

**ENBIS Workshop:  
Statistical Consulting and  
Change Management**  
**Appendix 1**  
*Ethics and Intellectual Property*

**Newcastle, United Kingdom  
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A1.1

## Ethics

- As a consultant, your reputation and integrity are your most important assets
- It may take 10 years to build up a reputation, but only one unethical act or indiscretion to lose it!

### A Few Useful References:

Deming, W. E. (1965), "Principles of professional statistical practice, *Annals of Mathematical Statistics*, 36, pp. 1883-1900.

Deming, W. E. (1972), "Code of Professional Conduct," *International Statistical Review*, 40, No. 2, 215-219.

ISI (1986), "International Statistical Institute Declaration on Professional Ethics." *International Statistical Review*, 54, 227-242.

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## A Few Ethics Principles

- Principles of ethics are personal. We suggest you make up your own set of ethics principles.
- Here are a few of ours:
  - Be totally ethical in everything you do
  - Don't promise what you cannot deliver
  - Over-deliver rather than under-deliver on your promises
  - Don't withhold important facts
  - Tell it as it is! Delivering "bad news" is sometimes part of the business
  - Don't become arrogant and pompous
  - Be business like, professional and respectful in all your dealings with the client
  - Be completely honest, courteous and respectful, do an honest day of work, completely honor your contract or agreement with the client,
  - Submit only scrupulously honest invoices
  - Refrain from judging other consultant's work
  - Take responsibility for your errors and mistakes
  - Give credit where credit is due

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## Confidentiality

- Confidentiality is of paramount importance if you want to be involved in consulting on important problems
- Firms typically guard closely their data, information and internal problems/issues. To gain their confidence you will need to assure the client that their information will not be share with others
- You must never appear to compromise a clients confidentiality; appearing to be loose-lipped or gossip about other clients indicates that you may do the same about the current client

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## Conflict of Interest

- Retaining work with a direct competitor of a current client is not advisable
- Do not directly use or cite what you learned about one client to another
- Do not in any way embarrass or compromise a former client
- Disclose fully if you at all feel that there might be a conflict of interest or even a perception of one. Let the client be the judge if there might be a conflict
- The information you acquire can be used to further your own consulting business, but the information itself must remain confidential
- Be careful taking jobs from clients with which you have or may be perceived as having a conflict of interest relationship
  - Example: Company in R-ville

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## Intellectual Property Rights

- Educate yourself about intellectual property (IP) rights issues
  - it is a developing domain:
    - Example: Copying or distributing copyrighted material may be illegal if you charge for your teaching or consulting. This may even be true if you are the author but transferred the copyright to a scientific journal.
- Theft of IP is like any other theft
- The clients data is the clients property
- If you developed teaching material or software on a clients time, make sure you clarify in writing who owns the IP before the work is initiated
- If you at a client's site use and present teaching material or software developed by you and on your time, you still own it
  - If you buy a book you own that book, but not the copyright to the book

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## Basic Rules of IP

1. Do not publicly disclose patentable information to anyone outside your organization until a patent application has been filed
2. Even if you obtain a patent your invention may still infringe on the patent rights of someone else
3. Copyright
4. When you start a new employment, carefully read and fully understand the agreement and the consequences before you sign
5. If you adopt a name, trademark or logo conduct a careful search
6. If you ask a client or a vendor to provide input to a project, have them sign an agreement clearly stipulating the ownership of the IP.
7. Keep adequate document records of development work.
8. The copyright law prevents copying. Do not copy the same expression
9. Assume initially that your work can be patented or copyrighted. The law is in flux.

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## Copyrights

- The copyright law is a device giving the author the right to control the reproduction of the expression embodied in his/her's creation.
- The key word is “expression”. You can copyright an expression, not an idea. Anyone is free to use the idea and further evolve it.
- Although not strictly necessary, it is recommended to label all material with “Copyright © 2005 by X. All rights reserved.” If so, no weight is given to an “innocent infringement” defense
- To be on the safe side it is recommended to register copyrights within 3 month of publication
- Software can be copyrighted
- Check with the USPTO or similar agency. The rules are constantly evolving.

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## Proprietary Data

An example from a research contract: An excerpt, edited to protect confidentiality.

### 11. Proprietary Data

Unless otherwise required by law, the Consultant will exercise best effort to maintain in confidence proprietary or trade secret information disclosed or submitted to Consultant by Sponsor (=The client) which is designated in writing as confidential information at the time of disclosure. Confidential information does not include information which at the time of receipt:

- (A) Is generally available in the public domain or thereafter becomes available to the public through no act of the Consultant; or
- (B) Was independently known prior to receipt thereof or was discovered independently by an employee of the Consultancy who had no access to the information supplied by Sponsor under this Agreement; or
- (C) Was made available to the Consultant as a matter of lawful right by a third party without obligation of confidentiality.

The Consultant retains the right to refuse to accept any such information which is not considered to be essential to the completion of the work. The obligations of the Consultant under this paragraph shall survive and continue for two years after termination of this Agreement.

Upon completion of the work project or upon earlier termination of this Work Agreement, the Consultant agrees to remove all Sponsor proprietary information from electronic storage and to return or destroy all documents containing Sponsor proprietary information in its possession unless otherwise agreed to in writing by Sponsor.

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## Deming's Consulting Principles\*

1. I only consult if invited by top management
2. Top management will study with me, my principles of management
3. A necessary condition for my participation is that the management agrees to redesign the organization according to my principles
4. Top management will understand that my work is company wide
5. The engagement will be long-term, but I may break it off at any time. My annual fee will be stated at the outset.
6. I will put in enough time to satisfy myself.
7. I will continue beyond 3 years if I think it is useful
8. I may suggest the company engage specialists to work on specific problems
9. I may accept engagements from competitors

\*Paraphrased and condensed from Deming (1986), *Out of the Crisis*, MIT Press, p. 472.

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## Further Reading

- Consult Deming's paper on professional ethics for statisticians
- See also ISI (1986), "International Statistical Institute Declaration on Professional Ethics." *International Statistical Review*, 54, 227-242.
- For IP issues, consult Rockman, H. B. (2004), *Intellectual Property Law for Engineers and Scientists*, New York: John Wiley and Sons, Inc.

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