KILPATRICK TOWNSEND

5 KEY TAKEAWAYS

Emerging Technology in Retail and Consumer Goods

Kilpatrick Townsend's Farah Cook and Jeffrey Connell recently presented on the topic of "Emerging Technology in Retail and Consumer Goods." Innovative technologies continue to alter the retail and consumer goods space, especially following rapid adoption and advancement during the pandemic. Ms. Cook and Mr. Connell examined three key transformative technologies—facial recognition, voice technology, and virtual reality—that promise to shape business risk allocation through their impact on the regulatory and legal environment.

Key Takeaways from their presentation include the following:

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Emerging technologies such as facial and voice tech as well as virtual reality introduce new legal issues: Legal advisors must understand the additional features and complexity contained in new technologies that create additional vulnerabilities. Since the adaptation of technology is key to business survival, conversations about technology strategy must proceed purposefully to understand how business strategy aligns with the risk of adoption.

Maintaining control over privacy and customer data remain a vital component of effectively managing risk: Emerging technologies collect and process data in a myriad of different ways. Before implementing new solutions, a thorough analysis of the types of data, the participants, and access levels of data should be completed to ensure compliance with all applicable privacy and security regulations, as well as the harvesting of proprietary business information. Once the data sets are fully understood, appropriate ownership and usage rights, such as aggregated and anonymized data, meta data and usage data must be established.

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Through a risk-based vendor management system approach, the incremental risk of relationships with third party vendors can be tailored to align with business objectives: As part of protecting assets, minimizing liability, and safeguarding reputations, organizations must examine vendors carefully to asses if a selected vendor is the right fit. With an increasing number of the vendors entering the market, understanding a vendor's financial strength, customer base, security protocols, and operations may help a customer avoid vendors that do not align with their long-term strategy and goals.

Testing the technology thoroughly should be a regular part of the process: When implementing new technologies, robust testing environments help validate and debug applications prior to launch. Every application is different, and considering the risks of

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implementing new technologies, robust testing environments help validate and debug applications prior to launch. Every application is different, and considering the risks of network failures and other risks inherent to the application can help to avoid downtime.

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Always remember the basics: At the core of all contracting, certain key considerations remain. Service levels, data security, indemnities, warranties, acceptance testing and limitations of liability remain some of the most hotly negotiated provisions, and a company's approach to these items should always reflect its overall risk tolerance irrespective of the specific technology at hand.

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