# Culture & Compliance Chronicles

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# Navigating Data Privacy (Part I)

The increasing use and availability of smart and remote technology, coupled with increasingly sophisticated applications of data, means that data privacy is becoming an ever-hotter topic in terms of both regulation and commercialization. This note summarizes our podcast with partners Rosemarie Paul, Ed Black and Rohan Massey, counsel Clare Sellars and associate Tina Yu on navigating data privacy in an analytics and commercialization world. The podcast can be accessed in full here.

<u>The interplay between behavioral science and data for business and risk management</u>

- The core of behavioral science is understanding why and how people *actually* behave, rather than how they are *expected* to behave. Data is key to this understanding.

- Data informs organizations' compliance and business priorities.

- Data analytics help organizations and regulators make better decisions.

- **Takeaway:** Data analytics enable organizations to design and implement effective solutions to both business and legal challenges.

<u>The commercialization of data</u>

- The growth in data analytics capabilities and data collection has allowed organizations to turn data from a potential area of liability to an asset.

- Data now has equity value and is increasingly used to generate income; we are seeing an increase in commercial activity around data, such as selling and borrowing against data assets.

- The commercialization of data has resulted in increased government interest in sectors outside of the more traditional focus of data regulation such as finance and health care, expanding towards more commercial areas such as tax.

- While currently there are certain "bright line" rules such as ensuring data is gathered legitimately, this is still an area of law that is very much in development.

- **Takeaway:** The commercialization of data creates many opportunities for their application, and it is important to be aware of the bright line rules as the regulatory regime continues to develop.

<u>Data protection legislation</u>

- There is a tension between ensuring compliance with data privacy laws and harvesting data that is helpful for analysis. It is important to bear the following rules in mind when working with personal data:

    ° People must be informed about what data is being collected and what it is being used for.

**Speakers**

Ed Black

Rohan Massey

Rosemarie Paul

Clare Sellars

Tina Yu

- ° Abide by purpose limitation requirements, *i.e.* data can only be used for the specific purpose for which it was originally collected.

- ° Don't keep data for longer than needed – this will also help ensure that your data set remains accurate.

- **Takeaway:** Avoid "scope creep," obtain consent where needed and ensure that data is collected and stored in compliance with data privacy legislation.

International data transfers

- The recent CJEU case of *Schrems II* requires those in Europe to ensure that any data transferred outside of Europe has the same protections that it would have in Europe.

- **Takeaway:** Exercise caution in international data transfer, particularly regarding the U.S., where data protection is considered to be less robust than in Europe.

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