

DATA STRATEGY, SECURITY & PRIVACY

PRACTICE PROFILE

Our DSSP Team integrates transactional, advisory and litigation experience to help clients take a 360-degree approach to the assessment and mitigation of risks associated with technology products and services.

Our practice spans a full spectrum of proactive and reactive services:

- Privacy Program Management and Data Governance
- Data-Driven Initiative Counseling
- Technology and Data Transactions
- Cybersecurity Counseling, Incident Response and Insurance
- Litigation, Investigations and Mass Arbitration
- Managing Data and Cyber Regulatory Change



PRIVACY PROGRAM MANAGEMENT AND DATA GOVERNANCE

We help clients manage data across products and services through implementation of enterprise programs to identify and manage information risk, meet legal requirements for consumer transparency and choice, and set expected behavior for use of data across the organization.



Privacy Law Counseling. We advise clients on the growing number of federal, state and foreign privacy and data protection laws, which, to name just a few, include: the Federal Trade Commission Act (FTC Act), Gramm-Leach-Bliley Act (GLBA), Health Insurance Portability and Accountability Act (HIPAA), Controlling the Assault on Non-Solicited Pornography and Marketing Act (CAN-SPAM Act), Telephone Consumer Protection Act (TCPA), Children's Online Privacy Protection (COPPA), California Consumer Privacy Act (CCPA), Virginia Consumer Data Protection Act (VCDPA), Illinois Biometric Information Privacy Act (BIPA), New York Stop Hacks and Improve Electronic Data Security Act (NY SHIELD Act), Washington My Health My Data Act (MHMD), European Union General Data Protection Regulation (GDPR) and AI Act, California Age-Appropriate Design Code Act (AADC), state student privacy laws, evolving social media laws and many others.



Privacy Risk Assessments. We conduct assessments to identify a client's most significant areas of data risk and exposure to new privacy laws. We also help design processes to map data and assess individual processing activities (as required by new privacy laws) and conduct efficient legal checks and challenges of such assessments.



Data Governance Policies. We help clients embed the principles of data minimization and data protection into their organizations through implementation of policies and protocols on data and technology use.



AI Governance, Policies and Controls. We design frameworks that enable clients to track and evaluate the use of artificial intelligence (AI) technology and implement requirements of new state privacy laws with regard to automated decision-making. We also draft policies on responsible use of AI and conduct trainings on AI risks and strategies.

DATA STRATEGY, SECURITY & PRIVACY

DATA-DRIVEN INITIATIVE COUNSELING

We help clients launch and operate data-driven products, including implementing privacy-by-design principles and identifying pragmatic solutions to meet compliance requirements and reduce risk.



Development of Product Requirements. We help clients identify key risks, applicable legal requirements and the optimal positioning of their organizations versus others in the data ecosystem.



Data Protection Assessments. We conduct analysis of complex multiparty data flows to identify risks, benefits and mitigations, as well as create the documentation required by new privacy laws.



User Experience Design. We advise on content and presentation of disclosures and data options to meet legal requirements with minimal impact on the end-user experience.



Our team has significant experience counseling clients who offer streaming entertainment devices and services on data exchanges associated with content distribution and monetization of advertising inventory.

TECHNOLOGY AND DATA TRANSACTIONS

We structure, draft and negotiate agreements for technology and data-driven relationships to help clients capitalize on business opportunities, manage risk allocation and comply with legal obligations.



Transactions Related to Technology, Data, Digital Solutions and Services. We help clients purchase, license or sell software, a variety of as-a-service solutions, distributed ledger and blockchain, cryptocurrency, non-fungible tokens (NFTs) and other digital assets, the metaverse, artificial intelligence (AI) and open-source software.



Streamlined Approach to Contracting. We help clients develop templates, checklists and negotiation playbooks to reduce risk through consistency and decrease capacity burdens on their legal and sales teams.



Mergers and Acquisitions (M&A) and Other Corporate Transactions. We provide due diligence support on issues such as information technology (IT), intellectual property (IP), cybersecurity, and data privacy and recommendations, with appropriate representations and warranties, for risk mitigation strategies in view of the particular deal economics.

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CYBERSECURITY COUNSELING, INCIDENT RESPONSE AND INSURANCE

We guide senior management, boards of directors and in-house counsel on complying with legal requirements and regulator expectations related to their cybersecurity programs. Where needed, we aid these groups in navigating cyber incidents and data breaches.



Incident Preparedness. We help develop a practical incident response plan that guides the response team through an incident investigation and key decision points. We also assist in reviewing the plan through a tabletop exercise.



Incident Response. We are well versed in, and routinely navigate, the relevant demands of public law – e.g., the Gramm-Leach-Bliley Act (GLBA), Health Insurance Portability and Accountability Act (HIPAA), U.S. Department of Defense (DOD) requirements for contractors, SEC guidance and state breach law, as well as private law – e.g., Payment Card Industry Data Security Standard (PCI DSS) and card brand rules – in these emergency circumstances. We have counseled on ransomware and other breaches involving dozens of corporate counterparties, incidents involving information about tens of millions of persons, intrusions that compromised the integrity of medical records and breaches impacting consumers and regulators globally.



Cybersecurity Insurance. We advise clients on suitable cyber insurance terms and coverage amounts to address their enterprise risk tolerance. Our advice helps clients improve policy language and maximize insurance recoveries.

There is an important “upside” to the nature of legal risk associated with data privacy and security: It heavily depends on privacy and security practices in place before an incident or legal action. Legal exposure hinges on a lack of preparedness and perceived failure to comply with laws, public representations and contractual obligations.

LITIGATION, INVESTIGATIONS AND MASS ARBITRATION

Our nationally recognized team of litigators defend clients facing various allegations related to their data use, disclosure and management practices.



Class Action Defense. We have deep experience representing clients against allegations such as negligence, breach of state privacy and security laws, the Wiretap Act, Stored Communications Act, Computer Fraud and Abuse Act (CFAA), Video Privacy Protection Act (VPPA) and Biometric Information Privacy Act (BIPA).



Government Enforcement. Our team has represented clients in routine inquiries and significant matters before the U.S. Federal Trade Commission (FTC), U.S. Health and Human Services (HHS) Office for Civil Rights (OCR), U.S. Securities Exchange Commission (SEC), Commodity Futures Trading Commission (CFTC), Financial Industry Regulatory Authority (FINRA), U.S. Department of Justice (DOJ), Consumer Financial Protection Bureau (CFPB), U.S. Secret Service and FBI, as well as state attorneys general and other state regulators.



Mass Arbitration. We help clients negotiate successful outcomes when faced with threats by plaintiffs’ firms to bury them in individual arbitrations.



Our team is experienced in defending clients facing legal action on multiple fronts relating to the client’s use of pixels and other tracking technologies on their websites.

DATA STRATEGY, SECURITY & PRIVACY

MANAGING DATA AND CYBER REGULATORY CHANGE

We help clients navigate the evolving – and often conflicting – alphabet soup of new state, local, federal and international legislation and regulatory environments related to data and technology.



Insights. Our attorneys and policy advisors provide up-to-the-minute insights on how federal and state legislators and regulatory agencies are approaching novel data issues.



Public Policy Advocacy. Our firm's Washington, D.C.-led Public Policy & Regulation Group represents clients on the public policy, government relationships and legislative front. Our team helps clients present their cyber and privacy perspectives to key decision-makers on government policies, legislation and regulation.



Regulatory Change. We help clients assess the operational impact of new laws and regulations on their products and services to develop comprehensive and forward-looking implementation strategies.



Holland & Knight is recognized among the top five federal lobbying and law firms in Washington, D.C., with a strong bipartisan government affairs team and deep ties across federal legislative and agency bodies.

Our firm's Washington, D.C.-led Public Policy & Regulation Group represents clients on the public policy, government relationships and legislative front, advising on the evolving – and often conflicting – patchwork of state, local, federal and international regulatory environments.

INDUSTRY KNOWLEDGE

We have breadth and depth across many key industries, with particular experience in the following sectors:



Financial Services



Healthcare & Life Sciences



Retail & Consumer Products



Technology & Telecommunications



Real Estate & Hospitality



Transportation & Infrastructure

With dozens of attorneys backed by Holland & Knight's global team of approximately **2,200** lawyers and other professionals operating from **34** offices worldwide and admitted to practice in nearly every U.S. jurisdiction, we pride ourselves on being a diverse team and believe diversity of thought and perspective enables us to best serve our clients.