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HOW TO ABIDE BY REGULATIONS IN THE LEGAL INDUSTRY

Email Archiving Helps Law Firms Achieve Complete Compliance

White Paper

CONTENTS

INTRODUCTION

MOST LAW FIRMS AND COMPANIES OPERATING IN THE LEGAL INDUSTRY ARE AWARE OF CERTAIN RESPONSIBILITIES THEY HAVE WHEN IT COMES TO THE ARCHIVING OF EMAIL AND OTHER TYPES OF INTERNAL COMMUNICATIONS UNDER COMPLIANCE LEGISLATION, BUT AREN'T SURE HOW TO ACHIEVE COMPLETE REGULATORY COMPLIANCE IN THEIR ORGANIZATIONS.

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Law firms particularly handle sensitive information that needs to be readily available for litigation and immediate retrieval, which is why firms need to protect their communication data and be able to access it quickly, accurately, and securely. Discussions with clients or other legal professionals via digital platforms need to be kept secure while remaining available for future reference.

WHAT DOES REGULATORY COMPLIANCE ENTAIL?

As all lawyers know, compliance legislation is a set of legal rules governing the protection and preservation of data. This means that communication data, among other types of information, must be protected from unauthorized access and stored for a certain period of time before it can be legally disposed of. This legislation is intended to increase transparency and maintain relevant information available in case it is required for any kind of legal purposes.

> *Email and other types of digital communications are considered important records which must be retained and produced when requested by a regulator.*

When it comes to communication data archiving, many regulations have things in common. Simply put, email and other types of digital communications are considered important records which must be retained and produced when requested by a regulator.

Different regulations have different retention periods, that is, periods of time that records should be stored securely for. While email archiving is the basic requirement according to most regulations, other types of communication data, such as instant messages, chats and social media activity also need to be archived.

MAIN COMPLIANCE CHALLENGES

Here are some of the most common compliance challenges faced by companies in the legal industry:

- **Records management** – law firms are required to retain all communications like email, instant messages, and others based on timescale, as well as dispose of them appropriately and in compliance with the appropriate regulations.

- **Data leak protection** – as law firms mostly deal with sensitive information, they are obliged to protect it and prevent data leaks.

- **eDiscovery** – besides the possibility of being obliged to provide communications as evidence in legal inquiries, companies can also use them in internal research and

company disciplinary procedures.

- **Internal retention policies** – in addition to regulatory requirements, or rather in anticipation of them, companies might want to implement their own messaging retention policies internally.

EMAIL ARCHIVING IS BECOMING A MUST

Companies are taking email archiving and record keeping more and more seriously, in part also due to recent shake-ups across different industries. Firms and companies of all sizes face the need to comply with extensive rules and regulations when it comes to the retention of emails, instant messages and social media information.

Those who fail to comply are increasingly at risk for audits, government investigations and lawsuits, and can face fines or even, in severe cases, imprisonment, as dictated by regulatory bodies.

While achieving full regulatory compliance might sound like a daunting task, it is actually within reach – it can be done by simply archiving your emails and other digital communication data.

WHAT IS AN EMAIL ARCHIVE?

An archive enables companies to define their own policies, search for messages, and maintain an audit trail of who accessed a message and when.

An email archive is a system that automatically obtains messages, attachments, and information about the messages from email servers, and then indexes and stores that information in read-only format for a specified period of time, depending on the particular retention policy. An archive also enables companies to define their own policies, search for messages, and maintain an audit trail of who accessed a message and when.

WHY IS BACKING UP NOT ENOUGH?

What is it that makes archiving necessary under these circumstances? Why is it not enough to simply back up data, as most companies and organizations already do?

Archiving is necessary because most regulations require the retention of emails and other communications in a read-only format, including their metadata (date of creation, last modification, etc.), for a certain amount of time. Additionally, companies are not only required to store internal communications, but are also required to be able to produce them when needed.

Email archiving allows eDiscovery to take place extremely efficiently, saving companies both time and money.

While a backup is mostly meant to restore files after disk failure or server issues, archiving stores documents as well as their metadata, and usually involves a much more complex indexing system, allowing for advanced search.

Archived emails and messages, unlike backed up ones, can be searched thoroughly and found quickly and easily. Email archiving allows eDiscovery to take place extremely efficiently, saving companies both time and money.

Finally, having an archiving system means having an automated process, rather than leaving this task to the (probably already burdened) IT department, thus freeing up IT time and minimizing the risk of human error.

WHAT DO COMPANIES NEED TO DO?

There are both administrative and technological steps that need to be taken set up an email archiving system in order to reach a level of compliance that will stand up to legal scrutiny.

• **Establish a Data Retention Policy**
Internally, companies should establish a thorough electronic communication and data retention policy that will specify employee expectations when it comes to all types of electronic communications initiated at the workplace (email, instant messaging, social media interactions, etc.).

• **Inform All Employees**

It should be made clear to employees that no communication initiated from a workplace platform (including even company-issued smartphones) is privileged or private. Employees should also be aware of how long electronic communication is archived and retained on the company network, as well as know the potential legal ramifications.

• **Implement an Archiving Solution**

Finally, when it comes to setting up an archiving system, organizations just need to choose and implement an archiving solution. Choosing from the myriad options available out there could seem daunting, but various factors make an in-house archive the most compelling solution.

THE ADVANTAGES OF AN IN-HOUSE ARCHIVE

There are several advantages of establishing an in-house archiving solution:

• **It Provides Information Security**

Due to the highly confidential nature of many emails and file attachments, company leaders are often uncomfortable having their data archived off-site by a third party – especially since email archiving is currently an unregulated industry.

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In fact, outsourcing an activity or function to a third party does not relieve companies of their ultimate responsibility for compliance. In other words, if a company doesn't thoroughly investigate the service provider, and it's later realized that company emails haven't been properly archived, it is the company that gets fined, and not the vendor.

An in-house archiving solution avoids this situation altogether.

• **It Is Quick and Simple**

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An in-house archiving appliance (no larger than an average router) can be set up and functioning in a matter of hours.

Additionally, managing the appliance after

setup (which is usually completed with the appliance vendor or integration partner) is fairly simple, and requires little or no IT experience.

- **It Lets Servers Breathe**

In high-volume periods, server performance can be compromised when messages must share the same bandwidth. An in-house archive, on the other hand, captures copies of all incoming and outgoing messages after or before they make contact with the outside world, with no impact on bandwidth or server performance.

- **It Is Cost-Effective**

The appeal of an outsourced solution may be its apparent cheaper price tag. While it's true that there are fewer start-up costs when outsourcing an archive to a third party, over time the cost analysis favors in-house solutions, as they are paid for once, in the beginning, while the costs of third party solutions go on indefinitely.

Taking into consideration the potentially high costs of non-compliance and the threat of non-compliance lawsuits, law firms and companies operating in the legal industry need to think about the archiving of email and other types of communication data. By establishing a good in-house archiving solution following a few simple steps, companies can not only ensure their future compliance, but can also gain significant strategic advantage.

Find out how Jatheon can help you implement an in-house archiving solution for complete compliance by **contacting us** or by **requesting a demo**.

ABOUT JATHEON

Founded in 2004, Jatheon Technologies Inc. designed the world's first non-intrusive network appliance.

Today, Jatheon continues to raise the bar throughout the industry with its latest enterprise grade cCore appliance line, and ergo, its powerful email archiving, indexing, retrieval and dynamic monitoring software solution, and best-in-class technical support, The Jatheon Guarantee.

Jatheon is headquartered in Toronto, Canada and serves clients worldwide through its network of global business partners. For more information, please visit www.jatheon.com.