



Why Information Destruction is the Key to Sustainable Success in e-Scrap

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SIGNS OF THE TIMES

Most readers have heard about the recent \$2,250,000 fine assessed to CVS Pharmacies for failing to properly protect discarded personal information. What many may not realize is that over the last 18 months, the combined fines assessed against organizations for improper disposal of personal information approaches \$20,000,000; far surpassing the combined total of such fines over the preceding decades. While the gargantuan fine assessed to CVS currently tops the list, privacy watchers expect a similarly large settlement with Walgreen's Pharmacies. Whatever the amount of the Walgreens' settlement, it likely will not hold the record long, given that the dollar amount of fines has regularly increased since disposal laws have started to be enforced.

Concurrent with the increased frequency and magnitude of fines for improper information disposal, media coverage of privacy protection and identity theft has reached a fever pitch. Of these issues, improper disposal of information receives the most attention. Local investigative news agencies, predominately those anchored to television stations, have discovered that dumpster diving is an easily tapped source of sensational headlines that attract the attention of the public. Reports of improper disposal are filed in the United States on a weekly, if not daily, basis.

The increase in attention paid to improper disposal has been driven by two complimentary trends within the media at large. First, covering this issue attracts an audience. It is no coincidence that many of these stories result from the unprovoked initiative of the newsroom itself during sweeps' week, when the size of the viewing audience is calculated.

The second underlying phenomenon related to the media's increased reporting of improper disposal is the involvement of the average citizen in the reporting process. People have become more observant of improper disposal, realizing that it is inappropriate and illegal. As a result of their outrage, citizens are more likely to share incidents of improper disposal with their local media, increasing the frequency of such incidents landing on the 6 o'clock news or in headlines.

Another example of the level of interest and concern related to privacy protection and information disposal is a less sensational but telling trend regarding the disposal of information on recycled hard drives.

About once or twice a year, someone, often associated with higher education, decides to research how much personal information they can find on hard drives sold on the second hand market. The typical project unfolds something like this: 1) hard drives are obtained on the open, second hand market, usually from a range of resellers, but always including some obtained through eBay®, 2) the researchers examine the hard drives for personal or confidential information, 3) the researchers report that about one-third of the hard drives contain personal information. There have been at least 5 of these studies in the last 6 years; always turning up some personal information. Most yield something that rises to a sensational level.

All of this leads to the conclusion that information disposal is already one of the largest concerns to consumers and business, and avoiding the consequences of improper disposal is of major

importance when selecting vendors to process and destroy equipment containing such information.

TURN UP THE HEAT

New information protection laws will likely send the existing level of awareness to new heights.

By now some readers are aware that the American Recovery and Revitalization Act (ARRA) (a.k.a. The Stimulus Package), signed into law on February 17, 2009, contains a new law called the Health Information Technology for Economic and Clinical Health Act (HITECH Act). This law dramatically increases the ramifications of unauthorized access to medical information, specifically targeting information that is electronically stored.

There are a number of provisions within HITECH/HIPAA that raise the stakes on decisions related to information destruction and the selection of vendors to perform that service. Because these are now codified in law, they will have a dramatic impact on how healthcare related customers select and contract with service providers that process their outdated IT equipment. HITECH will require a contract (and the law will affect what is required in that contract). It will affect policies and procedures and the vetting of employees. In addition, it will require new types of assurances and insurances. There is no choice on these new requirements; it is the law.

What most readers would not realize is that HITECH is really a look at the future of information protection legislation. These provisions indicate that still more stringent data protection requirements will be added and they will apply to all personal information, not just healthcare.

A STRATEGY FOR SUSTAINING SUCCESS

Given the risk of increasingly devastating consequences resulting from allowing unauthorized access to sensitive information as the result of improper disposal, organizations seeking to recycle electronic equipment are going to hold service providers to a much higher standard of security over the coming months and years.

At present, a significant number of e-Scrap service providers have been able to survive simply by giving lip service to security, overstating capabilities, cutting corners, or ignoring the issue entirely.

While there will always be some customers who are unaware or are unconcerned about their data protection risks, that number is sure to go down significantly over time. For an example of the impact on service providers when security concerns increase, one need only look at the paper recycling industry over the past 10 or 12 years.

In the mid to late 1990s there was a thriving office paper recycling industry. Scrap paper companies established accounts with offices and property managers to pick up waste office paper. In some of these scenarios, clients were paid, in other scenarios the service was free, and in others the client paid for the service. The primary motivation for the service was environmental, often to comply with state laws that required paper be kept out of landfills.

However, a growing number of organizations handling waste office paper this way began to get concerned about laws regarding information protection.

If you substitute electronic components for waste paper, the last paragraph describes, for many, where the e-scrap industry is today.

Fast forward 10 or 12 years and there is no more office paper recycling industry, or at least not one that exists in any meaningful way. It has been replaced by the information destruction industry.

Paper mills that accept office grades to make new paper have reported, anecdotally, that a decade ago less than 20% of that paper was shredded. Paper mills now report that virtually all of it is shredded, at least in the United States.

It is also telling to look at what happened to the players in the office paper recycling industry. Those that prepared and transformed themselves into secure destruction services did well. They kept the paper, started to get paid for paper they used to pay for, and got more paper because smaller offices were willing to pay for a service the law said they needed to have. Before, they simply threw away the paper.

Those companies that did not make the transition continue to buy commodities such as old cardboard and newspaper, and completely missed the opportunity to diversify into a newer, more profitable, value-added service.

There is no reason to believe that this scenario is not taking place right in front of our noses. New and increasingly stringent data protection legislation coupled with increased enforcement is only going to hasten its arrival.

For those who are simply students of the industry, it will be very interesting to watch this situation unfold. For those who are positioning their companies to survive and thrive in the e-Scrap business, it is a matter of a bit more significance.

For more an analysis of details and significance of the HIPAA/HITECH provisions, read the NAID white paper "*Recent Changes to HIPAA and their Impact on the Information Destruction Industry*" on the NAID website (www.naidonline.org)

Look for the next white paper in this series – "*Demonstrating Your Company's Commitment to Information Destruction*" to be released on June 22, 2009.