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Your AI & Data Privacy Expert

PART 6 OF 6-PART SERIES

KEY TAKEAWAYS FOR DATA MANAGEMENT

THIS IS THE SIX OF A SIX-PART SERIES of commentaries on data management, authored by Steve Britt, managing partner of Britt Law LLC. These commentaries review the new laws and regulations relating to data privacy and artificial intelligence.

Steve is a deeply experienced **corporate and technology attorney** with world-class cyber, data privacy & artificial intelligence expertise, including three international data certifications. He also has extensive experience with software licensing, cloud, SaaS and data hosting. He practiced law in Washington, D.C. and Virginia prior to establishing Britt Law in Charleston, South Carolina. Steve formed Britt Law to leverage his data management experience and to offer a wider range of legal services with flexible fee arrangements. This includes fractional general counsel and fractional data protection engagements.

PART 6

SERIES CONCLUSION

This series has covered a lot of ground yet represents just a current snapshot of a lot of moving parts. The only real comfort is that most regulators (excluding California, Colorado, Texas and Oregon) seem to recognize that for most companies, these rules cannot be implemented in one step. Most regulators still say they expect a good faith effort toward implementing a reasonably comprehensive program that reflects the size and complexities of a company's business. The watchword, "just don't do nothing," seems to still be in effect.

But there are many ways to waste time by failing to take actions that should clearly be prioritized. That is now true more than ever as AI technology is rolling out with a whole new level of legal risks. The momentum for compliance can build quickly so overcoming the friction of inaction is often the key hurdle.

KEY TAKEAWAYS

- Data privacy and AI laws and regulations will trigger far-reaching changes to all businesses within their scope. The only question is their timing and when and how the federal government will act. The ultimate cost of compliance will only grow with delay.
- Despite these uncertainties, we already know the key elements of a sound data privacy program. It includes:

  I. Conducting a comprehensive privacy impact assessment.

  II. Updating privacy notices.

  III. Implementing sound data subject access procedures.

  IV. Honoring all consumer opt-in, opt-out, access, deletion, third-party access and other regulatory requirements, including the reporting necessary to prove such implementation.

  V. Adopting broad data protection (and risk) impact assessments.

  VI. Implementing employee training and audit requirements.

  VII. Maintaining sound data security protections.

- As to artificial intelligence, companies should:

  I. Undertake an objective and thorough analysis of where, when and how AI might benefit the enterprise.

  II. Assess the development and maturity of AI models that may be built or used. Acquire the data engineering and data science expertise necessary to achieve your AI goals.

  III. Establish an AI governance committee with representatives of all relevant stakeholders with the power to manage the development and use of AI.

  IV. Fully understand the rights to data, terms of use and other license terms applicable to AI development, including third-party technologies.

  V. Analyze all relevant compliance standards, including the quality and validity of the data used to train the models, the logic of the algorithms and proof of their non-discriminatory effect.

  VI. Undertake draft risk assessments that fully analyze the issues required under state data privacy and AI laws.

- In all cases, instill a data privacy and data management culture across the enterprise so that staff can identify and mitigate risks as they arise.
- Remain aware of additional laws and regulations as they are enacted and secure access to qualified data counsel.

In summary, we recommend that you start early but be deliberate and thorough. Properly planned, your data management program should be appropriate to the size and scope of the company's operations and the risks inherent in those operations, offset by appropriate risk mitigation measures. Anticipate regulatory oversight and prepare your defenses in advance.

Let us know if we can help in any way and thank you for reading our series.

To learn more, contact Steve Britt at steve@brittlawllc.com.