Effective Strategies for Ensuring Legal Compliance Webinar - September 12, 2013

Participant Questions Addressed by Pedro Pavon, Carlton Fields

Q: How long do you suggest retaining documents?

A: Document retention requirements vary by document type. We recommend retaining disclosure orders, subpoenas, and warrants indefinitely. If that is not an option, we suggest a minimum of three years.

Q: I am seeing a flurry of activity in the tech industry to develop privacy communication tools placed in data centers outside the U.S. How do you see this affecting the communication landscape and government reactions to such tools?

A: The more data that crosses international borders as a matter of routine, the more complex regulatory compliance will become. Overlapping and contradictory laws may apply when data is processed via and through multiple jurisdictions. Additionally, as more and more data is stored and processed overseas, US regulators may, as is already happening in the European Union, begin to build in legal mechanisms to allow them to regulate overseas information as it relates to US data subjects.

Q. Is there a database or website that has collected examples of privacy regulations by state, so that companies can make them part of their in-house best practices?

A. The International Association of Privacy Professionals routinely publishes reference materials and provides tools for privacy professionals and data managers. For more information, visit https://www.privacyassociation.org/resource_center

Q. Because of the disclosures of NSA activities, I have witnessed many foreign business clients move their services outside the U.S. This could amount to a huge loss of business for the tech sector. Do you see massive changes to reinstate confidence in the tech sector?

A: There is no doubt that the current NSA disclosures have raised significant privacy concerns worldwide. At least some of that is opportunistic. That kind of surveillance is not unique to the United States, and few countries have the built-in infrastructure and technological capability to provide the commercial data management services and products that US industry can provide. Moreover, several organizations, including a White House committee as well as the Privacy and Civil Liberties Oversight Board, are taking a hard look at these practices. Although we don't expect federal privacy legislation in the near term, a number of Congressional panels are very active as well. And finally, state governments have become increasingly active in the privacy arena. Ultimately, I do think that increased dialogue about privacy in the US, competitive pressure from foreign business and governments, and concerns about patchwork regulation by the states will produce consensus on federal privacy legislation.