Culture & Compliance Chronicles

R&G insights LAB

ROPEStalk

September 14, 2020

Using Data Ethically (Part II)

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 part two of our two-part 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, which can be accessed in full here. Part one of this podcast, which focused on the legal issues that are raised as more companies utilize data for both commercial and compliance purposes, can be accessed here.

Navigating the new world of data

- Organizations are simultaneously charged with handling data in a manner that is both legally compliant and reflective of their corporate values, while also being an effective business.

- Regulators are considering potential harms to market integrity, potential barriers to competition, new types of market abuse or collusive behavior and ethical considerations in relation to data.

- The regulatory space on the use of certain types of data is still very much in flux, which creates inherent risk due to the lack of clear guidance. Best practices are still in development, and often by private organizations who have taken steps to promulgate their own industry standards such as on due diligence and pre-clearance of data.

- While de-identifying personal data could mitigate some regulatory risk, the sheer amount of data available still makes re-identification possible. Collecting only limited data sets can help offset this risk.

- While data-specific regulatory frameworks are still under development, government actions against misuse of data can still take place under general unfair business laws in certain jurisdictions.

- **Takeaway:** While there are currently no "safe harbors" in terms of bright line regulatory rules, both private actors and government authorities are working to find ways to address the growing market in data and how to navigate corresponding risk.

Speakers

Ed Black

Rohan Massey

Rosemarie Paul

Clare Sellars

Tina Yu