

## Is "Cost Effective" eDiscovery an achievable goal or a clever illusion?

**How can you control costs whilst still maintaining the integrity and accuracy of the electronic discovery process?**

Organisations today typically store vast amounts of financial and other information on computer systems, not to mention the ever present spectre of electronic mail. As a result, it is common for companies and their legal teams to be faced with spiralling costs as they attempt to wade through the avalanche looking for those morsels of information relevant to the matter at hand. The current litigation landscape is heavily reliant on technology to aid in the process of identifying the electronic documents that are relevant to your case.

Businesses, organisations and even the Courts are wary of electronic discovery costs spiralling out of control. How can you control costs whilst still maintaining the integrity and accuracy of the electronic discovery process? Here are three places to start...

### **Efficiency vs. accuracy?**

First, keeping these costs under control is a two way street - the more organisations can avoid retaining unnecessary information, the more efficient the providers of electronic discovery services will be in the locating relevant information.

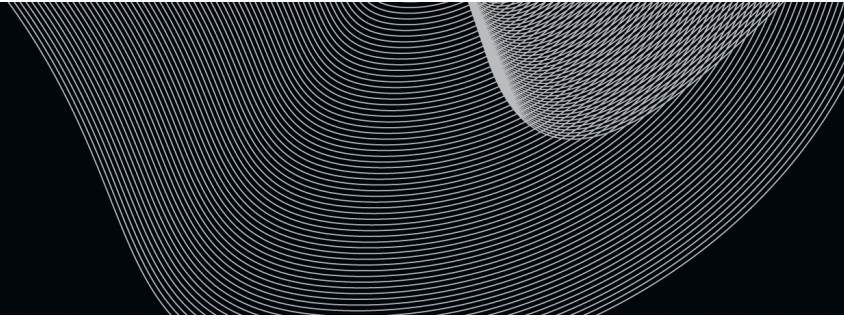
Organisations need to be very clear, in both policy and culture, about what information they need to retain both from a commercial, legal and regulatory perspective. If it is only necessary to retain emails for three years then the organisation needs to ask itself, why is it keeping email for the last ten years? The retention of documents, including electronic mail, for unnecessarily long periods of time is a major contributor to increased electronic discovery costs. It is important to instigate a corporate policy addressing document retention and instil a culture that promotes that policy.

### **Failing to plan is planning to fail**

Second, whilst technology has come a long way in recent years in its ability to process and search vast amounts of information, the most important aspect of any solution is in the planning. It is critical for your provider to understand what it is you are trying to achieve and implement a process and technology tailored to assist you in achieving those aims. Technology is readily available that allows for the searching of vast amounts of electronic mail or other documents stored on file servers. The real question though, is do you really need to search all of it or can you work with your provider to limit, filter or cull the document 'pool' thus lowering your overall discovery costs as a result. This will also have the flow on effect of limiting the number of documents sent through to the legal teams for review.

### **Technology is your friend**

There are many electronic vendors in the current marketplace that can bring to bear a whole range of technologies to assist with the identification, collection and review of electronically stored information. The technological landscape changes so rapidly with respect to electronic discovery that it is increasingly important that the most current and efficient tools are used. This can sometimes mean the difference between a process taking two weeks or six weeks, again having a profound effect on overall costs. Is your provider using current technology to help you or are their tools 'yesterday's news'?



### Case in Point

In a recent litigation an international company was required to provide all information relating to a specific and large operation they were undertaking. This operation spanned many offices globally and encompassed a significant number of both current and former staff. The company had no defined retention policies in place and much of the corporate and email data was duplicated across many disparate systems. As a result, the data collection exercise was both far more extensive and significantly more costly than if the data was organised and a retention policy implemented and enforced. Retention policies such as a policy to remove or amalgamate obsolete and/or aged data from systems would have helped the company manage the litigation more efficiently and reduce costs significantly.

In order to reduce the cost of the overall eDiscovery process, key company representatives, the legal team and McGrathNicol worked together to identify and cull duplicate and obsolete data before the eDiscovery process began. The data was then prioritised and specific search criteria were defined to ensure the data was searched in the most effective and efficient manner and produced specific, relevant and targeted results.

Notwithstanding the culling and quality assurance performed, the volume of data was still extensive. McGrathNicol took great care in selecting the correct technology to search and process the documents, including upgrading key systems, to ensure the final results were accurate and timely.

The process of electronic discovery is extremely complex. By starting with good document retention policies, enforcing those policies within organisational culture, and then adding careful planning and the use of up to date technology when discovery is required, the costs associated with effectively reliable and accurate process don't have to be exorbitant.