

Morgan Lewis

TECHNOLOGY MAY-RATHON

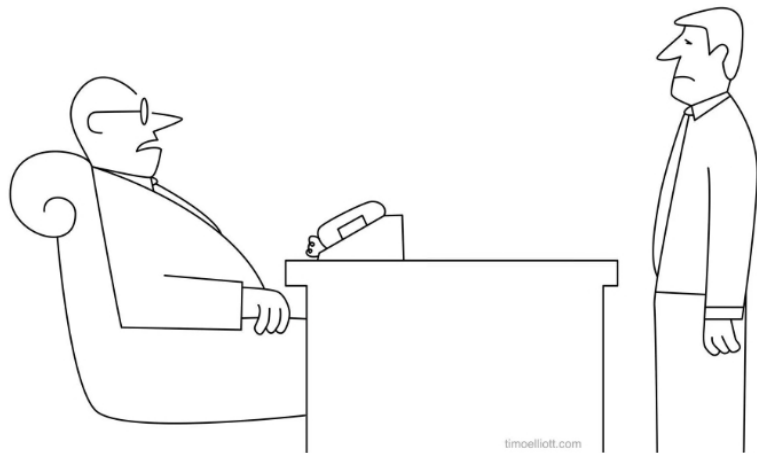
Monetizing Big Data

May 14, 2019

Gregory T. Parks
Ezra D. Church
Kristin M. Hadgis

© 2019 Morgan, Lewis & Bockius LLP

Monetization of Big Data – The Business Perspective



*“The only Big Data letters I care about are the four Ms —
Make Me More Money!”*



Morgan Lewis

Monetization of Big Data – The Legal Reality

- For large aggregators of data, it is all about the contracts
- Contracts are frequently inconsistent
- Counterparty expectations create business issues



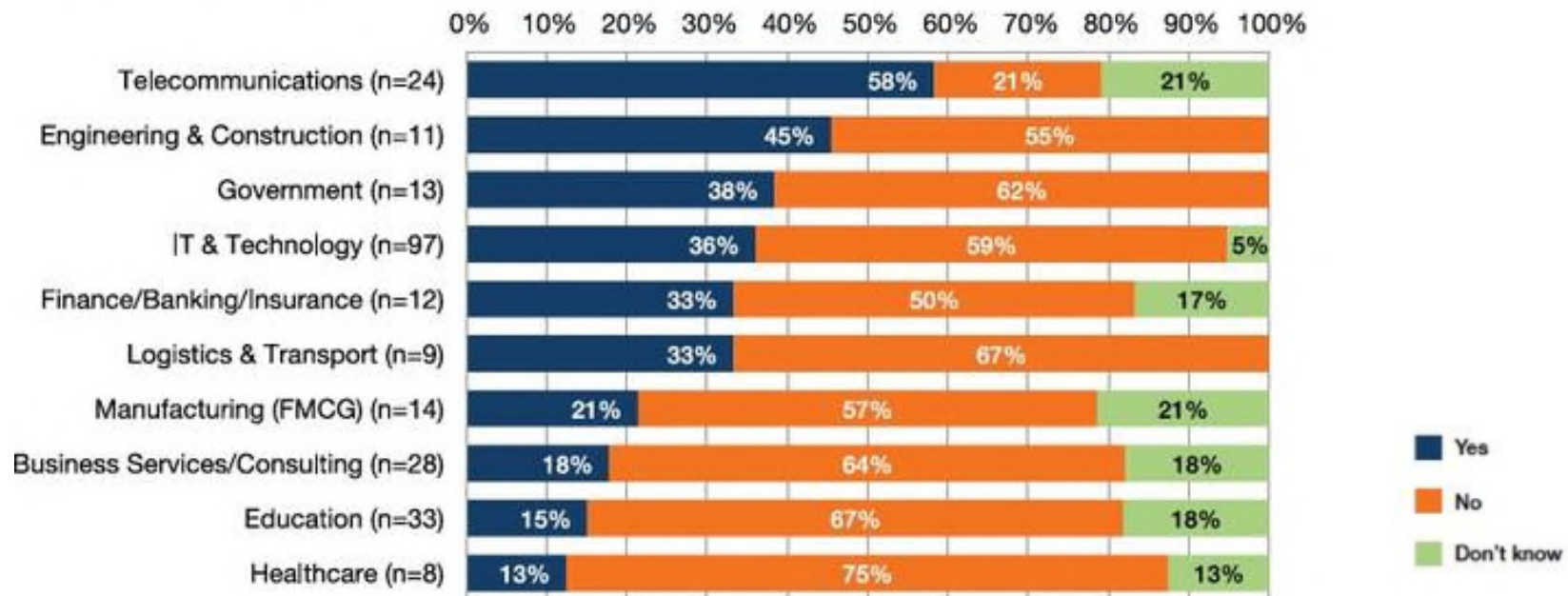
What Is Big Data? And the Three Vs

- Large volumes of structured or unstructured information that inundate business and can be analyzed to make better decisions
- Value determined by the 3V's:
 - **Volume** – size, records, people
 - **Velocity** – speed from generation to use
 - **Variety** – types, layers, format



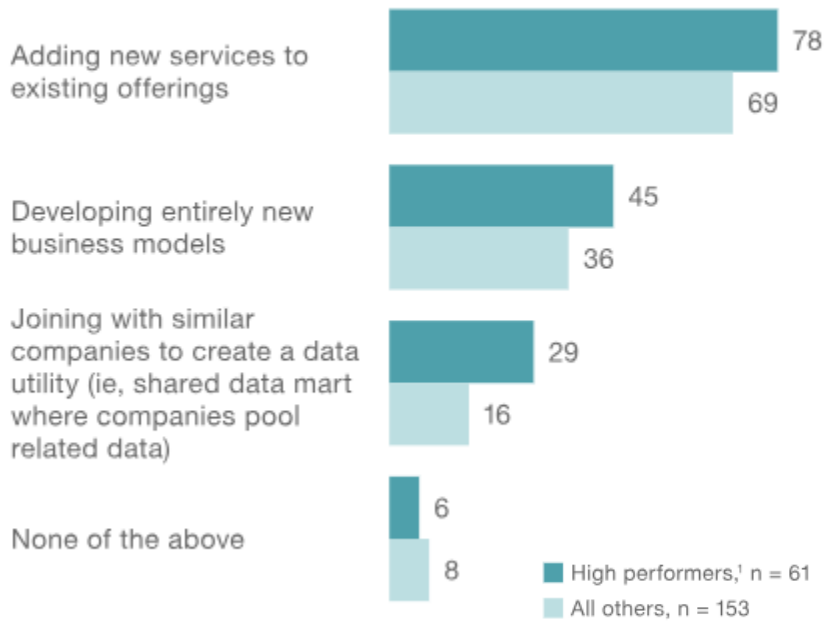
Who Is Using Big Data?

HAS YOUR ORGANIZATION UNDERGONE A BIG DATA IMPLEMENTATION (BY INDUSTRY)?



How Is Big Data Being Used?

Ways in which organizations have created new businesses to monetize data,²
% of respondents



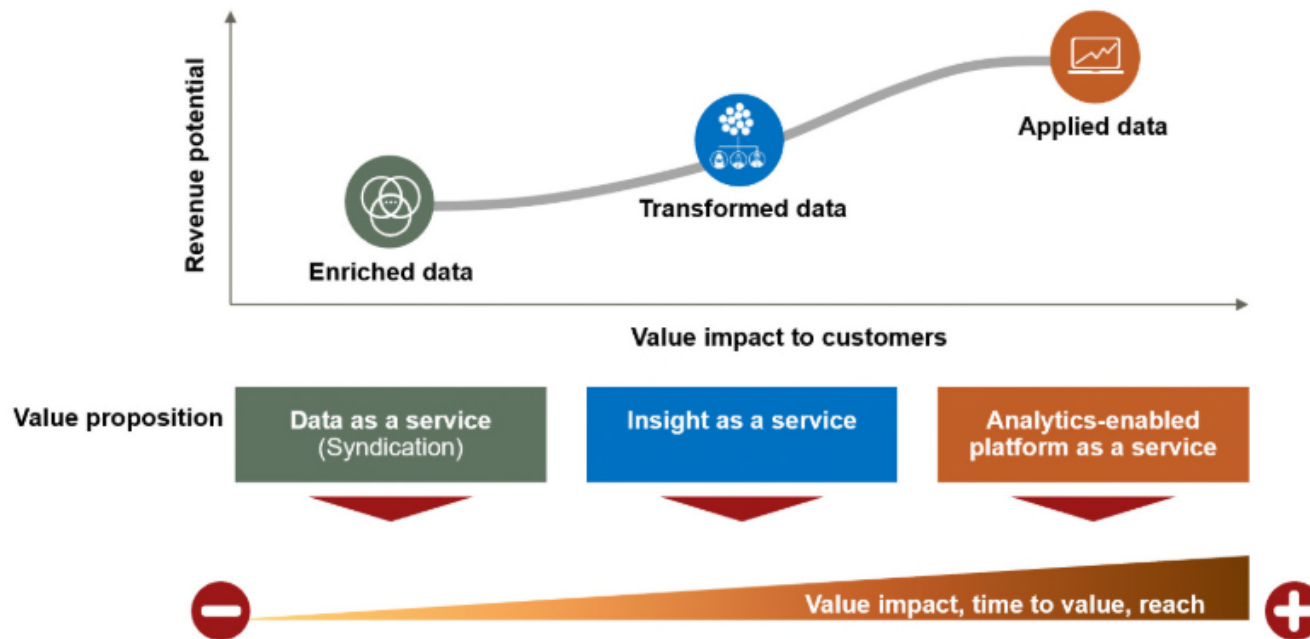
Morgan Lewis

Source: McKinsey & Company



Source: Tibco Jaspersoft

The Business Model for Monetizing Big Data

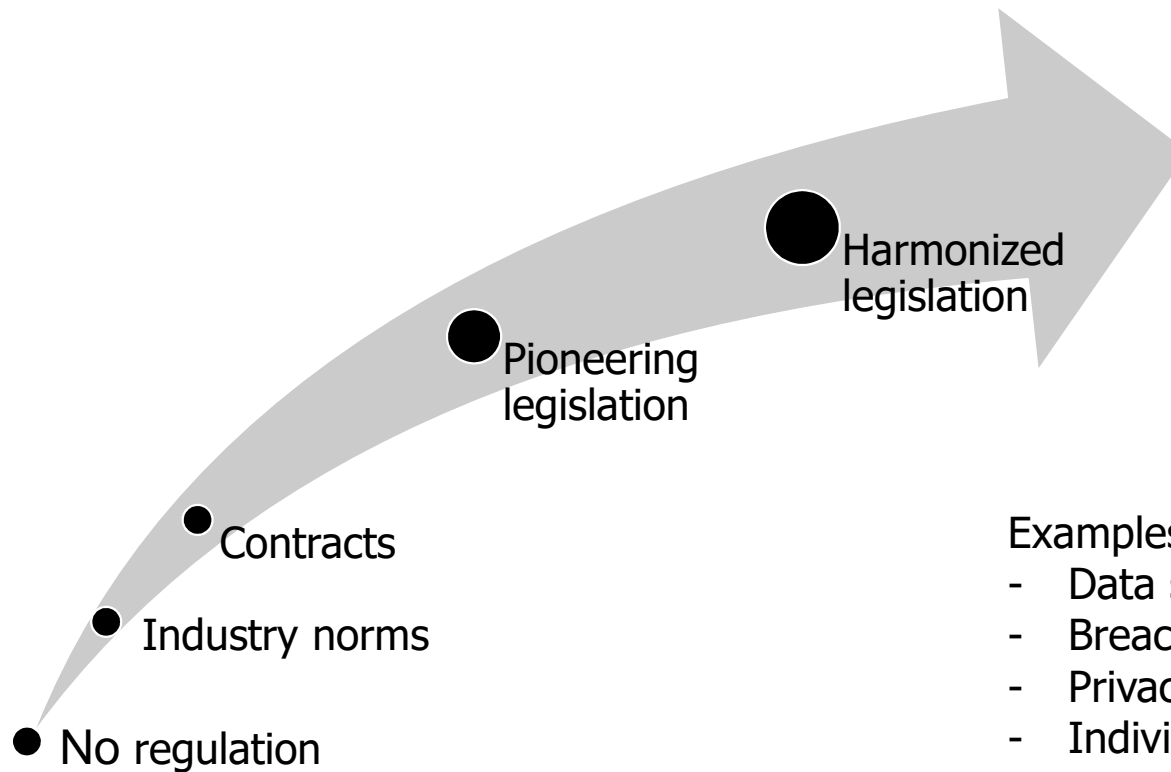


- Raw data of little value
- Enriched data is aggregated
- Transformed draws insights
- Applied takes multiple sources

Keys to Monetization – Successful Companies

- Adopt a big-picture strategy
- Recognize risks and tradeoffs, particularly brand
- Have the right organization and talent
- Leadership and culture
- Increase the speed of data availability
- Concentrate on data access management

The Evolution of Regulation on Data Issues

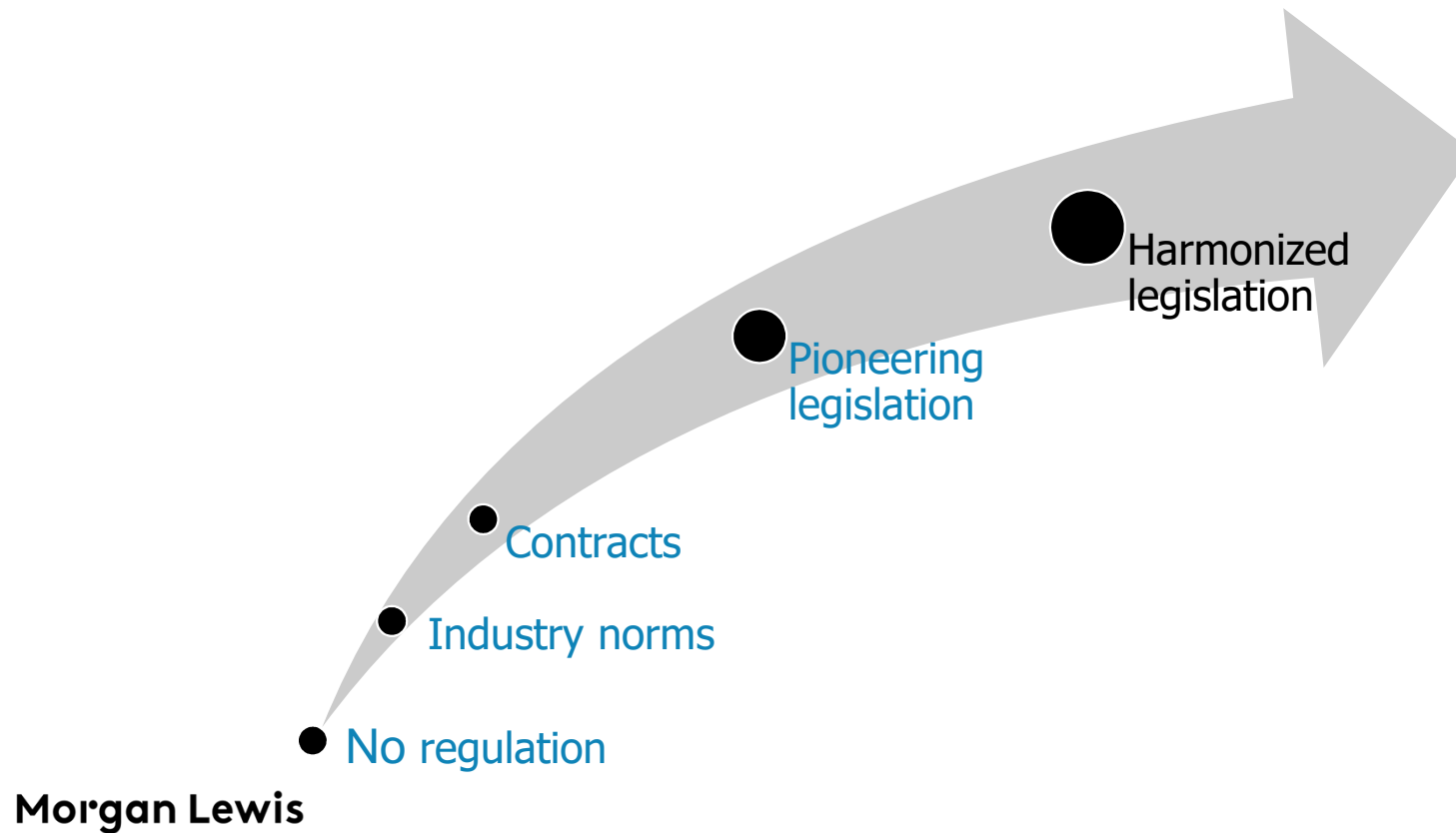


Morgan Lewis

Examples:

- Data security
- Breach notification
- Privacy policies
- Individual requests

Where Are We on Monetization of Big Data?



Legal Issues on Monetization of Big Data

- Contractual obligations and “licenses”
- GLBA obligations
- PCI-DSS Requirements
- Compromise incidents
- Bankruptcy of service provider
- Clawback rights
- Individual legal rights – CCPA, GDPR, others
- Do you become a “data broker” or “consumer reporting agency” (VT law)
- Anonymization decreases risk but can also decrease value

Anonymization of Big Data -- Theories

1. Determining whether an individual element is "PII"
2. Looking holistically at the set of elements to be provided and whether that can identify an individual or household
3. Whether this data can be combined with other publicly available data to reidentify an individual or household
4. Whether this data can be combined with other data that the recipient has to identify an individual or household

Anonymization of Big Data – Practical Tips

- Need to review data sets as a whole, in light of other information available and the nature of the counterparty
- If you do not look at re-identification, trust is critical
- Zip code is always the hardest

The Legal Department's Role

1. Be invested in the strategy
2. Be the expert on the contracts
3. Understand the technical issues and data flow
4. Be enthusiastic about current and future use cases
5. Identify, evaluate, and mitigate risk
6. Build contracts that anticipate
7. Think big picture and long-term about risk, reward, and brand

Questions?



Morgan Lewis

Morgan Lewis Technology May-rathon 2019

A full listing and of our tech May-rathon programs can be found at

<https://www.morganlewis.com/topics/technology-may-rathon>

Please be sure to tweet **#TechMayRathon**

Thank you.

Gregory T. Parks



Gregory T. Parks

Philadelphia

+1.215.963.5170

gregory.parks@morganlewis.com

Greg Parks is the co-leader of the firm's privacy and cybersecurity practice and retail & eCommerce industry sector. Greg counsels and defends retail companies and other consumer facing clients in matters related to privacy and cybersecurity, class actions and Attorney General actions, consumer protection laws, loyalty and gift card programs, retail operations, payment mechanisms, product liability, waste management, shoplifting prevention, compliance, antitrust, and commercial disputes. In the aftermath of data breaches—he's advised on more than 500 breaches in his career—Greg helps clients craft immediate responses. He counsels them on how best to give notice to affected individuals or government and consumer reporting entities, following proper compliance protocol. He also represents these companies on any data class action and other litigation stemming from the incidents, and instructs them on implementing policies and procedures to prevent and mitigate future breaches.

Ezra D. Church



Ezra D. Church

Philadelphia

+1.215.963.5710

ezra.church@morganlewis.com

Ezra D. Church focuses his practice on class action lawsuits and complex commercial and product-related litigation, with particular emphasis on the unique issues facing retail, ecommerce, and other consumer-facing companies. Ezra also focuses on privacy and data security matters, and regularly advises and represents clients in connection with these issues. He is co-chair of Morgan Lewis's Class Action Working Group.

Ezra has extensive experience handling complex and unusual class action litigation, and has handled all aspects of such cases from inception through trial and appeal. His work in this area includes defeat of class certification in a rare copyright class action against one of the world's leading publishers, successful opposition of class certification in an unusual defendant class action against many large financial institutions, and a successful defense verdict in a consumer class action trial against an international retailer, including affirmance on appeal. He is an active member of the Firm's Class Action Working Group and regularly writes and speaks on class action issues. He is a contributor to the Firm's chapter on class action litigation in the leading treatise *Business and Commercial Litigation in Federal Courts* and co-author of a chapter in *A Practitioner's Guide to Class Actions*, among others.

Morgan Lewis

Kristin M. Hadgis



Kristin M. Hadgis

Philadelphia

+1.215.963.5563

kristin.hadgis@morganlewis.com

Kristin has represented companies faced with class actions and government investigations, and has advised hundreds of companies in connection with data breaches and privacy and cybersecurity compliance issues such as privacy policies, information security policies, incident response plans, and protocols for data collection, storage, and transfer. Her experience includes the General Data Protection Regulation (GDPR), state data security laws, the Fair Credit Reporting Act (FCRA), the Fair and Accurate Credit Transactions Act (FACTA), US federal and state CAN-SPAM laws, the Telephone Consumer Protection Act (TCPA), Federal Trade Commission (FTC) rules, the Securities and Exchange Commission privacy regulations (Reg. S-P), the Children’s Online Privacy Protection Act (COPPA), and the Family Educational Rights and Privacy Act (FERPA).

THANK YOU

© 2019 Morgan, Lewis & Bockius LLP
© 2019 Morgan Lewis Stamford LLC
© 2019 Morgan, Lewis & Bockius UK LLP

Morgan, Lewis & Bockius UK LLP is a limited liability partnership registered in England and Wales under number OC378797 and is a law firm authorised and regulated by the Solicitors Regulation Authority. The SRA authorisation number is 615176.

Our Beijing and Shanghai offices operate as representative offices of Morgan, Lewis & Bockius LLP. In Hong Kong, Morgan Lewis operates through Morgan, Lewis & Bockius, which is a separate Hong Kong general partnership registered with The Law Society of Hong Kong as a registered foreign law firm operating in Association with Luk & Partners. Morgan Lewis Stamford LLC is a Singapore law corporation affiliated with Morgan, Lewis & Bockius LLP.

This material is provided for your convenience and does not constitute legal advice or create an attorney-client relationship. Prior results do not guarantee similar outcomes. Attorney Advertising.

Morgan Lewis