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GDPR Prep: A Stitch in Time Saves 4 Percent Global Turnover

Linda G. Sharp, The Recorder

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Having spoken with attorneys and information technology professionals across the country over the past few months, one common misconception I've heard is that "The GDPR doesn't apply to my company." The fact is, whether or not your company has offices in the European Union (EU), if you store or process any EU citizen data, the GDPR may affect you.

Going into effect May 25, 2018, the General Data Protection Regulation, or GDPR, is an EU regulation that will be globally enforced, requiring organizations to include explicit protections when handling EU

data. Just to name a few of the requirements that can be especially complex to implement, particularly given today's large volume of unstructured data stores, organizations will have to:

- Receive explicit consent for the data they collect and how it will be used;
- Provide individuals with access to their personal data;
- Be capable of correcting, erasing, and restricting the processing of personal data in particular instances, such as when an individual withdraws consent, or when the data is no longer being processed for the reason that it was originally collected.



According to a PwC study of CIOs, CISOs and general counsels (among others), while 54 percent of companies have reported GDPR as the highest priority on their data-privacy and security agenda, and 77 percent plan to spend \$1 million or more in that area, an alarming 23 percent of survey respondents hadn't even started preparing. This group likely comprises respondents who either think they are immune to the GDPR, or are waiting until the GDPR initiation date, draws nearer to develop a strategy.

If either of these are you, you may want to think twice.

Let me tell you what I've been telling underprepared executives, IT professionals, in-house counsel, and law firms (with respect to their clients) that I've spoken with: don't wait. The GDPR has astonishingly far-reaching implications for how companies store and process employee and consumer data, impacting data management initiatives at many levels.

Compliance with the GDPR will require organizations to rethink their data management strategies from the ground up, and this takes time. Considering the potentially devastating fines that non-compliant organizations are likely to face—up to €20m, or 4 percent of global turnover—the sooner you start the better.

So where to begin?

Assessing Your Company's Stores of Personal Data

The first step is to assess which types of personal information you are potentially using that are subject to the GDPR. In order to get a grasp on your organization's situation, you may want to begin by performing a survey of records managers, IT directors, legal, compliance, and all key risk mitigation stakeholders to gather intel on locations in which your company could potentially be storing personal information.

For these purposes, Article 4 of the GDPR broadly defines personal information as "any information relating to an identified or identifiable natural person." In other words, your company is probably processing some type of personal information; identifying where it lies and how to efficiently take action on it is the deceptively hard part.

At first blush, you may believe that you have no concerns. However, you may be overlooking something. For instance, imbedded in many organization's customer and prospect facing interfaces may be surveys, login credentials, or data security authentication solutions that may contain personal information. Do you provide a customer/prospect with an "account" on your website which gathers personal data? Does your system store security questions and answers for ease of resetting their login?

Such questions often sound like: "What is your mother's maiden name?" "What year did you graduate from high school?" "What was your first school?" "Where did you live during kindergarten?" These questions are so common today that we don't think twice about asking them, nor responding to them. As insignificant as they may seem, if triangulated they could be used to identify a particular individual.

These types of scenarios are not necessarily what GDPR was designed to protect against, however, in reading the broad reaching language, your company may be at risk merely because a European resident logged into your website and set up an account.

Looking Beyond Structured Data

There are the obvious databases full of structured data that you need to look into, but don't forget about the more elusive unstructured data that floats around file shares, SharePoint, Exchange, and Office 365. HR documents containing names, addresses, health and financial information; marketing and sales documents with customer profiles and contact information...these could all trip you up. Organizations need to establish efficient and reliable processes for scanning these ungoverned repositories for any data that will be subject to the GDPR.

Updating Infrastructure

With the GDPR on the horizon, it's crucial companies implement available technologies for identifying and tagging personal information, with the capability to delete or take other action on it once it's no longer being used for its original purpose, or when requested by the individual whom it concerns.

In order to ensure your organization can efficiently respond to GDPR demands as they arise without disrupting business functions, there will be a premium placed on centralizing access to all locations that contain personal data. There will be little room for unaccounted-for duplicate copies of data, unreliable retention policies, or inconsistent searches, all of which can occur when data lies in silos across the enterprise. Bringing both structured and unstructured data into an environment in which you can apply appropriate retention, lifecycle management, and comprehensive governance will be essential, as will increased collaboration between legal, IT and records managers, among others.

Organizations now have an opportunity to get ahead of the GDPR and prepare their information technology infrastructure for the future. If at the moment this task sounds like an unrewarding or unnecessary burden, remember: a well-placed stitch now could save your company's data management strategy from coming apart at the seams come 2018.

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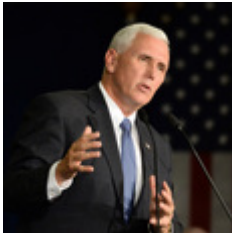
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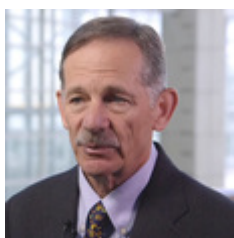
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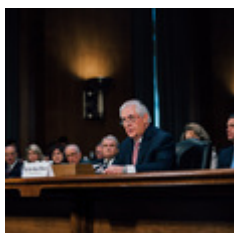
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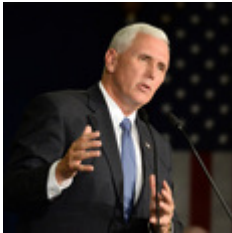
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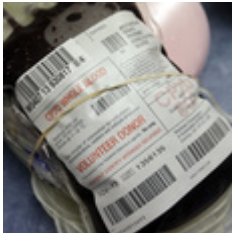
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Mr. Lubarsky is a graduate of Oberlin College and Golden Gate University School of Law, where he was co-founder and Symposium Editor of the University's Environmental Law Journal.

Rogers Joseph O'Donnell focuses on the areas of government contracts, construction, labor & employment, retail industry trade regulation, environmental law, complex commercial litigation and attorney liability & conduct.

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