

Top Issues in 2020: Digital Technology

SURVEILLANCE CAPITALISM DISRUPTING THE FABRIC OF INDUSTRY

The nearly unlimited storage capacity of The Cloud has allowed for the commercialization of data collected through the Internet of Things (IoT) as well as mobile, ecommerce, and social media sources, among others. Consumer data can be leveraged for additional revenue streams and to develop Artificial Intelligence (AI) driven goods, services, and marketing campaigns; activities now frequently referred to as Surveillance Capitalism. Surveillance Capitalism is transforming the way business is run, how money is made and products are developed, and the talent needed to grow and thrive in the digital economy.

IMPACT ON IN-HOUSE LEGAL TEAMS

As companies in almost every industry become digital players, in-house legal teams are being challenged to evolve alongside the businesses they support. To meet the challenges facing industry today, in-house legal teams may need training on the legal ramifications of Surveillance Capitalism. Alternatively, it may be necessary to hire specialists and/or retain outside counsel with a deep understanding of both data science and the complexity of regulatory exposure relating to data storage, use, and sharing. General Counsel should play a key role in developing a legal and ethical framework outlining the company's stance on data storage, usage and sharing, and the role that AI is allowed to play in their respective industries.

LICENSING & TECHNOLOGY AGREEMENTS

Depending on a company's size and scope it may be in a position to sell user and consumer data, while others may need to buy or license data to reach organizational goals. Still others may simply need to share data with strategic partners. Regardless of whether an entity is buying, selling, licensing or sharing data, having well drafted agreements with strategic business partners is imperative to ensure compliance with government regulations, and manage the storage, usage, sharing or transfer of ownership of data. Failure to address these issues can drastically affect a company's bottom line.

PRIVACY & CYBERSECURITY CONCERNS AND COMPLIANCE

With personal information flowing freely across boundaries, complying with privacy and cybersecurity regulations has never been more complicated. In many cases in-house counsel are being asked to opine on how the collection and use of data are impacted by regulations on the state, federal and international levels. These rules have never been more complex with the intersection of numerous laws and regulatory bodies.

PLAN NOW TO PREPARE FOR CONTINUED EXPANSION OF AI AND SURVEILLANCE CAPITALISM

As Surveillance Capitalism is unlikely to abate, forward looking companies are well served to develop comprehensive plans to address all aspects of this disruption, including the products/services offered, the resources needed to manage disruption, the impact on operations

and ethical frameworks, and how to manage compliance in an evolving regulatory landscape. As government is also grappling with how to address Surveillance Capitalism, government relations efforts can be effective in influencing public policy on both the state and federal levels.

HOW WE CAN HELP

We help companies understand the opportunities and pitfalls presented by the proliferation of data collection, storage and commercialization made possible by The Cloud. The issues involved include the evolving regulatory compliance, as well as contractual issues, and the IP implications of AI (which is frequently trained by Cloud-stored data). We additionally provide government relations assistance through our affiliate [Michael Best Strategies](#).

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