THOUGHT LEADERS

EVOLUTION OF DATA PRIVACY

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With a massive share of the workforce operating out of home offices, cybersecurity in business has never been more vital.

That was one of the major takeaways from this month's Thought Leaders discussion, which was hosted virtually on April 16 by Hodgson Russ LLP attorneys Gary Schober and Patrick Fitzsimmons.

"I think the result of the coronavirus and what people are going through right now is that people are pushed out of their comfort zone," said Joaquin Carbonara, chair of the interdisciplinary unit in data science and analytics at SUNY Buffalo State.

"People are becoming more receptive to what the new world is going to be made of," he continued. "The new world is going to be heavy of data and information technology, so cybersecurity will play a bigger role and there will be a better alignment between the legislation and the average person."

Carbonara was joined on the panel by Chris Bihary, CEO of Garland Technology; Holly Hubert, CEO and founder of Global Security IQ; Jeff Rathmann, CEO of Silo City Information Technology; and Peter Ronca, CEO of DataSure 24.

It also included Brianne Corbett and Randall Okon of Synacor, as well as William Prohn, managing director of Dopkins System Consultants, a division of Dopkins & Co.

Fitzsimmons and Schober started with an update on some of the issues businesses are still experiencing in implementation of safeguards to fall in line with New York's SHIELD Act and the California Consumer Privacy Act.

"Some of the recent conversation that I've had with clients is on the differences in the legislation," Fitzsimmons said.

While the SHIELD Act broadened the definition of personal information and breach protocol for businesses, he said California's law brought more of a push to protect consumer data.

"My experience has been that reactions to the laws have been all across the board," Schober said. "People have become enlightened as time goes by, but there's still a lot of people who are behind the eight-ball."

Hubert said her company has fielded a lot of questions about what the SHIELD Act is and what entities must do to comply.

"I had to really simplify it so

The April 16 Thought Leaders included discussions on business, education and IT. From top are Chris Bihary of Garland Technology, Brianne Corbett of Synacor, Holly Hubert of Global Security IQ and Joaquin Carbonara of SUNY Buffalo State.

LARGER PHOTOS: JOED VIERA; BRIANNE CORBETT COURTESY OF SYNACOR

HODGSON'S TAKE

"I think in the near term we're going to continue to see a patchwork of state legislation and confusion among businesses in how to comply."

PATRICK FITZSIMMONS,
senior associate, Hodgson Russ LLP

with CHRIS BIHARY, JOAQUIN CARBONARA, BRIANNE CORBETT, HOLLY HUBERT, RANDALL OKON, WILLIAM PROHN, JEFF RATHMANN *and* PETER RONCA

Cybersecurity experts discuss the changing world of data protection

Data privacy experts discussed the latest laws businesses are facing. Above, from left are William Prohn of Dopkins Systems Consultants and Jeff Rathmann of Silo City IT. At left, Peter Ronca of DataSure 24.

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"When California's laws were passed, I think we started getting people's attention on these issues and that these laws aren't going to go away."

GARY SCHOBER,
partner, Hodgson Russ LLP

people could understand it," she said. "I tell all individuals and organizations that ask that it's really two things: The SHIELD Act says that you have to have a program around cybersecurity and that there is the duty to notify (those affected) should you have a breach.

"Most people don't understand what that means and how you go about fulfilling your duty."

One of the reasons some American businesses have been slow with what's needed is because privacy takes on different connotations around the world, said Corbett, an information security specialist at Synacor.

"This is a chaotic situation for businesses, and you have to ask yourself why?" she said. "It's happening in the United States because we don't have an enumerated right to privacy in the constitution."

How to comply with various privacy laws in different parts of the country causes confusion for businesses, especially since no federal laws govern the realm, panelists said.

Corbett and Okon, Synacor's information security data protection officer, guided the company through practice breach scenarios to prepare how it would respond.

"That was a very good thing and consistent with that risk-management philosophy," Corbett said. "That's something that I would recommend that companies do."

If a breach occurs, Fitzsimmons said it is wise to reach out to legal contacts early so information can be relayed in a privileged fashion that will remain confidential and protect a business.

"There's a lot of things of what I consider at the basic level that people have to look at in making sure that you have the ability to not only secure your data, but access it and be able to look back," Bihary said.

His company assists businesses in network security and sets up frameworks. In a breach, it can review a system's history to see exactly what occurred.

"We help instrument it and provide the availability," he said. "It really does help if there is an incident or problem."

Carbonara said it's crucial that small businesses understand the nature of the digital world in which they are operating.

"The problem we're dealing with is so diverse and broad that it's hard to come up with conclusions without focusing a little bit more," he said.

Part of what they need clarification on is what data needs to be protected, he added.

"It is hard for small businesses and individuals to comply with laws without understanding the basics of the digital world," Carbonara said.

Prohn has found that smaller businesses are often fearful when it comes to data privacy, which results in inaction.

"My starting step with clients is a risk analysis," he said. He then works with companies to identify what they have to lose and how to protect it.

"That's the first step I think in developing an awareness and a security culture," Prohn said.

In the process, it's important to let leadership of a business know what's needed and what the risks are, as well as projected costs, Okun suggested.

"Discussions for executives give them a sense of what needs to happen and where there are gaps," he said.

Rathmann agreed, saying: "We found the most success when IT teams get the budget and approval to actually implement security measures, policies and procedures."

Schober said he anticipates confusion on cybersecurity laws so long as they're coming from different states.

"You're going to see a broader range of obligations, and I think that's going to be very problematic," he said.

Rigorous enforcement is likely on the horizon, too, according to Ronca.

"Just the progression of what's happening is legislators have spoken with their new laws, and regulators now have their marching orders," he said.

▸ CLOSER LOOK AT THOUGHT LEADERS

Thought Leaders is an ongoing series of discussions with Western New York business leaders and attorneys at Hodgson Russ LLP.

Ten times a year, leaders in diverse industries meet for a roundtable discussion moderated by Business First journalists.

The conversations are usually held in the law firm's Pearl Street offices in Buffalo, but have shifted to a virtual format during the COVID-19 crisis.