eDiscovery and Information Governance Services
Across all business sectors, organisations are faced with a rising tide of disputes, investigations and regulatory reviews. For many, particularly those in the most heavily regulated sectors, these reviews are now a routine occupational hazard. Handling the electronically stored information (ESI) relevant to such reviews in a consistent, defensible, and cost effective way has therefore become a key business challenge. The complexity of that challenge is increased by three key factors:

1. **The massive growth in global regulation.** Business is now more heavily regulated than ever before. For example, the Foreign Corrupt Practices Act, the UK Bribery Act, the Dodd-Frank Act, FATCA, global anti-trust regulations, global data protection legislation (soon to be modified by a voluminous new EU Regulation), sector-specific regulations (for instance in Financial Services, Life Sciences and Energy sectors) and local court procedural rules. All of these regulations create or influence obligations to produce electronic evidence and some of those obligations may conflict.

2. **The volume, velocity and variety of ESI sources.** Relevant corporate ESI now takes many forms: mailboxes, structured financial data, sales management and contacts databases, industry-specific business applications, audio files, video files, text messaging, instant messaging, public and private social networking (Facebook, Twitter, LinkedIn, Yammer). Added to this are the complexities of movements to public and private cloud computing platforms, outsourced data management and the adoption of Bring Your Own Device and other policies designed to promote more flexible and remote working practices. The emergence of the ‘Big Data’ management revolution means that businesses now expect greater insight from the consolidation of all of those sources of ESI including when responding to a dispute, investigation or regulatory review.

3. **The world is becoming a smaller place.** Trade flows freely across borders and, more than ever before, businesses now think and act in global terms. Advances in information technology and the adoption of electronic communication tools have aided the speed and free flow of information necessary to support truly global businesses. Data does not recognise borders. On the other hand, regulations are traditionally tied to specific jurisdictional boundaries, may conflict between countries and generally lag the advances in information technology. This creates a tension for businesses that operate across borders and are subject to regulatory scrutiny in multiple countries.
Our approach

One size does not fit all. We can help you to navigate these challenges and to identify an approach tailored to your specific needs. We offer a range of services to assist you to respond to requirements to produce ESI in disputes, investigations and regulatory reviews. We can also help you to manage your ESI at source to enable you to better anticipate and respond to future requests in a consistent, defensible and cost-effective manner. All of our services are designed to provide you with transparency, precision and control over the process. In our experience, the key to effective management of these challenges is to use the right people, process and technology to resolve the problem, in that order of importance.

We offer the right team with the right experience in the right places. Our eDiscovery & Information Governance team includes highly experienced professionals with diverse backgrounds in law, information technology, project management, data analytics, statistics, linguistic analysis and records management. We have managed these engagements in many sectors including Banking and Capital Markets, Insurance, Life Sciences, Oil and Gas, Utilities, Technology, Telecommunications, Automotive, Government and Public Sector. Within the global network of EY firms, we have over 40 forensic technology centres, forensic technology professionals in over 90 countries and technology professionals in nearly 140 countries.

We utilise consistent, repeatable and defensible processes in each engagement in each country. We recognise that, ultimately, any ESI produced in response to any dispute, investigation or regulatory review will need to be supported by appropriate audit trail and chain of custody as to provenance. Our processes also incorporate appropriate QA, documentation and focus on the use of automated execution and reporting to enable you to manage the time, risk and cost of any engagement. This extends to managing risks such as compliance with data protection, security and confidentiality rules on cross-border matters.

We leverage technology to increase speed, reduce risk and manage cost. We offer a full spectrum of linear review, analytics and technology-assisted review services. Our deep experience with technology will help you achieve the long-term results you want efficiently and cost-effectively. We recommend appropriate tools and techniques to suit the specific case needs – it is not just about which tools to use, but how best to use them.

Our services

Discovery Advisory Services

- Data identification – we can review formal requirements to produce documents (statutory notices, discovery orders etc.), liaise with lawyers, client sponsors, client IT staff and assist with identification of relevant types and sources of ESI mapped to custodian.

- Active case management – prioritising your planning, identification, collection, processing and review is essential to any successful document review and production exercise. We understand this and have built a bespoke suite of tools that provide you with inline, visual and interactive project management reports that cover everything from the data that has been collected to the estimated costs to date.

- Privacy, security and confidentiality compliance strategies – we will work with you and your legal team to create a strategy to increase the prospect of enabling ESI to be processed and transferred to the jurisdiction in which production is required. Often, this ultimately recorded in a written protocol based on our own developed standard forms.

- Corporate eDiscovery strategy – we can assist clients to develop an active eDiscovery strategy balancing the in-sourcing and outsourcing of resource. This may involve meeting key stakeholders, performing a Current State Assessment, conducting a Demand Analysis, developing an End State Vision, performing Gap Analysis and developing eDiscovery Strategy scorecards. It may also include Key Performance Indicators and assisting the business to demonstrate a solid return on investment.

- Managed services – we can act as an outsourced corporate eDiscovery function taking away the pain of day to day management of eDiscovery.

- Discovery benchmarking – we can provide benchmarking against industry standard eDiscovery processes ranging from the review of a corporate policy applicable across multiple cases to an isolated review of a specific issue on a specific case.

- Managed document review – we understand that you may not have the manpower to conduct a full review. We can provide additional manpower to support a review and can also work with leading global review providers to meet this challenge.

- Trial support – we have a broad experience of producing electronic evidence for trial and connecting trial support systems to discovery databases.

- Decommissioning strategy – decommissioning large volumes of ESI to acceptable security standards is an emerging issue.
In our experience, this is a complex task that needs a methodology to succeed. We can assist in identifying all potential sources of ESI requiring decommissioning (for example, upon settlement of a case, this may extend to your ESI held by an opponent or its lawyers already provided in a previous discovery phase). We can then advise on and execute appropriate strategies for the secure decommissioning of that ESI (for example by secure wiping or by physical destruction) supported by appropriate certification.

**Data Processing & Hosting Services**

- **Preservation and collection** — we use leading standard forensically appropriate tools to preserve and collect ESI dependent upon the nature of the media, all supported by chain of custody and audit trail documentation to appropriate law enforcement standards of proof.

- **Automated filtering and culling** — we use leading commercial off the shelf applications supplemented by our own developed range of scripts that allow us to quickly and effectively filter out unwanted data types, allowing you to focus on the most potentially relevant user generated ESI.

- **Hosted document review** — we have eight strategic data centres in cities around the globe and host a variety of leading commercial off the shelf document review platforms. These platforms are supplemented by our own developed applications and patented technologies. The tools recommended for any specific matter are based on the requirements of that engagement and your preferences. Amongst the tools we offer are Relativity, Clearwell, Equivio, Catelas, dtSearch, NUIX, Intella, and Nexidia:

- **Early case assessment** — we offer appropriate analytic technologies and dashboard reporting to enable you to gain an early understanding of the ESI in your matter at the outset of an engagement and priorities subsequent review.

- **Technology assisted review (TAR)** — we regard TAR as a spectrum of services utilising analytical tools and backed by specific application methodologies to improve review efficiency and cost-effectiveness. Our tool set covers latent semantic indexing, text clustering, Bayesian classification, linguistic analysis, predictive coding and, where necessary, we are able to construct custom tools to address unusual client requests.

- **Audio analytics** — we utilise phonetic indexing technology to interrogate large volumes of audio as a cost-effective and efficient alternative to traditional ‘reel to reel’ reviews or haphazard transcription. Dictionary and accent independent search methodologies enable reviewers to focus on the responsive content quickly and accurately reducing the risk and cost associated with traditional review methods.

- **Consolidated review** — we offer unique solutions that enable you to review and match various sources of ESI in a single user interface and/or utilising a single investigative workbench. For example, this enables reviewers to view emails alongside financial pricing information, mapped to relevant date and time ranges. It also enables geo-spatial mapping of ESI for example, mapping insurance claims to relevant geographic areas when assessing the financial impact of a natural disaster.

- **Case Console** — this is a centralised information repository from the identification of relevant data sources through to its loading into the review platform. It enables full quality control of identification, collection and processing tracking in addition to powering reporting dashboards.

- **Supportal** — this is an online support portal. All requests made to the Ernst & Young team are added as a ‘ticket’, which can then be viewed from submission through to completion by end users. This is updated in real-time, and creates a centralised knowledge repository of all existing and outstanding work items allowing for the decentralisation of running a review, and to provide a full audit trail on all review activities.

- **Production** — we are used to producing ESI in compliance with all of the common formats required by the major regulators and civil systems in most of the world’s jurisdictions. A number of our people have been involved in establishing best practices in key jurisdictions. All productions are tracked using our integrated management suite and supported by other appropriate quality assurance procedures to reduce the risk of multiple disclosures.

**Information Governance (IG) Services**

- **IG strategy advisory** — electronic information is a key asset in any organisation. We can help you manage this information and put processes in place to deal with any associated risks.

- **Data mapping** — dealing with big data is a challenge for all organisations, yet many do not understand the liability (cost and risk) created by poorly managed ESI, especially when there is a lack of understanding about where data is, what it is used for and who has responsibility for it. For organisations in highly litigious or highly regulated industries, the lack of an appropriate data map can expose the organisation to potential legal or financial risks if data cannot be identified, located, or retrieved to meet mandatory legal or regulatory deadlines.

- **Defensible disposition** — the acid test for any records retention policy is what happens at the end of the retention period. Defensible disposition supports the organisation and management of reliable, actionable retention procedures for data and employee information assets that are directly aligned with strategic objectives and operational delivery requirements. Defensible disposition policies reduce corporate risk and control legal, IT and business costs. More importantly they can derive additional value from existing business information assets.

- **Hold management** — appropriately deployed, a legal hold management strategy enables the defensible execution of any legal hold obligations and management of the risks and costs of ongoing compliance. Equally importantly, it reduces the impact of disruption to continuing business operations.
Our team

Our Fraud Investigation & Dispute Services team consists of professionals with a variety of skills and experience, which enables us to provide you with responsive solutions throughout Australia and New Zealand.

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