Managing Mountains of Data

Q&A WITH SHEILA MACKAY AND KARLA WEHBE OF H5

It is critical for a corporation to identify and retain data that has business value, but that same data can pose risks. *Today's General Counsel* interviewed Sheila Mackay and Karla Wehbe of H5, a leading technology services firm, on managing these competing realities, a task made more difficult by increasing volumes of data.

What are the most common risks a company faces as a result of retaining large data volumes?

Karla Wehbe: Retaining too much unmanaged data can make a company vulnerable to fines from data regulators or criminal prosecution, damage its reputation, and result in the loss of customer confidence. I see three main categories of risk: You have compliance risk from insufficient protection of consumer or employee PII and confidential information stored in multiple systems; risk of disclosing business-sensitive data during litigation; and vulnerability to data breaches that could expose customer or third party business secrets.

What can stop a corporation from overcoming those risks?

Karla Wehbe: Large data volumes often obscure the risky information they contain because there is too much to wade through. Companies cannot always allocate sufficient resources for review, and traditional methods of reviewing and categorizing data are not viable for such large volumes. IT teams may manage data storage, but they do not always have visibility into its business value.

Further, business units are not always well equipped to manage their content over time and cannot afford to divert resources to managing data that still has business value. The result is often multiple data stores with duplicate information where valuable data is mixed with redundant, obsolete or trivial data (ROT).

Sheila Mackay: Another obstacle is an enterprise's lack of visibility into its data repositories. Often, the company does not view proactively managing data as a strategic activity, so data governance procedures remain undeveloped.

Do you think corporations devote enough budget to information governance?

Sheila Mackay: In the last few years, we have seen more companies allocate money to mitigate risks, identify PII, and reduce overall costs by eliminating data without business value. Companies are now working to get ahead of these challenges rather than being in reactive mode when an investigation or litigation commences.

How can companies better minimize risk?

Sheila Mackay: They can deploy tools at the data end points, where data is stored, in order to gain a better understanding of what is in unstructured data; a blind spot for many organizations. The goal is to identify and classify data early in order to know where custodians store data, determine its business value, and classify it according to corporate data retention policies. *That* facilitates pre-incident data organization, prior to collection.

Karla Wehbe: It's a good practice for a company to maintain information about what is contained in its large data stores, allowing it to gain control of its data and

take action. These solutions can include creating and maintaining a data inventory that identifies sensitive data and that can be used for multiple purposes across the enterprise; implementing data risk assessments for core data sets to reduce cost and risk; using a combination of AI, machine learning, and professional services to create customized, advanced searches and workflows that identify and classify data; and establishing defensible and actionable data disposal initiatives.

Sheila Mackay: In a traditional organization, many departments may be tasked with addressing different aspects of data risk; however, it's more effective to apply a unified solution across multiple departments and workflows. The convergence of e-discovery, information governance, and information security allows the company to apply similar methodologies to address issues simultaneously or in parallel. For example, an e-discovery process launched in response to a document request on a specific matter can also initiate the management of privacy risk. Or a company can apply PII classifiers to a data set that is simultaneously being identified and prepared for production.

What about legal and compliance departments? Can they help the business with their data challenges?

Karla Wehbe: They certainly can. A litigation team has to develop solutions for distilling large volumes of data down to the information relevant to a matter. The legal department can share this know-how to help create data management solutions for the business, too.

So, do you see a growing role for legal and compliance departments in data governance?

Karla Wehbe: Yes. The complex nature of today's data and analytics is creating new challenges. The corporation's responsibility as a data steward is growing, and legal and compliance teams play a key role. Digital transformation is changing how we capture and analyze data. We can now create

learning systems that derive key decision-making intelligence, with algorithms that spot trends in large data sets. This continuous learning process will challenge traditional business ethics and norms, and the role of compliance and information security in data governance will increase.

We've been talking about risks, but how can a company use data to bring value to its business?

Sheila Mackay: First, the organization has to mature in its use of data. It has to evolve from taking an ad hoc, reactive approach characterized by one-off projects without data standards or cost management to recognizing that data has operational value. A good way to start turning data into an asset is by managing its cost – identifying, tagging, and retaining key documents for re-use and future reference – and by using quality data to develop knowledge that informs business strategy. A step up from there would be deploying data analytics to anticipate risk, inform and report on strategic decisions, and accelerate the learning curve when a situation calls for swift action.

What value can the legal department bring, specifically?

Karla Wehbe: For one thing, a legal department can develop a methodology to leverage documents or knowledge from one matter for use in another. In addition, the legal team can create re-usable key litigation document sets, for example, that show how a company has developed safety procedures or marketed products over the years. Those documents can be used in future cases. Lessons learned from data insights and these document and data compilations can be shared with the business so they can leverage that history when they design products, talk to customers, or manage their suppliers.

Do you have any final thoughts?

Karla Wehbe: It's promising that corporations now recognize the importance of digital technology for operational and business success, but that success depends

on protecting company data and increasing the reliability and quality of the data by categorizing it properly and making it accessible to inform decisions and support business growth.

Sheila Mackay: I agree with Karla. By utilizing holistic solutions, companies can address challenges related to data volumes and variety of sources while also extracting, classifying and therefore maximizing the business value.

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