

An introduction to Big Data

Alexander Duisberg, partner, Germany

I think there are two dimensions which are fundamental to dealing with Big Data, developing business around data to extrapolating value out of Big Data. One is the issue about ownership, usage rights in Big Data. The other is Data Protection, which can also be hugely relevant to certain categories of data.

If you talk about ownership of data one of the key points is any jurisdiction nowadays has no fully developed concept of ownership in individual data. It is new, it is emerging. We do have a European concept around intellectual property. We have prevalently a frame to deal with database rights, but yet when you go outside of the EU, again, that does not exist. Database rights, as derived from EU regulations and directives, have no relevance.

So again, dealing with unstructured and structured data is a green field for lawyers. It's interesting. The other dimension is privacy. Data Protection rights, wherever you have a connection to data set checks, natural persons, certainly within the EU, but increasingly also in other jurisdictions the issue of Data Protection is huge. And when we think about the massive amount of data and the potential of combining sources from different Big Data sources and the ability to profile individuals is very clear, and there are huge legal challenges ahead.

I think the first top tip for any corporation who's getting interested in understanding better what data actually has and holds is carrying through some kind of a due diligence also from the legal perspective. That will have a strong arm and reach in to the world of privacy and Data Protection. Equally, it can also

have aspects of intellectual property third party rights. So the whole dimension of understanding what a company holds, what access to certain sources of data it has when it is sourcing data from other sources, third party sources, raises the whole issue about due diligence. Know what the data is, even if it's unstructured, even if it's still an unstructured pool of large amounts of data, that will be one of the main issues of five tips.

The next tip is then when you go in to a business which is consumer oriented, when you're looking in to predictive analytics, when you're trying to find out better how you can target individual consumers you have to think very carefully and very clearly about the implications on the privacy side, and not only in a snapshot impression, but actually dynamically over time.

What nowadays, as of today, may be anonymous data, over time in cross combination with other sources may actually allow to profile individuals. So even then it is an on-going process. You're looking in to a moving target. I think that's the second very important consideration.

Third consideration: if you think about transacting, so you might be a corporation which is holding Big Data or is interested in Big Data and is actually considering to share that data with other partners, customers, think about the implications of how you actually develop a documentation, how you actually define and scope a commercial transaction with one party venturing licensing an asset, and the other party having the ability to use it.

Fourth dimension: if you're a corporation which is interested in buying technology which is enabling this process of becoming more intelligent and savvy and dealing with Big Data, so you're buying essentially technology and eventually also assets such as large amounts of data, think about the evaluation of the legal dimension.

Fifth dimension: probably the access to public sector information. It is quite clear that the new adaptation of the public sector information directive is driven by clear understanding that the information held by governments in Europe, there's a huge potential for innovators to make use of it, so the access to publicly available information through the routes that directive has set forth, and which will come in to force in about two years from now, will give a lot of opportunities to small and mid-size businesses which they have not yet had.

Big Data is a truly exciting opportunity not only for businesses, but also for lawyers. It offers the need to think in a very innovative way, and Bird & Bird is very well placed to help clients developing their Big Data strategy, to actually extract the value out of these opportunities, in going forward to transact in an efficient manner, to safeguard their interest, to protect their asset, and it's great being part of that.

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