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PERSPECTIVES

BEYOND THE AI HYPE: ACCELERATING LEGAL AND COMPLIANCE MATTERS THROUGH DATA SCIENCE

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However nebulous and varied it may be, the topic of artificial intelligence (AI) continues to dominate headlines, with multiple hype cycles and industry speculation. Around the globe, leaders in nearly every industry eagerly buy in to the promises of AI to transform the way we work. Governments have also jumped on the bandwagon.

Since 2018, under the Horizon 2020 programme, the European Commission (EC) has dedicated nearly €80bn to strengthening AI research and innovation. Furthermore, guidelines and governance around the ethical use of AI and the data being captured to power these technologies continues to emerge from the EC and other jurisdictions around the world.

While this momentum is significant, in practice the return on AI's promises is still largely unrealised outside the realms of a subset of global technology firms. Particularly in legal and compliance, meaningful disruption has yet to materialise. In a World Services Group survey of general counsel across Europe, only 9 percent believe impacts will be felt in the near term. More than half said they do not expect AI to become a disruptor for five or more years and one-third said they do not anticipate significant strides in the space for more than a decade.

To date, technology assisted review (TAR) and predictive coding – both generally categorised under the AI umbrella – have driven some progress in the legal and compliance space. Having gained

increasing judicial approval and traction with lawyers, TAR adoption is on a steady upswing in many regions. Still, these technologies offer only a portion of the broader AI options available to lawyers and compliance professionals today.

Is there a place for AI?

In legal and compliance, the hype around AI and machine learning (ML) – including the hot pursuit of court judgements and enlightened regulators that approve the use of AI techniques – have led to a polarised, all-or-nothing view of analytics. Most lawyers and compliance professionals now believe they have only two options: walk (i.e., approach litigation the ‘old’ way through manual review) or sprint (powered by off-the-shelf, often over-hyped AI tools) to the finish line. Many also fear having to do both in the face of regulatory officials unfamiliar with how the technologies work.

In reality, the use of disruptive technologies like AI is more nuanced. A third and potentially more fruitful option has been largely overlooked, wherein AI is used alongside other methods. This provides a middle ground between walking and sprinting, giving lawyers and compliance professionals the ability to extract more insight from their data and deliver higher-value services to their internal and external clients.

When the use of AI is rooted in data science – the combined application of technology, statistical





modelling and domain expertise – solutions deliver far more insight than today's conventional use cases.

The intersection of AI and data science with law

With data science, legal and compliance teams can build custom models that bolster their investigatory work and meet the unique needs of each matter.

As an example, consider the steps in an intellectual property (IP) theft investigation or discovery matter. Counsel begins by running search terms and light analytics on the activity of key custodians. As work progresses, it is likely the team will look for key date ranges, times of the day and specific sender and recipient accounts related to certain communications. To service these requirements more metadata is needed. Applying custom, advanced analytics at this stage can extract key features to augment the existing data with vital metadata.

A smart system built for this type of work should be able to reveal patterns for established and known behavioural indicators, such as emails being sent during off-hours, and anomalies or abrupt changes in behaviour, such as sudden changes in the number of emails and recipients, that warrant further exploration. Such systems need to be able to augment the skills of an expert through interactive exploration, as well as work autonomously to identify relevant features in large datasets where it would not be possible or economically justifiable for human review.

The difference between a data analyst and a data scientist is that a good data scientist must bring programming capabilities, extensive mathematical and statistical reasoning as well as domain expertise. Their role is to bring structure to what could otherwise be an unguided exploration of data. This is critically needed in more complex matters – including money laundering, market manipulation, consumer protection and regulatory breach. Key skills include entity resolution and linkage, extraction of nuanced and non-obvious features that could themselves be important signals, the dimensional reduction and classification to fuse and amplify signals from different sources together with automated decisioning, ML and statistic testing to provide high confidence output. Domain expertise is critical to ensure outputs align with business logic. AI applied without the guidance and insight from a subject matter expert will do little more than dilute the results and create added risk.

The cornerstone of AI is the extraction of features upon which the machine can learn. For structured data, this could just be the columns or attributes of data, such as an amount or a payee name. Of course, this data could be cleaned up and categorised so that more meaningful groups can be created, such as amounts between £1 and £2m. For unstructured data, many data processing tools can extract

'standard' metadata such as dates and recipients, but the extraction of additional features can add additional value to an investigation. For example, in

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an IP theft case, flags to indicate whether an email was sent to a personal email address, whether a message was sent out-of-hours and the number of recipients can be combined and analysed together to reveal trends and anomalies that may help a machine predict data egress. Once features are extracted, they can be represented as numbers, which may seem unintelligible to a human being, but allow the machine to cluster (group) and calculate similarities.

These methodologies can deliver an automated quality assurance mechanism for a large, time-sensitive document review. Leveraging cutting-edge analytics, a customised quality control console can be implemented to identify inconsistencies between human reviewer coding decisions and the projected coding determined by the TAR algorithm in place. This

ensures coding consistency and avoids algorithm creep. Interactive dashboards provide a snapshot of potentially incorrect decisions and the individual making them, so the lead associate can examine disparities, identify patterns relating to clashes and quickly remedy errors.

Looking forward and back

The EU Commission projected the field of data workers to surpass 10 million in 2020, having grown roughly 14 percent year-over-year since 2016. In the US, data science has ranked as one of the most promising careers – based on salary, job opportunities and other factors – for four years running. With this growth in hiring, organisations are eager to leverage big data to predict the future based on the past. Their data scientists make predictions that drive product development, marketing and customer retention. These are valuable use cases that will continue to evolve and drive innovation in AI.

With internal teams using data science skills to predict the future, the same techniques could be used for investigations over historic data. Findings can be used to provide counsel and other key stakeholders with critical insights to address their most pressing future challenges. Learnings from investigations can be integrated into ongoing compliance monitoring, creating a positive feedback loop of continual organisational learning.

It is likely that customer-facing and sales and marketing teams are already using AI methods

created by in-house data science teams to improve performance. Legal and compliance teams need not rush to pre-packaged solutions. Instead, they can consider approaches tailored towards their data, investigation and organisation. In-house and outside counsel are under extreme pressure to contain costs and leverage technology to optimise processes. A customised approach to draw insights from information across the entire lifecycle of a matter – from investigation to remediation to compliance – offers tremendous potential to support counsel and compliance teams with critical information. With it, they can identify and intercept bad behaviour, prevent litigation, resolve legal, regulatory and business matters more quickly, bolster compliance and reduce corporate risk. 



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