

## Big Data Drives Innovation And New Risks For GCs

By **Michele Gorman**

*Law360, New York (January 9, 2018, 5:30 PM EST)* -- While data provides the foundation for such advancements as artificial intelligence chatbots and autonomous vehicles, it also carries new and unintended legal implications, according to a report released Tuesday by Crowell & Moring LLP.

The international law firm's sixth annual report, titled "Litigation Forecast: What Corporate Counsel Need to Know for the Coming Year," analyzes the litigation trends and challenges that businesses are expected to face in 2018, with a focus this year on how data-driven innovation — or the so-called big data revolution — is creating new opportunities for clients across industries, as well as risks.

The report, which seeks to help corporate counsel identify possible future hazards and develop a strategy to protect against vulnerabilities, underscores that the use of big data is still fairly new, and what regulators expect companies to know from their data continues to evolve.

"Their thought is, if you're collecting it, you should have compliance programs around it," says Cari Stinebower, a partner at Crowell & Moring and a former counsel for the U.S. Department of the Treasury's Office of Foreign Assets Control. "Then the question is, how much should you be using Big Data and artificial intelligence to do things like make sure your products are not going to prohibited parties? How far do you need to go?"

To position a company to thrive in the big data revolution, the authors of the report suggest companies closely watch how their peers and competitors use big data and technology in terms of compliance and monitor what regulators say they expect from the industry.

As the report points out, data includes information from smartphones, vehicles, cameras and connected sensors embedded in homes, business and equipment. While data powers innovation in new ways and is more of a valuable business asset now than ever, it's also forcing companies to face more — and sometimes new — legal risks, according to the report.

As companies look to free up their lawyers to focus on high-value work, technology's role in in-house legal departments is rapidly growing. Firms increasingly rely on new tools to give simple assignments to machines, or software to allow attorneys and paralegals to devote more time to complex tasks.

"While the digital economy has ushered in a new era of economic growth and opportunity, these changes also will drive new risks for corporate legal departments," said Philip Inglima, chair of

Washington, D.C.-based Crowell & Moring.

In the report, Cheryl Falvey, a partner at the firm, advises business to think about the unprecedented implications data poses for areas like regulatory enforcement, product liability, cybersecurity and intellectual property. If those factors aren't addressed, she said, "data can become less of an asset and more of a liability."

Take autonomous vehicles, for instance. They will be a "game-changer" for the U.S. economy and entire transportation system, said Paul Rosen, a Crowell & Moring partner and a former chief of staff at the U.S. Department of Homeland Security.

"But companies will first have to navigate real regulatory issues like physical safety, cybersecurity and privacy," he said.

The ability for companies to collect and analyze large amounts of data could open the door to increased collaboration across the supply chain for faster innovation and increased efficiency, said Stinebower. It could also create a liability of having to track that data to manage the risk of litigation, she said.

--Editing by Bruce Goldman.