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ANALYSIS

Legal Insurer's ChatGPT Warning Is Impacting Law Firms' Generative AI Projects—But Not All

A blanket warning over not using ChatGPT altogether, as issued by one insurance provider, might not necessarily fit with client demands or law firms' own view of the technology.

April 25, 2023 at 06:40 PM

● 5 minute read





When a legal insurance provider offers advice around the risks of choosing one product over another, law firms tend to listen.

Evidently, it's no different in the case of mutual legal insurance carrier Attorneys' Liability Assurance Society Ltd. (ALAS) sending out a bulletin titled "ChatGPT—Not Ready for Prime Time," which recommended its policyholders avoid using the chatbot for legal matters.

Attorneys told Legaltech News that ALAS's warning has had an impact on their firms' generative AI ventures, putting brakes on their AIbased timelines as many were working to integrate generative AIpowered tools into their tech stacks.

Still, it hasn't necessarily had that impact on everyone, with some firms buckling down on the tech's use and saying that the warning was not only shortsighted, but lacking nuance around just how generative AI could safely be used within law firms.

Nonetheless, no matter what decision a law firm derived from the ALAS bulletin, everybody agreed that there is no stopping generative AI's impact on the legal sector in the long term.

Hunter Goolsby, the director of data science, strategy and analytics at Troutman Pepper Hamilton Sanders, told Legaltech News that, while many of the firm's data scientists' "passion projects" are centered around ChatGPT, upon receiving ALAS's bulletin, their general counsel

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did call for a deeper evaluation of the technology.

"We use ALAS and we got the notification that [doesn't quite] say 'you can't use ChatGPT,' but says. 'Hey, be careful here,'" Goolsby said. Shortly thereafter, "our general counsel took the position that we are evaluating the technology right now, [and] in the meantime you cannot use it for any attorney or firm business."

Troutman Pepper, which Goolsby noted is a tech-friendly firm interested in exploring several innovative technologies, said they had been experimenting with ChatGPT's capabilities for business-use cases, like pulling together initial drafts of litigation and reviewing basic elements of complex contracts.

But Goolsby added that "the ALAS [memo] is slowing down our ability to evaluate the technology," primarily because it adds an additional layer of caution, hesitation and waiting periods around each step of using ChatGPT even in an experimental setting.

Risks and Benefits

To be sure, legal insurance providers have always had major pull when it comes to law firms' tech use. Jay Edelson, the founder and CEO of Chicago-based Edelson, said it's largely because legal is a risk-averse sector to begin with.

In fact, one of Edelson's first assignments as a summer associate in 1995 was to evaluate the safety and validity of email communications newly popular at the time. The firm he worked at was also covered by ALAS, and similar to today, "the partners cared a lot about what [ALAS] had to say about email use for [legal matters]." At the time, ALAS did put out a paragraph, saying "email is fine," immediately easing law firms' worries, Edelson said.

ALAS's position on ChatGPT, of course, is likely different from its views on email in the 90s. For Edelson, the latest memo lacks nuance.

"This isn't a knock at ALAS, but [the bulletin] reads like people who don't understand generative AI," Edelson said. For example, the language in the bulletin which outlines that all data put into the system goes back to "the mothership," that is OpenAI, and the privacy concerns that come with it, can be avoided, Edelson said.

Of course, Edelson's firm was one of the first to incorporate OpenAI's tools into its legal work, and is currently developing more solutions using the tech, he said. However, there are ways to "actually negotiate separately with OpenAI and have different data protection agreements," like opting for a closed system where the input data stays within the firm's ecosystem. Additionally, ALAS's warnings around hallucinations may be pertinent if "attorneys were using ChatGPT as a research tool like it's Westlaw, which it's not, it's a content generation tool," he added.

Not all these warnings are unwarranted, Edelson said, since there likely are attorneys who don't understand the concerns are that come with using the tool incorrectly, "so it's a good warning to the general lawyer population."

But he hoped that ALAS might offer guidelines to create internal policies around the specific use cases for ChatGPT, how to use it safely and incorporate it in meaningful ways, rather than an outright warning against using it altogether.

What's more, Goolsby said he expects other insurance providers, regulatory bodies and perhaps even the American Bar Association to step in and offer guidance specific to how law firms can use ChatGPT very soon.

Because, as Edelson said, "AI is here to stay and it is moving forward exponentially."

Indeed, even if Troutman Pepper might have slowed the pace of their generative AI projects owing to ALAS's warnings, they are far from halting them. The firm has launched an internal generative AI education campaign for partners, staff and paralegals, along with drafting protocols around how to pitch use cases to their GC to go about using the technology safely, with their insurance provider's concerns in mind.

Because ultimately, while insurance providers might be speaking to firms' risk averse side, another major player is pulling them in an adventurous direction: Clients.

"I think clients are highly interested in this tech, they see this is the tool to get more value out of their law firms, for doing work more efficiently —which, no matter how high bill rates get—will translate to fewer hours," Gooslby said. Still, he agreed that the technology is not ready to be used across legal as a blanket solution, and that more research and evaluation is necessary. But he added that "clients are really curious," and likely to pave the way for many firms plotting their generative AI plans.

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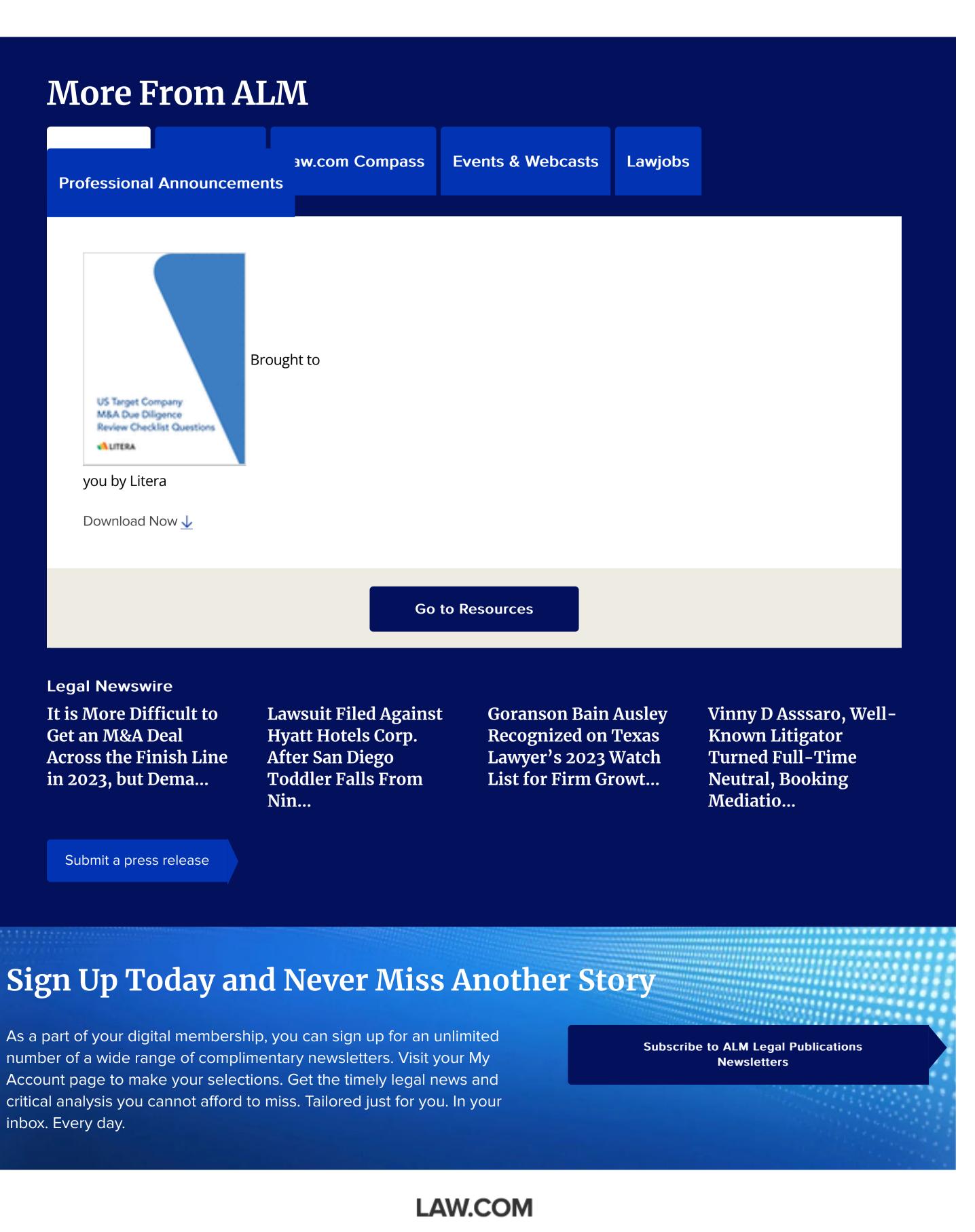
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