Consultation on Big Data may spur new law lawyers

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The Lawyer's Daily, February 20, 2019, *Consultation on Big Data may spur new law: lawyers*: https://www.thelawyersdaily.ca/business/articles/10329:

Kelly Friedman, the national counsel for Borden Ladner Gervais LLP's discovery services group, has expertise in data management issues, including e-discovery, cybersecurity and privacy. She noted that everything about Big Data is contrary to the basic principles of Canadian privacy law.

"Canadian privacy law is really based on the following: you can only collect personal information that is necessary for a specific identified purpose with consent," she explained, adding that Big Data collects information without a specific purpose.

Friedman believes new legislation is needed to handle the implications of Big Data and privacy shouldn't be the only concern highlighted in the data strategy consultation.

"Discrimination and ethics have to be looked at with respect to Big Data projects from the inception. You can't assume, and some people do and it's very dangerous, that the data is objective. It's not objective because it wasn't collected in an objective context. It's collected in a certain social context for a particular purpose and then it gets used for something completely different, and we can't assume that just because it's based on numbers and a computer algorithm that it's either correct, ethical, non-discriminatory and appropriate," she stressed.

Friedman thinks the number one issue lawyers have to be aware of at this time is how "problematic Big Data projects can be in the context of our current law."

"It's time to realize there's a huge problem," she said, adding that lawyers must be able to advise their clients on what data usage is appropriate.

Friedman hopes that the consultation will give "us a better way to strike that balance: tell us when it's OK and when it's not OK." She also hopes it will help develop some basic

guidelines and legislation that highlights whether data usage decisions should go through an independent assessment or ethics board, so there will be a “way to have the decisions not just lie with private parties on how they’re going to use data without any oversight.”

By

Kelly Friedman

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