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Data Management

Corporate Compliance

Despite the critical value of information, it has not traditionally been managed to reflect its importance to businesses, consumers and employees. This article from Hunton & Williams LLP and its Centre for Information Policy Leadership addresses an emerging trend in businesses and other organizations toward strategic information management—an integrated approach to managing data across the enterprise to minimize risk and enhance competitive opportunity.

Strategic Information Management

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Information is the key asset of every 21st century business. The viability of virtually every organization depends on the ability to access throughout the enterprise a broad range of accurate, reliable and timely information. But despite the critical value of information, it has not traditionally been managed to reflect its importance to businesses, consumers and employees.

Companies traditionally have focused on protecting vital information from loss, theft and misuse. They have sought to ensure that information practices comply with applicable legal requirements. But the management of information has been siloed within different departments in companies: security issues are handled by the information technology department, privacy by the chief privacy officer and intellectual property by the general counsel's office. Research data on consumers is

managed in marketing, while customer contact information is often located in sales. Employee data is maintained by the human resources department, while employee e-mails are managed by the information technology department. Few companies coordinate priorities and strategies about their current and future uses of data.

This paper addresses an emerging trend in businesses and other organizations toward *strategic information management*. Strategic information management is an integrated approach to managing data across the enterprise to minimize risk and enhance competitive opportunity. It:

- Recognizes that information is a critical strategic business asset;
- Ensures that all data are protected appropriately;
- Minimizes risk and facilitates cost-effective legal compliance;
- Systematically assesses the present and future costs and benefits of data to encourage sound policies and investments;
- Resolves conflicting data priorities within the enterprise;
- Supports integrated, strategic decision-making; and
- Ensures that the right data are available when and where needed.

Strategic information management reflects the power and utility of data as an essential business resource. It demands a 360-degree approach that takes into account all aspects of data throughout all phases of their lifecycle. Managing information in a comprehensive, strategic way facilitates the ability of companies to achieve the greatest competitive advantage from their information investment.

1. Strategic information management takes into account the critical value of all information resources.

Companies that manage their information strategically recognize the value of a broad range of data. Historically, organizations have tended to protect information only if it was considered vital to the entity's interests, such as a trade secret or other valuable intellectual property. More recently, in response to privacy and data security laws in the United States and abroad, businesses have expanded their protections to cover personal information about individuals. Partitioning off this information, responsible organizations have invested heavily in protecting the privacy and security of these data, and ensuring compliance with applicable legal requirements.

But the information of value in companies is not limited to trade secrets and personal data. Aggregate analytics data, market intelligence, supply chain data, accounting data and other types of information are increasingly critical both to individual businesses and society as a whole. Moreover, the line between what is and what is not personally identifiable data increasingly is blurred. Advances in analytic techniques, computing power and storage capacity now allow companies to use information traditionally considered non-identifiable in ways that not only identify individuals but predict their behavior and provide significant insights about them.

Many organizations are discovering that information is their most valuable resource.

Many organizations are discovering that information is their most valuable resource. Software companies don't sell products; they license information. Pharmaceutical companies invest most heavily in the data necessary to develop new drugs, test their efficacy and market them to consumers and medical professionals. The value in banks lies not in their processing of currency and checks but in their ability to conduct instantaneous transactions in digital 0s and 1s. Even industries that provide physical commodities—hotel rooms, airline seats, natural gas, electricity or retail goods—are highly dependent on complex information systems to manage reservations, monitor inventory and the supply chain, identify and communicate with customers, ensure compliance with myriad regulations, and model the behaviors of their customers and prospects. Data will only prove more essential in the future, especially in identifying, attracting and retaining customers.

Strategic information management reflects how critical a wide range of data is to the survival and growth of organizations. Market innovators are already deploying new and powerful data-based tools. For a company to succeed in today's information age, it must treat data not only as a vital asset but also as a strategic resource.

2. Strategic information management facilitates cost-effective legal compliance and minimizes risk.

Strategic information management is increasingly necessary for compliance with the growing array of diverse, often inconsistent and rapidly evolving global legal requirements. Compliance with laws related to data protection and management has become far more complex as organizations collect, use, store and disseminate data across many jurisdictions for wide-ranging purposes. Businesses are increasingly global, and frequently engage vendors in other countries to perform essential business functions. This international reach often involves the laws of many jurisdictions simultaneously. As information is used to drive all aspects of business—product development, sales, human resources, marketing, finance, fraud detection and customer service—a company's information assets must be managed in accordance with laws that are far broader than those regulating only privacy and information security.

Moreover, decisions about data often pose unanticipated compliance consequences. For example, choices about e-mail access and retention may implicate labor and data protection laws. Decisions about where to locate data servers often raise significant issues under national privacy and security laws. Offshore outsourcing of data processing creates complex compliance issues in the jurisdictions of not only the vendor and the business, but of affected customers and employees as well. Corporate decisions related to electronic communications and the storage of electronic records must take into account the requirements for e-discovery in litigation and the frequent conflict between those requirements and national data protection laws. Financial

functions within companies are governed by a complex scheme of regulations that have a significant impact on how financial information is managed.

Strategic information management coordinates the measures taken to comply with the myriad laws and regulations governing data so that, in meeting the requirements of one set of rules, the company does not compromise compliance with other rules.

Historically, information has been managed—to the extent it has been managed at all—by a variety of different departments in most companies.

It is not enough, however, for organizations simply to comply with law. Management of the vast quantity of information maintained by organizations requires that companies look beyond legal compliance to managing data in a way that minimizes all manner of risk. For example, most information security breaches cause no harm to individuals and create little legal liability, but they can prove disastrous to a company's reputation and relationship with its customers, investors and regulators. Legal compliance alone is not enough if a company's data breach undermines its reputation or it engages in data practices that consumers find intrusive or offensive. In such situations, even organizations that complied with applicable laws face significant risk to their brand, reputation and consumers' trust. Strategic information management anticipates and addresses data-related risks, including consumer and employee expectations about how information will be collected, used and secured.

3. Strategic information management facilitates strategic decision-making and ensures that the information the enterprise needs is available now and in the future.

Historically, information has been managed—to the extent it has been managed at all—by a variety of different departments in most companies: e-mail and Internet browsing records by the information technology department, voicemail by telecommunications, employee data by human resources, and customer data by sales or marketing. Few companies coordinate priorities and strategies about their current and future uses of data. Strategic information management requires a process that brings the key stakeholders together. Some cutting-edge companies have created "data stewards councils" to help facilitate strategic decision-making about data for the whole organization.

Often this requires reconciling competing priorities related to information. One use of information may preclude other uses. For example, aggressive telemarketing led to laws in the United States and elsewhere that regulated not only businesses marketing to consumers at home, but also businesses marketing to other businesses. Similarly, the consumer backlash against the use of health information for marketing has led to laws that interfere with the use of that information for re-

search. Early publication or dissemination can undermine patent applications, while the inappropriate use or protection of a trade secret may compromise its legal protection. Decisions made by one business unit about how information is collected or used today may compromise the ability of other units to make even more valuable uses of those data in the future.

Strategic information management recognizes that information represents a major investment and critical resource for most organizations.

Currently decisions about the use of information are made based on narrow priorities and compliance concerns, with little, if any, consideration of the impact of those decisions on other business units. The answers to information management questions raised within companies are often not considered and resolved in the context of competing concerns and priorities—or of future opportunities—within the organization. Strategic information management leads organizations to reconcile competing priorities and requirements, frankly assess the costs and benefits of proposed uses of information, and ensure that data and information systems are available for the uses most valuable to the enterprise as a whole.

Strategic information management is as much a process as an outcome, and helps to ensure that the right questions about data collection and use are being asked, at the right level, and that the answers take into account the needs and goals of the entire organization.

Managing information strategically not only mitigates risk, it shapes decisions about data to assure that this critical resource is available to the appropriate personnel when needed. It fosters sound investment in data and data systems that meet the diverse needs of the business. It facilitates an environment that encourages new and creative uses for information, and ensures that the information maintained by the organization is accurate, reliable and readily accessible. It cultivates a relationship with consumers and employees based on trust, transparency, accountability and innovation. Strategic information management helps companies avoid the competitive cost of being either reckless in their use of data or too reticent about experimenting with new data collection and use technologies and practices. It builds the confidence necessary both within the organization and with the public to enable the development of innovative uses of data, supported by responsible, integrated internal protections and practices.

Strategic information management recognizes that information represents a major investment and critical resource for most organizations. By employing an integrated approach to managing that information across the enterprise, organizations can not only minimize risk, but can also generate powerful opportunities and competitive advantages.