

Tip of the Month



Managing the Risks and Costs of Email Archives: *Part I - Initial Considerations & Functionality*

Scenario

Several years ago, a large multinational corporation implemented an email archive system in order to better manage its volume of email and the potential complications associated with backup media in its frequent litigations. Now, the corporation's General Counsel is concerned about the volume of email that must be searched, processed, reviewed and produced in every litigation, and the Chief Information Officer has realized that the exponential growth of the email archive system is not sustainable. The corporation is exploring ways to manage the risks and costs associated with its existing email archive.

Benefits and Risks of Email Archives

There are a number of benefits associated with email archives and, when managed properly, such archives can be an important asset to any organization. However, they can become a liability if not properly implemented and managed.

First, email archives often make business and IT operations more efficient and cost-effective. *Second*, email archives can be useful—and are often necessary—for enforcing regulatory or other legal requirements relating to the retention of records. *Third*, email archives can help consolidate email in a central location. This can make managing, searching and collecting relevant email more efficient and cost effective. *Fourth*, email archives can facilitate the implementation and management of legal holds. These systems minimize the risk of loss of data necessary for legal purposes by placing control of such data in the hands of the organization, rather than the individual.

With that said, no technology offers a perfect solution to data management. It is, therefore, important to be mindful of the risks posed by the use of email archives. *First*, the functionality promoted by many providers has often been tested only on a small volume of data. Organizations frequently find that when such systems are subjected to data volumes typically found in large organizations, functionality is lost or its effectiveness is decreased. *Second*, the idea of retaining all email and reducing the risk of loss may be appealing, until you consider the implications. The volume of email can quickly become unmanageable. And the mantra that "storage is cheap" is simply not accurate. Storage is not cheap when an organization is retaining all email, nor is it cheap to manage that data and the resulting risks of keeping the data longer than is needed for business or legal reasons. *Third*, much of the data flowing through an organization's systems is not needed for either business or legal reasons. But an email archive does not make substantive judgments about whether a particular message is critical to business operations, or is just junk. *Fourth*, limitations in email archive technology often do not allow for easy deletion or extraction of data.

Being able to retain data easily where necessary is helpful, but only if you can manage the data after it has been ingested into the email archive just as easily.

Understanding the Purpose of an Email Archive

The most important step in properly implementing and managing an email archive system is understanding why the organization is acquiring (or has acquired) the email archive in the first place. Does the organization have regulatory or other legal obligations that it needs to meet? Is the organization primarily looking to be able to better manage its email? Or is the organization concerned about the risk of loss of critical email? The answers to these questions will inform the appropriate use of the email archive. And when it comes to minimizing risk and maximizing effectiveness, there are a number of factors to consider.

Factors to Consider

- Reality Check. As with any technology, email archives cannot necessarily do all of the things that they purport to do. Understand from the outset that email archives require thoughtful planning and management to be effective. Know your organization's priorities and goals, and choose your email archive, or any upgrades to such systems, accordingly.
- Data Volume. In addition to understanding the volume of email flowing through your organization, it is important to understand how the applicable email archive system retains email. Does the system retain a single instance of each email by archive, by server or by retention folder? Understanding how much redundancy is built into the email archive under normal conditions may provide insight into how much email will ultimately be retained by the email archive—and whether it is truly necessary for business or legal purposes.
- Legal Holds. Many email archive systems offer some functionality to place data on legal hold. Your organization should also understand how the email archive system handles data placed on legal hold. Is data placed on legal hold on an employee-basis or document-basis? How much time and effort is required to identify data for legal hold, and does that time and effort increase as the data volume increases? Is a copy of the data created for each legal hold, or does the system mark an item for hold and associate that item with separate legal holds, as needed? Must data put on hold be "evergreen," e.g., does the system automatically begin to retain all incoming and outgoing email for an individual put on legal hold on a going-forward basis? How easy is it to lift a legal hold once a matter is ultimately concluded? For serial litigants, the legal hold function of an email archive can result in exploding data volumes that the system may not be equipped to handle.
- Retention Requirements. Remember that email archives do not have to be an all-or-nothing proposition. It is wise to consider a "risk-based" approach when implementing an email archive. That is, an organization can utilize an email archive without saving every email sent or received by its employees. And with most email archives, the organization can enforce different retention periods for individual employees in particular departments or groups. Consider whether enforcing different retention periods for different employees within the email archive would be useful for your organization, and whether email for certain low-risk employees should be excluded from the email archive.
- Search. One of the key benefits of an email archive is the ability to consolidate and search an organization's email in a central location. The impact of that benefit, however, may depend on the system's search functionality. Consider what type of basic searches the system allows, e.g., by employee name, key words, dates, etc., whether the system facilitates filtering to identify and remove "junk" emails, and whether the system allows more complex Boolean searches. In addition, make sure to ask whether the system searches email attachments.

- Extraction. Be sure to evaluate the process involved with extracting data from the email archive, including the time and effort required and the parameters of such extraction. If extracting the data will be a significant burden on the organization, then the value of retaining that data will be diminished.
- System Requirements. Remember that the use of an email archive system does not, on its own, alleviate all prior risks associated with email. For example, even with an email archive, critical email may end up decentralized if individuals are able to save email to PSTs stored on hard drives or other locations. Evaluate all document retention and records management policies and how those policies are impacted (or not impacted) by the email archive, to make sure the organization has controls in place to manage the risks associated with email where the email archive does not.

This is Part One of Two in a set of Tips of the Month addressing email archives. The Tip of the Month for June will address preserving, searching, collecting and producing data from email archives.

For inquiries related to this Tip of the Month, please contact Anthony J. Diana at adiana@mayerbrown.com or Therese Craparo at tcraparo@mayerbrown.com.

Learn more about Mayer Brown's [Electronic Discovery & Records Management](#) practice or contact Anthony J. Diana at adiana@mayerbrown.com, Michael E. Lackey at mlackey@mayerbrown.com, or Ed Sautter at esautter@mayerbrown.com.

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Mayer Brown LLP, 71 S. Wacker Drive, Chicago II, 60606, Tel: +1 312 782 0600

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