

Vodafone Global Enterprise Head Finance warns firms to act early on FSA regulation change

As most in the financial sector will probably be aware by now, the FSA is implementing a major legislative change in regard to voice recording law. Since March 2009 it has been required that all 'relevant communications' within the UK finance and business sectors are recorded and stored for six months. The 'relevant communications' referred to voice conversations, text messages, emails and instant messages. However, only voice conversations undertaken on fixed phone lines are liable, those taken on mobile phones are not - for now. Following a lengthy consultation by the FSA, this exemption is now due to be lifted, and as of November 14 2011 all business-related communications on mobile phones must be recorded, and Vodafone Global Enterprise (VGE) is helping companies to make sure they have the technology and means to get compliant.



Matthew Chalk

an integral part of the worldwide telecommunications network, serving the needs of Vodafone business customers all over the world. This month, Lawyer Monthly speaks to Matthew Chalk, the head of VGE's financial sector, about VGE, his role and the upcoming FSA regulation changes.

Talking about VGE's major involvement within this project, Matthew began: "VGE has been involved in this area for around two years. It began due to a number of our clients giving us an early view of what they saw as potential new regulations which would eventually affect them. As their mobility provider they wanted us to look into the regulation change with a view to potentially helping them with this challenge."

VGE has been heavily involved with this project since then, providing the relevant technology to allow mobile calls to be effectively recorded and stored.

Matthew continued: "We entered into a period of consultation with our clients, asking them what they felt was most important for them in any potential solution, should the regulation come in to force. We received quite a uniformed set of criteria in response. Our clients felt that any data should be recorded in their own environment rather than that of any third party, that there should be little or no dependency on the user themselves, and finally, that the solution should have the ability to be taken anywhere in the world, as a lot of our clients are international banks with users who travel all over the globe.

"These responses quite rapidly drove us down a

Vodafone Global Enterprise is a relative youngster in the world of telecommunications. At only half a decade old, it is still very much in its infancy compared to its parent corporation – Vodafone Group – which was established back in 1985, at the very dawn of mobile communication. However despite its youth, VGE is very much

particular path in terms of the technology that was required. It became clear that this should be a device-based solution, rather than a network-based method, in order to allow for quicker and smoother deployment to our users across our footprint."

The implications of not complying with this regulation are so far unclear, and Matthew could only confirm that any firms found to be non-compliant will face 'unlimited fines'. He encouraged firms to act early in deploying their solution to allow for enough time to successfully meet the November deadline. He said: "The important thing we are trying to communicate to our customers is that the deployment of this is going to take some time. There are several elements to implementing this – there is the installation of the hardware in the premises, the connection of this hardware to the existing fixed line recording platforms, and is the subsequent testing of the hardware. There will then of course be an inevitable period of user-acceptance. Therefore we at VGE are very much of the opinion that the end of April should be the cut off point for this, any later than this is probably leaving it too late. It is important for firms to ensure that they allow sufficient time for acceptance, contingency and security policies, in order to be fully and successfully compliant by November 14."

Acknowledging the fact that some companies may be unsure of the specifics of the regulations, Matthew continued: "The FSA regulations themselves do appear to be quite ambiguous, which has caused headaches for many compliance officers. The regulation simply states that 'you must record all relevant conversations', which is very broad. However, it is widely perceived that that means all voice calls, voice mails and text messages, but as for who it applies to is once again very ambiguous. There are some slightly different perceptions, but it is mostly thought that it will affect all traders, corporate banking and private banking relationship managers, and probably several other parts of any global bank."

Matthew is of the opinion that although this is a large project, and perhaps not seen so positively by the financial and business sector at the moment, several positive outcomes will come from this latest change to FSA regulation. He explained: "I think it is fair to say that most of our customers currently see this as a bit of challenge. However, it does have the potential to improve a firm's risk management regime – if somebody is conducting a business conversation on a mobile phone and a customer challenges the transaction or piece of advice, currently that challenge can't be defended, but once the regulation change comes into force, it can be, which can also improve their dispute resolution capabilities. It will also help companies strengthen their business continuity plans, meaning that employees can work away from the office in cases of illness or severe weather, yet still be compliant."

The FSA regulation applies only to the UK, an issue which has the potential to cause problems with cross-border business transactions. Matthew commented: "This is probably one of the biggest challenges within the industry at the moment, in terms of meeting these regulations. When users roam into different countries, there are different privacy regulations. However, last December the EU released a consultation paper leading the committee of European securities regulators (CESR)

to undertake a review looking at, in part, recording obligations. They are proposing to impose an EU-wide telephone recording requirement – fixed line and mobile. Formal regulatory proposals are expected at some point over the next two months, but it is quite widely expected that mobile recording requirements will become EU-wide at some point in the future, making compliant cross-border business a lot easier."

Discussing privacy and data protection issues, Matthew continued: "In putting this solution together we have had to recognise that because there are different privacy regulations in different countries, there needs to be a difference within the solution. One of the key things we have built-in to protect privacy issues is the ability to 'white-list' numbers, allowing calls to this numbers to be directly connected and avoid being recording. By default we white-list emergency numbers, as this is required by law. However, we also give the bank's system administrator (not the user) the ability to white-list up to five personal numbers for each user's device. Currently, there doesn't seem to be much enthusiasm for this within the UK industry, but within certain countries where there are much tougher privacy regulations, we think that that is the sort of thing that will be required in the future."

VGE is keen to make regulatory compliance as seamless and smooth as possible for its customers, as Matthew continued to explain: "The key point to our solution is that there will not be any real impact on the user, they will make and receive calls and messages in the same way as before. The software on the device and the hardware in the firm's base environment will simply allow those calls and messages to be re-routed via the firm's environment and be recorded on those existing platforms. We have made it very integration-light in terms of deployment for institutions; however because of internal security policies and other requirements, such as fixed line connectivity, it is probably still going to take a considerable period of time for complete implementation."

Matthew explained that mobile recording regulations are not exclusive to the financial sector. He said: "The FSA regulations apply to any company that conducts finance-related activities. So, while they obviously apply to traders in the financial sector, they also apply to gas and energy traders for example. If we look back to when the fixed line regulations came in to force, they permeated throughout the whole finance and energy sectors, and then eventually spread into the adjacent industries such as the legal, accounting and government sectors as well. Therefore, this may well be the case with mobile regulations, however only time will tell." **LM**

For more information about the FSA regulation changes, please visit the FSA website at: www.fsa.gov.uk. For more information about VGE, please visit: www.enterprise.vodafone.com



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