
Chapter XV

Compliance with Data Management Laws

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ABSTRACT

This chapter exposes professionals to laws dealing with data management. Both positive and negative aspects of legislation are highlighted. The purpose of this chapter is to expose the reader to some of the more interesting legal issues and provide insight into how information systems professionals and businesses may protect themselves from the negative ramifications of not complying with current legislation and the related negative publicity from such non-compliance. The increased ubiquitous nature of computing, coupled with the vast quantities of data gathered, increases the need for legislation to force companies and governmental agencies to take privacy seriously.

INTRODUCTION

Companies regularly manage and mine their data to explore the contents of data warehouses. These companies look for trends, relationships and outcomes to enhance their overall operations and discover new patterns that theoretically allow them to better serve their customers. However, with this great ability, concerns exist regarding social, ethical and legal issues associated with data management and data mining. For example, a recent article started out by asking the question “What if your refrigerator knew too much? More specifically, what if the company that made your refrigerator knew too much, automatically sucking in data about food purchases you make?” (Carr, 2002). Does this sound farfetched? It is not. Whirlpool, along with IBM, is pilot testing to resolve security and privacy concerns with such a system (Carr, 2002). Otherwise, what if the data gathered from the refrigerator is passed along to a business partner such as an online grocery supplier, which, based on alcohol consumption, concludes someone in the house has a drinking problem and then sells that information to insurance companies.

The increased ubiquitous nature of computing, coupled with the vast quantities of data gathered, increases the need for legislation to force companies and governmental agencies to take privacy seriously. Rapid advances in information technology have made the capturing of almost any desired information not only possible, but much easier, faster and cheaper than before. Privacy has become increasingly difficult to enforce since data transfers across jurisdictions are so simple. Vast amounts of personal information are being sold and exchanged at an alarming rate.

What is legal and what is ethical are often not the same. Laws protecting privacy and preventing data management abuses are unlikely to keep up with rapid advances in technology. However, laws do exist that apply to specific situations, particularly in healthcare and the financial industry, as well as concerning how governmental agencies manage data. Information systems (IS) professionals must be aware of what is required to comply with these laws. Ignorance of the law does not constitute a defense in a court of law. Sadly, formal IS education and training rarely addresses ethical and legal concerns in any systematic manner. Therefore, IS professionals must educate themselves concerning existing laws, and be aware of potential future regulation so that they design flexible systems that can adapt to regulations. Furthermore, by being informed of the legal environment in which they must operate, situations can be prevented that contribute to the social pressure for further government-imposed restrictions.

The objective of this chapter is to expose professionals to how laws typically limit data management. This chapter highlights both positive and negative aspects of legislation. This topic is broad and warrants an entire book on the

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