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MINI-ROUNDTABLE

OPTIMISING REGULATORY CHANGE MANAGEMENT: CONTENT INTELLIGENCE AND CONTRACT ANALYTICS



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As a founder and SVP of market strategy at Adlib, **Scott Mackey** has over 20 years of experience in content management and digital transformation, including contract analytics, data capture, content management and file analytics. Mr Mackey regularly engages industry analysts, Adlib's customers and partners to analyse and assess trends in the content, data and automation space, and stays up to speed on industry best practices by attending and being a featured speaker at global industry events.

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Marc Fuentes is the senior director, growth marketing at Adlib. Mr Fuentes has spent 20 years in marketing, innovation and sales enablement leadership roles in service, software and SaaS markets spanning telecommunications, software, business process outsourcing, logistics, global trade consulting and content intelligence. He has delivered over \$30m-plus in revenue, revolutionised some of North America's leading brands, launching over 65 products and led 25-plus professionals to more progressive roles.

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Peter Duff is a founder & chief product officer at Adlib. He is a leading expert on unstructured content management and has over 20 years of experience in the industry. He shares his passion on the latest strategies and best practices in applying SaaS-based AI innovations to unstructured content intelligence challenges. Mr Duff holds a B.Sc. in Electrical Engineering from Queen's University, and a Master's degree in Information Science from the University of Toronto.

R&C: To what extent are companies facing increasing regulatory challenges? What additional risks and challenges have been presented by the coronavirus (COVID-19) pandemic?

Fuentes: Prior to the COVID-19 pandemic, organisations were already experiencing myriad ongoing regulatory challenges. Some organisations have been proactive, combining people, process and technology to address ongoing regulatory changes. But, for the most part, organisations have been largely reactive, placing tremendous pressure on people, processes and technology going from one battle to the next. No industry is spared, and we are seeing the London Inter-bank Offered Rate (LIBOR), International Financial Reporting Standards (IFRS 17), data privacy as well as M&A, force majeure and the General Data Protection Regulation (GDPR) presenting unique challenges across all industries. COVID-19 came in overnight and, among the current ongoing regulatory challenges, forced organisations to pause and think of the broader risk to their business. One area that emerged for businesses is contracts, and the inherent risk relating to the buy- and sell-side of contracts and their obligations. Businesses should begin to think of their contract risk along three points: contract visibility, contract risk and contract review.

Mackey: Geopolitical events, like the 2008 financial crisis and the increased scrutiny applied to the use of personal data by global enterprises, has accelerated and deepened an already challenging regulatory environment. IFRS 17 in insurance, SR 14-1 in banking and GDPR and the California Consumer Privacy Act (CCPA) across industries, are just a few examples. COVID-19 may result in increasing regulatory pressure but that is not yet defined. Rather, the pandemic has highlighted weaknesses in multiple business workflows as companies try to achieve their goals with a distributed and remote workforce. In addition, the disruption to global supply chains is exposing risks not previously recognised, and is forcing companies to accelerate digital transformation strategies to achieve better business agility and resilience.

Duff: Regulatory bodies, whether in financial services, life sciences or oil and gas, are always providing updates, guidance and new regulations to organisations that operate in that market segment. Whether these are driven by economic, political, industry-specific events or even coronavirus (COVID-19), the impact is the same. It is a challenge to assess the new regulations, perform a gap analysis on the current operating model and the new regulations, and then develop a plan to respond. In many cases, regulatory changes will impact how organisations contract with their customers and other third parties. When contracts are involved, an

organisation must mine those contracts for data to understand the current state and develop an appropriate response plan. Today, this is still often a very manual task, leveraging outside counsel at a significant cost with poor efficiency.

R&C: Could you explain the impact that a changing regulatory environment is likely to have on a company's commercial contracts, and particular clauses within them? What practical issues might companies need to address?

Fuentes: There is broad disparity in how organisations are managing their contracts. Contracts are stored in disparate systems, difficult to access and in extreme cases some contracts are stored in filing draws and cabinets. In a changing regulatory environment, organisations are constantly manually reviewing contracts to determine risk exposure. This approach is costly and riddled with errors whenever regulatory changes are imminent. We are seeing limited resources available for contract review – not all contracts have had the same level of 'normalisation', and extraction makes it difficult to get at the data. They can be tedious and time consuming, causing delays and impacting key business processes. Furthermore, review is heavily reliant on subject-matter expertise, with relatively low return on investment (ROI). They may also be costly and likely to be out-of-date before completion.

Lastly, accuracy may be poor and unrepeatably. Some clauses that should be of concern include liability, force majeure, indemnification, expiry date and signature detection.

Mackey: Regulatory change forces organisations into a never-ending cycle of looking for, reviewing, segmenting and remediating all contracts and documents affected by the change. Too often, this challenging work is performed manually against a disparate set of largely unmanaged documents and sources. This gives rise to a number of questions. Where are all my contracts that could be impacted by the regulatory change? Which contracts contain relevant terms, dates, parties, clauses and language? How do I know if I am working with the latest, valid contract or agreement? Do I have duplication that needs to be addressed? Getting to those answers is often done by expensive and inconsistent manual effort. The sheer volume and complexity mean that this approach cannot scale and does not give the enterprise the agility and confidence it needs to deal with ongoing regulatory changes.

Duff: Responding to a regulatory change that impacts an organisation's commercial contracts can be very complex. Commercial contracts have evolved over many years, spanning multiple operating entities and divisions, and are stored in different formats and repositories. Finding all the contracts and then eliminating duplicates

and documents that are not pertinent is the first challenge. This is followed very closely by understating the regulatory impact on each type of contract. Due to the evolving nature of contracts, most organisations do not even realise the complexity of the different types of contracts and are very surprised when they look beneath the surface to see what is really there. Finally, organisations need to determine what is in each contract and what needs to change. The fundamental question is: will each contract meet regulatory compliance, or will it need to be re-papered or amended? The manpower and expertise required to execute on this task is significant. An automated approach for contract classification and data extraction, leveraging customer-trained artificial intelligence (AI) models, will put all the data in one place and enable a thorough analysis of the depth of the problem and the remediation strategy. The impact of not having an automated approach to solving this problem is applying a significant amount of manpower to manually review, mark-up, record data and remediate contracts. Consistency is so important to achieving regulatory compliance; however, this is a huge problem in a manual environment where work is distributed over a large number of individuals.

R&C: How problematic can it be – for large multinationals in particular – to locate and review their contracts across multiple systems?

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*Marc Fuentes,
Adlib*

Fuentes: Location and review are two massive challenges multinational organisations are facing and will continue to face. For some multinational organisations, contracts may be stored across the enterprise across geographies, departments, functions, on different shared drives and without any easy way of knowing which contract is accurate or recent. In addition, some contracts can be stored as images, such as jpeg or png files, and most systems are unable to read these, thus adding another layer of complexity. Take this one step back, not forward, and think about the multinationals that have contracts stored in filing cabinets, and the word

'problematic' just became capitalised and bolded. Organisations need to be able to discover, analyse and enrich search and review, and deliver the answers stakeholders are looking for, repeatedly.

Mackey: Both company size and longevity introduce significant problems. Very few, if any, large organisations have successfully centralised and enriched their content to the point they can efficiently find, review and address contractual challenges. Most have multiple silos of content spread across departments, geographies and systems. Within those silos the contract content itself is typically 'dark', which means it exists in multiple legacy formats, sometimes unsearchable, and usually without meaningful metadata or classification tags. Enterprises need to be able to know where their contracts are, clean up duplication, perform content comparisons against corporate standards, detect signatures and perform deep analysis to optimise performance, manage risk and simplify compliance. Being able to discover content across systems, standardise any format, ensure searchability, add classification tags and perform intelligent data analysis and extraction are all key to providing the necessary transparency to get to the answers an organisation needs.

Duff: Most organisations do not have a systematic approach for signing, executing and storing contracts in a way that permits easy retrieval in the future. When you look at a large organisation with many divisions, languages and jurisdictions, the problem is exponentially more challenging. Add in

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the likelihood that these organisations have grown through acquisition, and the problems just continue to grow. Discovering all the appropriate contracts while ensuring that you have no duplicate content is a challenge. Even more important is to ensure that you have the signed version of the contract. It is not uncommon at all to find unsigned versions or versions where only one side executed the contract. These must be flagged for further follow-up and remediation.

R&C: Could you outline how content intelligence and contract analytics can be used to identify regulatory issues and potential risks across a huge volume of contracts? How do these tools work in practice?

Mackey: You need a powerful, scalable platform designed to work with massive volumes from multiple sources. You need this to ensure you can deal with any contract, in any format, regardless of complexity and then go beyond the surface metadata and down into the content structure itself to surface the full meaning. Once you have found, de-duplicated and ingested the content, the platform needs to analyse the content – the way a human would – through advanced AI technologies, including machine learning (ML) and natural language understanding. Creating, training and deploying these advanced methods can be done by business users. Applying these models to properly group and classify similar documents, then perform intelligent data extraction on the specific contract terms, clauses, dates and parties, ensures that the data ‘fuel’ is surfaced for the processes and systems that need it. A wide range of flexible integrations can pull in content then deliver it in the format required to achieve a complete end to end solution.

Fuentes: Using powerful AI and proven understanding of complex document types,

organisations can identify and extract key contractual elements with a high degree of accuracy. Organisations can access the information they need, when they need it, while decreasing the time and cost of manual contract review. The result is a more consistent, cost effective and thorough analysis of contracts. A content intelligence platform built with simple use interface allows less savvy technical staff, such as non-data scientists, to build a training model, deploy it and see the effects. The reality is that every organisation can utilise a data scientist, but many cannot afford one.

Duff: A contract analytics solution must go through numerous steps to help identify regulatory issues. The discover phase helps to identify the appropriate target contracts and eliminate duplicates. The analyse phase classifies the contracts into different categories according to a defined taxonomy. This is vital because the data and ultimate remediation action is often dependent on the contract type. Many platforms use advanced AI in order to classify contracts, and are user trainable and retrainable to achieve high-quality results. The next step is to extract data from the contracts themselves. This data may include the parties to the contracts, dates, paragraphs and key terms. Finally, an analysis may be performed based on the extracted data to identify what needs to be actioned in order to meet regulatory guidelines.

R&C: In what ways can technology solutions help companies to adapt their contracts to account for new international standards, such as LIBOR or IFRS 17, for example?

Fuentes: Organisations that continue to invest in their framework – people, process and technology – will be equipped. Content intelligence platforms built with contract analytics represents a best-in-class approach to help organisations with ongoing regulatory changes and contract risk exposure. Additionally, AI-powered models for LIBOR can discover all contracts impacted by LIBOR, review key clauses such as LIBOR fall-back rate, liability and indemnification, and flag these contracts for additional review by key stakeholders.

Mackey: Using technology in combination with internal subject-matter expertise gives organisations the confidence that they can effectively find, review and address changes such as the LIBOR phase-out or the introduction of IFRS 17. Technology significantly speeds up the process, increases the confidence that all affected contracts are identified and addressed and, ultimately, reduces the potential brand risk or financial penalties that can come from non-compliance. By leveraging the automation and AI capabilities of a focused contract analytics platform, key stakeholders in risk, compliance,





legal, procurement and IT can comfortably address changing international standards.

Duff: The application of a technology solution to a challenge like LIBOR produces consistent high-quality results in a relatively short period of time. The number of contracts that may be affected by this change in a large financial services organisation may number in the millions. The use of technology to locate and flag all contracts that contain LIBOR-related terms means that organisations can quickly move through the analysis phase and into the remediation phase with confidence that they have not missed anything.

R&C: To what extent can content intelligence and analytics help to manage particular contract risks, such as those arising in M&A transactions, or in connection with supply chain disruption, for example?

Duff: M&A transactions are extremely data and time sensitive and the cost of overlooking something material can be quite significant to the ultimate terms of the deal. Frequently, contract review is a process that happens at various phases of a transaction and is often limited to a manual process of reviewing the largest and most significant contracts in order to assess legal risk as well as determine an impact on initial valuation

– both positive and negative. The types of things that need to be understood include assignability, liability, indemnity and contract termination clauses. A sampling is done purely due to the time and effort it takes to review a wider range of contracts. Of course, using a contracts analytics solution, this activity could easily be performed more thoroughly. One of the largest efforts in contract review happens post-transaction close, during the integration phase where a deeper analysis must be performed in order to successfully migrate customer relationships to the acquiring company, while identifying any potential operational risk that might disrupt the supply chain.

Fuentes: M&A transactions are typically comprised of three stages: deal identification and screening, in-deal execution and post-deal realisation. Content intelligence platforms equipped with contract analytics play a critical role in the third and final step in the M&A cycle, helping organisations accelerate their time to ROI by onboarding the newly acquired asset in the shortest possible time. A contract analytics platform can consume all of the seller’s contracts, clean the contracts, compare all contracts to the buying company contract terms, and quickly highlight contracts with high risk to key stakeholders to review and remediate. It can also determine areas

of opportunity for a data scientist, as a well as a non-data scientist, to build a model to effectively determine which contract had a price increase and which did not over a set period of time.

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Adlib*

Mackey: Managing contractual risk boils down to the same fundamental challenge – getting broad and clear visibility into your contract content to answer any question you may have. For M&A, it could be about identifying what percentage of newly inherited contracts deviate from the corporate standard, which ones contain risky amendments, whether all contracts are properly signed and valid, and whether there are any unique obligations that need to be managed differently. COVID-19, in addition to spurring new M&A activity, has also had major impact on global supply chains. This has

caused many organisations to ask questions related to obligations, force majeure and similar language that increased contractual risk. Advanced contract analytics equips organisations with the data and insight they need to adapt to market conditions.

R&C: Could you outline the importance of having an effective governance, risk management and compliance (GRC) programme in place to assist with managing regulatory change? Do you believe technology should form a key part of this framework?

Fuentes: As we look forward, it is difficult to think months ahead, given the changing pandemic efforts. The speed of regulatory change will only continue to increase. Change is the only constant. Governance, risk and compliance (GRC) teams need a framework comprised of people, process and technology. With a framework in place, leaders will have the confidence that proper checks and balances are also in place. Technology will be critical to an organisation's ability to respond in a timely manner to protect its assets. SaaS-based, AI-powered content intelligence and contract analytics form the technology element of the framework, giving organisations the confidence they need to navigate and manage regulatory change. In addition, data science for the non-data scientist model is another way to put technology into

the hands of people, allowing them to confidently deal with change effectively.

Duff: Regulated industries have myriad obligations imposed on them, which change both over time and jurisdiction. Keeping track of these obligations and the impact of change is onerous and fraught with risk. In addition to brand damage, very significant fines have been levied against organisations that fail to comply. Leveraging technology is the most effective way to keep track of regulatory obligations and track compliance activities. When contract review becomes necessary, a contract analytics solution is the technology to rely on. AI and ML have been operationalised through content intelligence platforms, in order to consistently identify key terms and clauses and surface anomalies that require deeper analysis.

Mackey: Many organisations struggle to simply put a management programme in place to centralise their content and contracts. Putting a proper GRC strategy in place, with the right combination of people, process and technology, gives companies the confidence that they have proper controls and governance in place to ensure compliance with regulations. Further, it gives them the tools to deal with the ever-changing regulatory and geopolitical environments most find themselves in. Technology is an essential component of the overall framework, giving broad and deep visibility and control over

contractual content and delivering the ability to find, review and remediate all content impacted by global, federal and local regulatory changes.

R&C: Looking ahead, how important will it be for companies to be able to review contracts, agreements and legal documents on an ongoing basis? What are the potential consequences for companies that fail to modernise their systems?

Mackey: Contracts are often the lifeblood of an organisation, representing the legal obligations established between them and regulators. Knowing that change is the only constant, organisations that stick with outdated manual processes or rely on one-time pass through analysis projects are doomed to remaining non-competitive, at higher risk of non-compliance and incurring unnecessary ongoing operational costs. Digital transformation is more than just a buzzword, and it is about more than just using technology to reduce costs through automation and digitalisation. It is about the mobilisation of a key corporate asset – data – and becoming an agile, resilient, modern business able to compete on the global stage, while ensuring compliance for the safety of the company, its people and its customers.

Duff: Organisations will often embark on a contract review process based on some trigger

that creates an urgent need. This trigger could be a regulatory change, a policy change or an M&A transaction. Forward-looking companies will use that urgent need to establish a baseline that will expedite and simplify future contract review events. Simply storing contracts in a centralised repository with strong metadata tagging is an excellent first step. A contract analytics solution can make this approach effective, through identifying contract types, removing duplicates, identifying contracts that may not be fully executed, and then finally by extracting appropriate metadata to ensure the contract can be easily retrieved at a future date. Investing in this type of approach proactively will significantly reduce cost urgency at a future date.

Fuentes: Organisations equipped with the capability to review the health of their contracts to determine risk exposure as often as possible, will continue to de-risk the business. Creating zero risk in organisations is impossible, but being equipped with technology to fuel your processes and feed your people with intelligent contract data allows you to begin to move your organisation closer and closer to zero risk. An AI-powered, SaaS-based content intelligence and contract analytics solution can also help organisations fuel innovation, enhance customer experience and streamline operations. Unfortunately, a failure to modernise will likely see many organisations on their back foot, scrambling to protect their brand and people. **RC**