human Settlement (EAAB Annual Report, 2012/2013). The EAAB has a clear vision, mission and values. It is mandated to register, educate and inspect property practitioners and firms. It also administers claims against fidelity funds and act against money laundering (EAAB Annual Report, 2009/2010). EAAB strives to professionalise the South African property sector in order to earn consumer trust, protect the public from unscrupulous property practitioner firms, command worldwide respect, attract local and foreign investors, attract young matriculates and graduates, and transform the property sector (EAAB Annual Report, 2014/2015).

The EAAB constantly strives to reduce the turnaround time to register and renew fidelity fund certificates of property practitioners and firms. This ensures that the property practitioners and firms operate legally (EAAB Annual Report, 2011/2012). The EAAB established a fully functional inspectorate division to conduct regular inspection of property practitioners and firms to ensure compliance (EAAB Annual Report, 2012/2013). It implements effective disciplinary proceedings against non-complying property practitioner firms (EAAB Annual Report, 2010/2011). In addition, the EAAB implements a fully functional fraud/whistle-blower hotline to allow stakeholders to report unscrupulous conduct by property practitioners and firms (EAAB Annual Report, 2012/2013). The EAAB further requires property practitioner firms to annually and timeously submit audit reports of their trust account (EAAB Annual Report, 2008/2009).

To effectively management stakeholders, the EAAB organizes road shows and imbizos countrywide in order to communicate its operations (EAAB Annual Report, 2012/2013). The EAAB organizes consumer educational workshops countrywide aimed at raising

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awareness about the operations of the property sector to ensure that consumers are empowered, well informed and protected from unscrupulous conduct by some property practitioners and firms (EAAB Annual Report, 2014/2015). The EAAB forms alliances with property sector bodies in order to effectively manage stakeholders (EAAB Annual Report, 2012/2013). EAAB is a member of the Association of Real Estate License Law Officials (ARELLO) an international property regulator (EAAB Annual Report, 2013/2014).

1.2. Competitive intelligence. Managers of small and large firms rely on quality CI to make quality decisions that help firms to gain competitive advantage over their rivals (Köseoglua, Rossc & Okumus, 2016). According to Du Toit and Sewdass (2014) and Maune (2014), CI helps firms to provide quality service to clients, create quality strategic plans and improve the quality of life. South African property practitioner firms ethically and legally practise CI in order to gain competitive advantage of rivals (Nenzhelele, 2015).

Köseoglua et al. (2016) conclude that there are many definitions of CI and some of these definitions have some aspects in common while some lack ethicality. Brody (2008) points out that some definitions refer to CI as a product while some refer to it as a process. According to Haliso and Aina (2012), a universal definition of CI will create borders around CI and ensures that CI is differentiated from industrial espionage. After analyzing 50 definitions of CI looking for commonality and differences, Pellissier and Nenzhelele (2013) defined CI as “a process or practice that produces and disseminates actionable intelligence by planning, ethically and legally collecting, processing and analyzing information from and about the internal and external or competitive environment in order to help decision-makers in decision-making and to provide a competitive advantage to the enterprise.” This definition is adopted for the purpose of this study.

CI must be practiced legally and ethically in order to differentiate from industrial espionage (Okorie and Lazarus, 2015). Ethical and legal practice of CI ensures wide recognition of CI as a profession (Rittenburg et al., 2007). It saves firms’ money of rebuilding a reputation ruined through unethical behavior (Reinmoeller & Ansari, 2015). Firms must collect, sort, capture, store, and analyze information ethically and legally and disseminate actionable intelligence ethically and legally (Gheysari, 2015).

Firms compile and enforce codes of ethics to ensure that employees behave ethically and legally (Bartes, 2014). To ensure that CI is practised ethically and legally, Strategic and Competitive Intelligence

(SCIP) designed and compiled a CI code of ethics (www.scip.org/?page=AboutSCIP). Firms ethically and legally practise CI if they comply with the above code of ethics. The following are the elements of the CI code of ethics as developed by SCIP:

- ◆ to strive continually to increase the recognition of and respect for the profession;
- ◆ to comply with all the applicable laws, domestic and international;
- ◆ to disclose accurately all relevant information, including one’s identity and enterprise, prior to all interviews;
- ◆ to fully respect all requests for confidentiality of information;
- ◆ 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 enterprise, with third-party contractors and within the entire profession;
- ◆ to adhere faithfully to and abide by one’s enterprise’s policies, objectives and guidelines.

2. Methodology

This research was qualitative in nature and content analysis was used to analyze the literature to establish factors that may influence property practitioner firms to practise CI ethically and legally. A total of 759 sources inclusive of journal articles, books, conference proceedings and papers were reviewed for the purpose of this research. The following keywords were used to extract relevant sources: CI; CI ethics; ethical and legal; ethically and legally; code of ethics; property sector; and real estate. Sources extracted range from 1990 to 2016. To identify relevant literature, academic databases and search engines were used. To ensure reliability, only peer-reviewed sources were used. The literature review was conducted between 2011 and 2016.

3. Results

The literature review indicates that there are a number of factors that may influence firms to comply with the CI code of ethics. Some of the factors may be used as excuses why firms do not comply with the CI code of ethics. Firms should observe these factors in order to continually practise CI legally and ethically. The possible influential factors of CI ethics are discussed below.

Industrial: The South African property sector is guided by the Estate Agency Affairs Act under the watchful eye of the EAAB (EAAB Annual Report, 2008/2009). The EAAB has a clear vision, mission and values (EAAB Annual Report, 2010/2011). The

EAAB initiated and implemented the continuing professional development programme aimed at ensuring that property practitioners firms are up to date with the operations of the property sector (EAAB Annual Report, 2012/2013). The South African property sector has earned respect in the international arena due to its professionalism and its membership to ARELLO (EAAB Annual Report 2013/2014). Moreover, the respect is also due to EAAB's strict compliance and enforcement of rules and regulations, acts and code of conducts (EAAB Annual Report, 2014/2015). The South African property sector receives both positive and negative media coverage in soft and hard copies. This enables potential customers and the public to learn about the property sector (EAAB Annual Report, 2012/2013). The EAAB initiated and effectively manage strategic alliances aimed at establishing strategies to ensure the smooth running of the property sector (EAAB Annual Report, 2012/2013). The EAAB strives to ensure that the property practitioner is a career choice for matriculates and graduates through education and professionalism. As a result, there has been an increase in intern estate agents from year to year. This has led to the One Learner – One Estate Agency Youth Brigade Empowerment Programme aimed at empowering intern property practitioners under the supervision of qualified mentors (EAAB Annual Report, 2014/2015). To ensure that the property practitioners and firms comply with the acts and code of conduct that govern the property sector, EAAB strives to improve the turnaround time for registration and renewal of fidelity fund certificate (EAAB Annual Report, 2012/2013). To ensure that stakeholders are well informed, the EAAB initiated and implemented effective stakeholder management through road shows and imbizos and consumer education workshops (EAAB Annual Report, 2012/2013).

Organizational and stakeholders: These are factors inside and around the firms. Firms are able to change or react to these factors. Firms have control over their culture and awareness. They decide how and when to change their culture. They also decide when to raise awareness about their culture (Saayman et al., 2008). Firms are able to control and influence policies, code of ethics and approaches/standards which employees must comply (Rittenburg et al., 2007). Some firms have reward and punishment measures in place for compliance and non-compliance with these policies, code of ethics and approaches/standards (Brown & Trevino, 2006). Firms are affected by government laws and regulations. They must ensure that their business operations comply with every act or law that governs the sector they operate in. Failure to do so may lead to

fines or prosecution (Rittenburg et al., 2007). Rittenburg et al. (2007) argue that firms must run their businesses observing and complying with established societal/industry/business norms. Rittenburg et al. (2007) recommend that firms pay special attention to their customers. Firms should strive to make the customers happy or be prepared to react to a customer backlash (Maignan & Ferrell, 2004). Stakeholders include shareholders, suppliers, customers, competitors, community, creditors, government, employees, and auditors (Schilling, 2013). Decisions and actions taken by firms affect stakeholders (Lindgreen & Swaen, 2010). Firms should strive to ensure that their business is conducted in a manner that does not bring the firm into disrepute as stakeholders do not want to be associated with such firm (Zhu et al., 2012).

Raising CI ethics awareness: Bulley, Baku and Allan (2014) argue that managers who support and champion CI invest money in it. Their support, participation and visibility attract and influence other employees to raise awareness of CI (Hesford, 2008). Subsequently, every employee will be aware of CI (Nasri, 2012). CI awareness may be raised through education and training (Smith et al., 2010). This method has been used by most firms to raise CI awareness (Paterson, 2011). According to Smith et al. (2010), firms may also raise CI awareness through workshops, seminars, speeches, meetings and conferences. These methods are able to reach many people at once. Firms may raise CI awareness through ethics round tables (Henderson, 1988). Ethics round tables are meetings in which people discuss and ask questions on ethics (Kullberg, 1988).

CI ethics enforcement methods: Ethics round tables facilitate the enforcement of ethics (Kullberg, 1988). Firms organize workshops, seminars, conferences, meetings, and speeches aimed at enforcing ethics (Smith et al., 2010). They have an advantage of reaching many people at once (Sewdass & Du Toit, 2014). Firms pay for their employees' education and training with the aim of enforcing ethics (Smith et al., 2010). Firms also use rewards and punishments to enforce ethics. They reward employees who comply and punish employees who do not comply with code of ethics (Brown & Trevino, 2006).

Decision making: Firms are the end results of decision making. Decisions are taken by people with different competencies. The competence of the decision makers may have a positive influence on the adoption of ethics (Steptoe-Warren, Howat & Hume, 2011). Decision makers who are skilled are able to change between ethical and unethical behaviors (Garavan & McGuire, 2001). Decisions are taken at different levels of the firms. The strategic level is the highest level

of decision making (Van Riel et al., 2011). These decisions are taken by top management who are responsible for the future growth of the firms (Nicolas, 2004). The functional level is the middle level and involves decisions which are taken by functional managers such as marketing managers, human resources managers, financial managers, purchasing managers and public relations managers. These managers must make decisions which support those of strategic managers (Van Riel et al., 2011). Jung (2013) concludes that the lowest level of decision making is called the operational level. Managers at this level are referred to as the supervisors. Their decisions directly influence the majority of the employees in a firm (Van Riel et al., 2011).

CI practice: How firms practise CI may influence CI ethics. CI is aimed at fulfilling CI needs. When the CI needs from decision makers are clear, CI professionals are able to produce quality CI (Nasri, 2011). Quality CI is CI that addresses the needs of the decision makers (Căpățină & Vanderlinden, 2012). Clear CI needs eliminate confusion and may enhance ethical behaviors of CI professionals (Yassine, 2014). There must be constant communication between CI professionals and decision makers in order for CI needs to be clear (Yassine, 2014). It also ensures that CI professionals receive CI needs on time (Arcos, 2013). This may also help in CI quality assurance. According to Nenzhelele (2015), it is quality CI that produces quality decision making. In order to assure quality of CI, firms must collect and analyze information ethically and legally (Gaidelys & Meidute, 2012; Bartes, 2014). They must disseminate CI ethically, on time and using methods that are regularly accessed by decision makers (Fleisher & Wright, 2010; Nasri, 2011). Firms should have resources available for CI practice. This is because firms that make resources available for CI are able to create a formal CI function (Saayman et al., 2008). They are able to raise awareness of CI throughout the firm (Maune, 2014). Their employees are aware of ethical and unethical behaviors in the conduct of CI (Barnea, 2014). The level of CI professionals' skills may have an influence on CI ethics. CI professionals should have training and skills in CI practice. They should be aware of CI ethics (Hemmatfar et al., 2010). This enables them to collect and analyze information ethically and legally (McGonagle & Vella, 2012). Firms are advised to practise CI formally (Yap & Rashid, 2011). Firms that follow a formal CI process may be aware that information should be ethically collected and analyzed (Nasri & Zarai, 2013). Firms that practise CI formally usually appoint CI professionals who are knowledgeable in CI practice and CI ethics (McGonagle & Vella, 2012). The CI code of ethics was developed by SCIP (www.scip.org/?page=AboutSCIP).

Economic, political and social factors: Economic, political and social conditions may influence the ethical behaviors of individuals and firms. For example, a reduction in interest and inflation rates will lead to a reduction in the amount payable on account instalments, food prices and price of resources. As a result, consumers, firms and government have more money to spend, thereby reducing the temptation of indulging in unethical and illegal behavior (Engelbrecht, 2008). Due to globalization, firms are affected by international economic growth. They may be able to do business with international clients. They can get paid in foreign valuable currencies and grow financially. This may influence them to be ethical in their business conduct (Lotriet et al., 2011). The decisions, actions and lives of political leaders are constantly reported on radio and television, and in newspapers and magazines. Their ethical decisions and behavior may influence employees of many firms (Lotriet et al., 2011).

Business ethics and ethics theories: There are several business ethics and ethics theories that may influence the ethical behaviors of individuals and firms. When leaders, managers and decision makers are ethical, they become role models to their followers. They are guided by ethical principles in their decisions and actions (Brown et al., 2005). Ethical leaders, managers and decision makers possess integrity, honesty, humility, compassion, courage or self-control, wisdom, generosity, loyalty and justice (Wood & Hilton, 2012). Employees and firms tend to be ethical when there are rewards for compliance and punishments for non-compliance to the code of ethics (Brown & Trevino 2006). Business ethics such as information ethics, corporate governance, corporate social responsibility and sustainable development may influence firms to practise CI ethically and legally (Fukukawa et al., 2007). These business ethics instil discipline in the way firms conduct their business. For example, corporate social responsibility ensures that firms take decision and actions that make them accountable to the social lives of the community around them (Lindgreen & Swaen, 2010). Sustainable development cause firms to use resources sparingly for sustainability of the environment. The culture of caring for the community and environment may influence firms to be ethical in their conduct (Hall, Daneke & Lenox, 2010). Good character of leaders and employees may lead to ethical behaviors (Govers, 2013). These virtues include integrity, honesty and humility compassion, courage or self-control, wisdom, generosity, loyalty and justice (Wood & Hilton, 2012). The majority of people with these kinds of characteristics tend to be ethical in their conduct (Racelis, 2013). When firms treat employees fairly and justly, they tend to be ethical in their business conduct. There-

fore, leaders firms and employees must treat all stakeholders fairly (Crane & Matton, 2007). They must ensure that justice prevails in all decisions and actions taken (Miller, 2012). They must treat everyone equally regardless of their race, gender, religion, nationality and tribe. They must respect the rights of all stakeholders (Berg et al., 2011). Firms and their employees may practise CI ethically and legally, knowing that there are good and bad consequences of their actions (Rossman & Rallis, 2010). Leaders and employees may be positively influenced by consequences when choosing to act ethically or unethically (Brunk, 2012). When they foresee bad or good consequences of the action or decision they are about to take, they may choose to be ethical (Rossman & Rallis, 2010). Firms that consider the interest of all stakeholders when making decisions may be ethical and legal in their conducts (McElwee, 2011). They make decisions which are in the best interest of all stakeholders (Plaisance & Reydon, 2012). Firms should consider the rules and principles that govern the community when making decisions or taking actions (Baum, 2010). All stakeholders come from a community that is governed by rules and principles. These community rules and principles address what is right and wrong (Govers, 2013) and may positively influence the adoption of CI ethics. Firms that respect all their stakeholders tend to be ethical and legal in their conduct. They make decisions that show respect for the stakeholders (Kalshoven, De Hartog & De Hoogh, 2011). They are aware that stakeholders are affected by corporate decision and actions (Rossman & Rallis, 2010).

CI ethics challenges: A low CI budget causes firms and employees to practise CI informally (Nenzhelele, 2012; Fatti & Du Toit, 2013). Firms with a low CI budget do not appoint CI professionals and instead use unskilled employees to practise CI (Rittenburg et al., 2007; Jin & Ju, 2014). This may lead to unethical and illegal practices (Muller, 2007). Some firms outsource CI and trust that the contractors will conduct CI ethically and legally (Wunderlin, 2007). However, contractors may not always practise CI ethically and legally (Muller, 2009). Global economic meltdown may cause firms to become involved in illegal and unethical behaviors (Chen et al., 2009). They may do it under the pretence of the survival of the fittest. The global economic meltdown of 2008/9 has been associated with unethical behaviors of many leaders of firms (Haspeslagh, 2010). During unfavorable economic conditions, some firms do whatever it takes to survive, and this may even include unethical behavior (Bruno & Claessens, 2010). Increases in interest and inflation rates cause individuals and firms to lose money and they subsequently fail to service their

debts (Engelbrecht, 2008). This may lead to business closure or loss of share value. Subsequent to this, some firms may engage in unethical behaviors to try and survive (Hinterhuber, 2013). Poverty may cause individuals and firms to indulge in unethical and illegal behavior. South Africa still has millions of people living in poverty. Due to poverty, some people may engage in unethical behavior such as crime, theft, house breaking, hi-jacking, human trafficking, drug abuse and murder. Employees of different firms may engage in unethical behavior with the excuse of poverty (Stats SA, 2011). Lack of quality education may lead to unethical behaviors. South Africa is ranked 138 in the world in terms of the quality of education. It has low primary and tertiary education enrolment. Out of 140 countries, South Africa is ranked last in terms of the quality of mathematics and science education. This means that few students will qualify to study for scarce skills qualifications or most formal qualifications, as mathematics and science are entry requirements. A poor education system is a challenge of ethical and legal practise of CI (Global Competitiveness report, 2015/2016). People are influenced by what they read, hear and watch. The constant reading, hearing and watching of scandals, corruption and fraud may influence some individuals to engage in unethical behavior (Pule, 2012). When firms think more about themselves than about others, they may engage in unethical and illegal behavior. Ego may cause an individual to be greedy and eventually engage in unethical behaviors. Firms are taught to sustain resources for the next generation. Firms that are not mindful of their environment and the different stakeholders tend to be unethical and illegal in their behavior (McElwee, 2011).

4. Discussions

Practising CI ethically and legally differentiate CI from industrial espionage. In addition, CI earns respect when it is practised ethically and legally. Also, ethical and legal practising of CI protects the reputation of the firms. It saves firms money of having to pay fines and rebuilding broken reputation. Firms should therefore observe and adopt factors that influence them to practise CI ethically and legally. They should incorporate these factors in their policies and/or code of conduct/ethics.

Industrial factors automatically influence firms because they operate in the South African property sector. Firms have more influence on organizational factors since they are part of the day-to-day running of the business. Stakeholders have an influence on how the firm runs its business. Any decision or action taken by the firm has an impact on the stakeholders and vice versa. When employees are aware of CI ethics, they

may practise CI ethically and legally. The decision making process may influence the ethical and legal practice of CI. Practising CI may influence the ethicality and legality of CI. Although they have less influence on economic, political and social factors, firms must observe these factors when practising CI in order

to remain ethical and legal. Firms are advised to observe business ethics which are guided by ethics theories. CI ethics challenges must be observed during CI practice. Figure 1 indicates the conceptual model inclusive of the factors that may influence ethical and legal practising of CI.

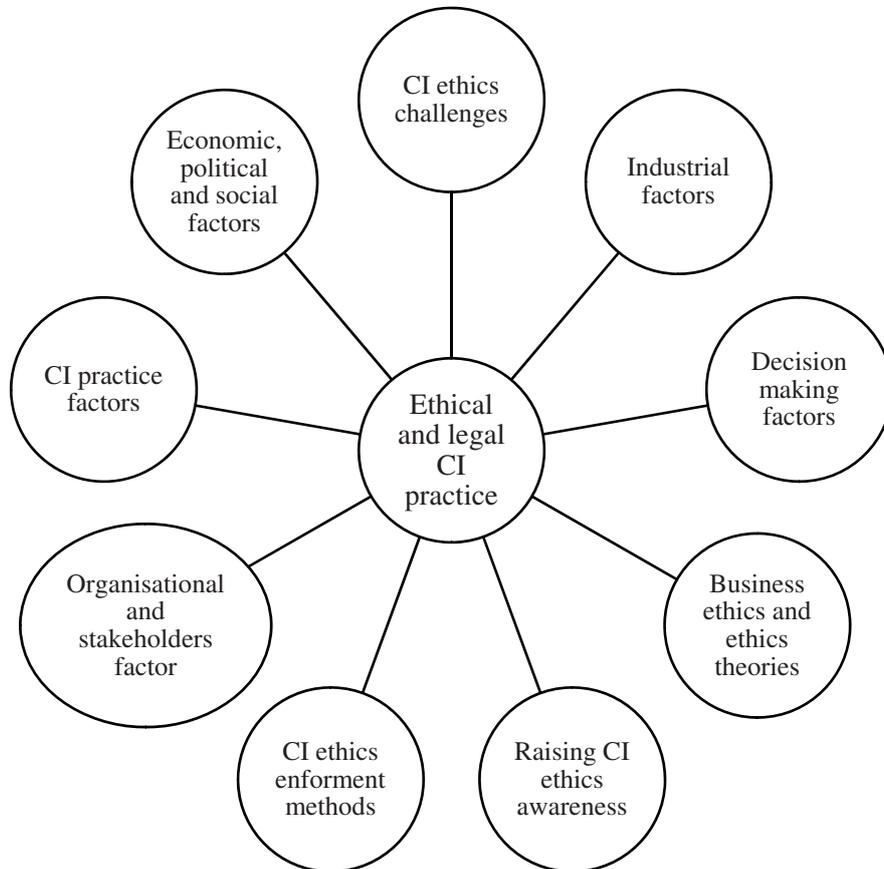


Fig. 1. Conceptual model for ethical and legal CI practice

Conclusion

There are nine factors that may influence the ethical and legal practice of CI by property practitioner firms in the South African property sector. They are industrial factors, organizational and stakeholder factors, CI practice factors, decision making factors, economic, political and social factors, raising CI ethics awareness, CI ethics enforcement methods, business ethics and ethics theories, and CI ethics challenges. The observation and adoption of these factors by property practitioner firms will ensure continual ethical and legal practising of CI.

Thus, property practitioners firms should strengthen the factors that positively influence ethical CI practice and weaken the factors that negatively influence ethical CI practice. They should work with different stakeholders to ensure continual ethical CI practice. Property practitioners firms should raise awareness of the factors that influence ethical CI practice. There should be

promotion of ethical leadership and ethical decision making with the property practitioners firms. Property practitioners firms should educate employees about economic, political and social factors that influence ethical CI practice.

Moreover, property practitioners firms should promote business ethics and ethics theories with their firms. This will ensure that the employees are not only ethics sensitive but are ethical in their practice of CI. Property practitioners firms should establish measures to reduce the CI ethics challenges. They should reward ethical CI practice and punish unethical CI practice. This will ensure continual ethical CI practice.

This study was exploratory in nature and limited to available literature. The study was delimited to the South African property sector. An empirical study must be conducted in the future to test this conceptual model. Future study may be conducted

to establish more factors that may influence the ethical and legal practising of CI. Furthermore, future studies may be conducted to establish factors that may influence ethical and legal practice in other sectors in South Africa and other countries.

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