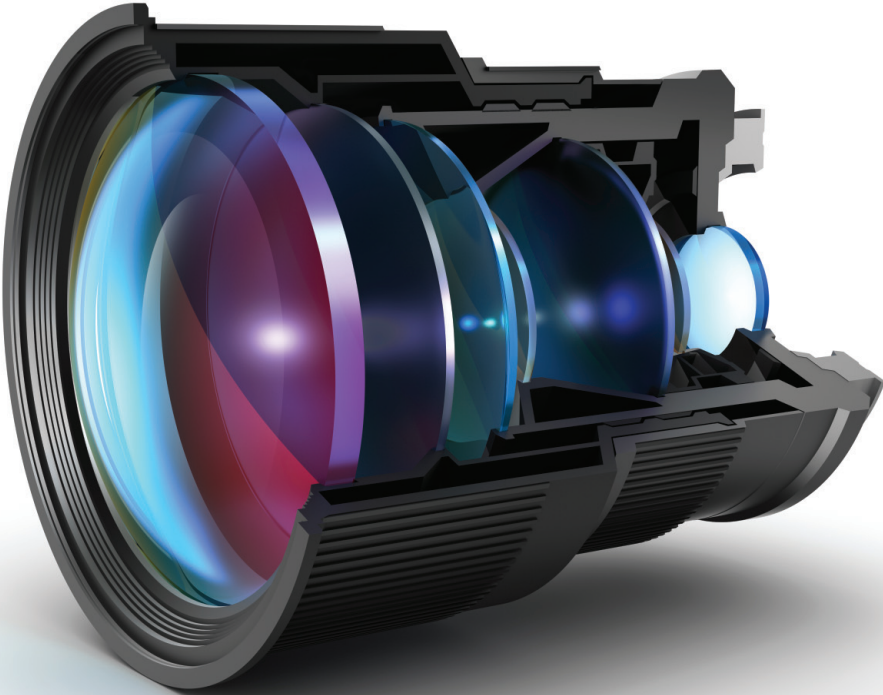


GCC eDiscovery survey
How ready are you?



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Foreword

A company faced with legal issues such as an internal investigation, regulatory action or litigation may need to search across millions of emails, electronic or paper documents held within the business in order to find relevant material and, if necessary to disclose this to third parties. The skills, processes, tools and technologies used to support such an effort are collectively known as eDiscovery. The market for eDiscovery in the US and the UK is well established and largely driven by the legal framework within these countries¹. The Middle East is however not immune from the growing need for eDiscovery. The global eDiscovery software and services market is estimated to grow from US\$3.6 billion in 2010 to US\$9.9 billion by 2017².

The continued growth in the sheer volume of electronically stored information (ESI) and the effect of multi-jurisdictional regulations has raised the awareness and the need for eDiscovery. Deloitte launched its inaugural GCC eDiscovery survey in May 2015 in order to highlight the issues driving the eDiscovery market in the region. Three out of four of the legal practitioners polled expect that the need for eDiscovery in the GCC region will increase.

We distributed our survey to more than 600 in-house counsel, lawyers and litigation support professionals to request their input in building a picture of the local eDiscovery market and to help us to better understand within the region:

- Why, when and where is eDiscovery used?
- What technology is used and what is available locally?
- What are the costs?
- What is the experience of firms, teams and individuals with eDiscovery in the region?

The survey results were launched at the Legal Week Corporate Counsel Forum Middle East in May 2015. Corporate Counsel participants from the region who attended the event were asked to participate in a few questions by way of interactive voting. We have also incorporated the findings from this voting in this report.

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3 out of 4

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Endnotes

1. For example, the US Federal Rules of Civil Procedure, and in the UK, the relevant Practice Directions on Disclosure of Electronic Documents, and the Civil Procedure Rules on Disclosure
2. Transparency Market Research : eDiscovery (Software and Service) Market - Global Scenario, Trends, Industry Analysis, Size, Share and Forecast, 2010 - 2017, July 2014

Why, when and where is eDiscovery used?

41% of Corporate Counsel polled at the Middle East forum indicated that their organisation has had to conduct an eDiscovery exercise for the purposes of an internal investigation, dispute, regulatory matter, or for litigation, most of whom stated that they found the exercise “moderately difficult”

Most Corporate Counsel respondents found that the biggest challenge to conducting a review of documents was that there were too many potentially relevant documents to review (too much data) which speaks to the exploding volumes of electronically stored information accumulated by organisations.



3 out of 4

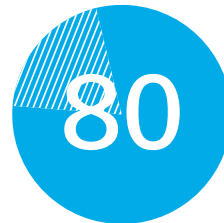
legal practitioners polled in the survey have been involved in at least one matter in the GCC which required some form of electronic document review within the last three years.

The responses received indicated that the majority of cases where eDiscovery had been used were driven by the need to comply with a legal process (e.g. compulsory disclosure) or to find evidence to support the matter.

% of respondents



Comply with a legal process or compulsory disclosure



Find evidence to support the matter

Many of the respondents polled (or their clients), are highly impacted by international regulatory matters such as UK Bribery Act, US Foreign Corrupt Practices Act, sanctions regulations and anti-money laundering. These laws will almost certainly drive the use of eDiscovery within the region.

Sensitivity of data and a desire to keep information locally strongly influences our respondents to choose to conduct and host a document review in the region.

50%

of the legal practitioners polled indicated that at least one of their reviews was located in the UK.

More than 40%

had executed reviews in the DIFC or elsewhere in the GCC.

35%

in the US.



Over 40% of the legal practitioners polled had carried out an electronic document review in the DIFC (Dubai International Financial Centre) or another GCC location. Half of the legal practitioners polled indicated that they had carried out electronic document reviews in the United Kingdom, and more than a third of respondents had conducted reviews in the United States.

Of the types of matters involving eDiscovery, the majority involved litigation (three quarters) or arbitration (two thirds) and investigations (over half). Matters involving due-diligence and regulatory requests were less likely to have involved eDiscovery in the GCC.

More than three quarters of respondents were uncertain, or did not feel, that there were specific issues in transferring data outside of the region for the purposes of electronic document review (for example, due to any legal, compliance or other issues preventing transfer).

What was the location of the electronic document review(s)?

Answer Options	Response Percent
DIFC	41.2%
UAE courts (other than DIFC)	11.8%
Other GCC	41.2%
UK	52.9%
US	35.3%
Other (please specify)	17.6%

% of respondents who are uncertain, or do not think that there are issues in transferring or storing data for the purposes of electronic document review in the following locations:

Within your country	29%
Within the location of your head office	21%
Within the GCC	32%
US	39%
UK	39%
Europe	43%
Asia	39%

What technology has been used and what is available locally?

The results show that the eDiscovery software that has been most used by local teams in the region is kCura's Relativity, however most legal practitioners polled did not have a preference for any specific eDiscovery technology.

Within the region, many reviews had specific language requirements including Arabic, Tamil, Russian, Turkish and Marathi suggesting that the ability to index and search documents in multiple languages is a key requirement of any technology used.

Of the more advanced eDiscovery techniques, on-the-fly document translations and near-deduplication (usually where only the last item in an email chain is required for review rather than every email contained in the chain) were of most interest to the respondents.



What are the costs?

The results would indicate that the majority of cases in the GCC are relatively small (the average case involves a review of between 1,000 and 10,000 documents and data collected for up to 20 people) involving eDiscovery fees of less than US\$50,000. There is a perception that eDiscovery is expensive and in particular not effective for smaller matters. As one respondent states, "eDiscovery is often used when a case is clearly big, but often not used when it starts off small. It would be useful to have a pricing model that allowed smaller cases to use the deduplication and hosting functions. This might work best if there was very little technical support required."

Most respondents seem comfortable with a pricing model involving a combination of per Gigabyte processing or storage costs and hourly rates for technical assistance:



The cost of eDiscovery is perceived to be a major deterring factor for many of the legal practitioners polled. As one respondent states, "usually, only large corporations or cases involving high figures would consider the use of eDiscovery."

What is the experience of firms, teams and individuals with eDiscovery in the region?

Paper still plays a significant role in the region in the eDiscovery process, with half of the legal practitioners polled still relying on manual review of hardcopy files. This is likely to be a factor of the perceived immaturity of document and information management systems of companies within the region. In spite of this, 70% of the respondents had used hosted eDiscovery technology in the last 3 years.

Our respondents indicated that when they have conducted electronic document reviews, the end result is often disclosure to other parties in PDF or native document format, with 76% of legal practitioners polled

answering yes when asked if electronic disclosure was required subsequent to their document reviews.

Even though

50%

of the respondents still rely on manual review of hard copy files (print outs) for a document review

70%

have used hosted eDiscovery technology for a review within the past 3 years.



About the survey

Our GCC eDiscovery survey serves to highlight the use and practice of eDiscovery within the region. By canvassing the opinions of legal practitioners operating in the GCC, the survey examines the overall trends, perception and use of eDiscovery technology and expertise in order to better understand the current market. All responses were provided on an anonymous basis.

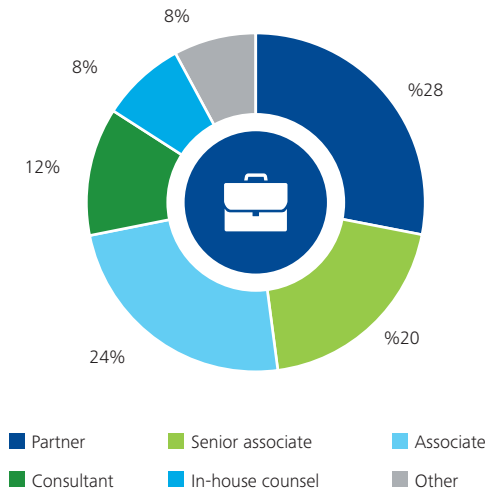
eDiscovery involving electronic document review is critical to litigation, arbitration, regulatory requests or investigations

Respondent profile

The legal practitioners polled work for companies that offer a wide array of legal services and operate mostly in UAE, Saudi Arabia, Qatar, and Bahrain.

The respondents serviced most of the key industries with the majority operating in or for clients in Construction, Financial services, Telecom, Media or Technology, or Oil and Gas.

The respondents had the following job title profile:



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