



Supply Chain Operations & Technologies
 Supply Chain Vendor Compliance
 Fraud Detection & Reduction
 Good Governance
 Turnaround Help

Since January 1996

Oh boy – it seems that things are getting a little confusing when it comes to whether it is a good idea to back up e-mails. On the surface common sense says it's a good idea to do so, but when I read a recent article for a moment I wasn't too sure.

Businesses are expected to back up e-mails. In some circumstances such as Sarbanes-Oxley with regards to public companies the record-keeping requirements may be essentially forever because they are legally required.

E-mail retention and retrieval was a big problem before cloud services. Backup tapes were often reused so a true history of all e-mail from "Day Zero" may not have been possible. If the company migrated from one e-mail application or server to another and did not include the history in the backup and something happened to the old system rendering the e-mails irretrievable it could be a problem. Backup tapes have a fixed capacity so they are limited to how much data they can store, possibly leaving behind very old history deemed not as relevant should a recovery from tape be required. The backup to tape needed to be completed during a quiet period when little e-mail activity was occurring, so the more data to back up the longer the backup would take, a contradiction to be managed by information technology departments. Tapes were not perfect, and a physical tape error could render useless an entire backup.

With cloud storage and virtually unlimited server capacities the problems of data retention and recovery would seem to have been solved, which I would submit they have. But when I read the following piece in the February 12, 2015 Miami Herald newspaper it gave me pause for thought about whether all of this e-mail backup was really such a good idea:

It seems that the United States government is able to use vague language in the Electronic Communications Privacy Act of 1986 that extends protection against unreasonable search and seizure to electronic communications only sent or received fewer than 180 days ago.

The "180-day" rule enables U.S. government officials to treat any e-mails, text messages, photographs, or documents stored on remote servers (a.k.a. "the cloud") as "abandoned" and "therefore accessible using administrative subpoena power, a tactic that critics say circumvents due process" according to the article. This includes anything deleted that may yet still exist on a third-party server.

While some members of Congress are suggesting legislation to close the loophole, some government officials have warned that any such legislation would hamper government civil and criminal investigations by agencies such as the Securities and Exchange Commission which has subpoena but not warrant authority.

In my opinion given the corporate scofflaws that seem to abound any hampering of a regulatory agency's ability to get to the truth is a bad idea. The vast majority of us have no cause for concern about a subpoena to search our old e-mails, and I am still retaining my full e-mail history. But I have little doubt that many corporations are contacting their local lawmakers to close this loophole given the continual business shenanigans that make the news and the proverbial potential skeletons lurking in corporate e-mail closets.

This is not the only instance of the U.S. government dusting off old laws to catch common-day crooks, as mail and wire fraud laws are routinely applied to e-mail scams. Recall that Al Capone served his longest prison sentence for tax evasion:

<http://www.fbi.gov/about-us/history/famous-cases/al-capone>



Visit our web sites:

<http://www.katzscan.com/>

<http://www.supplychainfraud.com/>

<http://www.vendorcompliance.info/>

<http://www.turnaroundhelp.com/>

<http://www.supplychainsox.com/>

Do you know of a company - maybe your own - suffering from disconnected dots?

www.disconnecteddots.com

Let's link!

www.linkedin.com/in/katzscan

Follow Katzscan on Twitter!

<http://twitter.com/katzscan>

Katzscan is on Facebook!

<http://www.facebook.com/katzscan>

Katzscan Inc.

Look for the book --> <http://www.gowerpublishing.com/isbn/9781409407324>



The opinions expressed herein are not intended as any type of financial or legal advice.
Copyright (c) Katzscan Inc.