

Does the emperor have any clothes on?

Thoughts on the EDRM

One of the most prominent topics today in electronic discovery - from both a news and views standpoint - is the EDRM (Electronic Discovery Reference Model) and its XML2 (Extensible Markup Language) project. As a technology marketer by trade, I find that the Electronic Discovery Reference Model provides an excellent way in which to "break down" electronic discovery into components that can easily be described, compared, and considered. In my opinion, George Socha and Tom Gelbmann, founders of the EDRM, have done a superb job in creating a "lingua franca" for discussing electronic discovery. However, a question still exists in the minds of many about the actual long-term viability of the current EDRM approach to its XML standard. While the importance of the standard is championed by marketers across the electronic discovery landscape, does it provide any advantage beyond the marketing hype for consumers of electronic-discovery-related legal technology?

Per the EDRM website, the goal of the EDRM XML2 project is to provide a standard, generally accepted XML schema to facilitate the movement of electronically stored information (ESI) from one step of the electronic discovery process to the next, from one software program to the next, and from one organization to the next. The ESI includes both underlying discovery materials (e.g., email messages and attachments, loose files, and databases) and information about those materials (e.g., the source of the underlying ESI, processing of that ESI, and production of that ESI). While I truly believe in the benefits of technology standards to enhance and ensure interoperability of products and services, I think that the current EDRM approach to XML interoperability is one that may leave a lot to be desired in the area of objective accountability. It is in this area of objective accountability that I might suggest we take a deeper look at the current EDRM XML approach and determine if the "emperor (EDRM XML standard) has any clothes on." This consideration of the "emperors clothes" is in no way, shape, or form "people-centric" in focus, as I believe that EDRM leaders and participants have the industry's best interest at heart. However, the consideration is "approach-centric" in focus and hopefully presents some questions, oft-spoken in private yet never spoken in public, about the EDRM XML project.

Consideration #1: Is the EDRM XML standard coordinated with other industry standards bodies in the technology arena?

The desire for legal XML standardization is certainly a need recognized by legal professionals beyond the EDRM organization. In fact, one of the leading standardization bodies, OASIS (Organization for the Advancement of Structured Information Standards), has a group (LegalXML) focused specifically on legal electronic exchange of information. Yes, that group may not currently have a specific technical group for electronic discovery-related information exchange, but one question I might submit is that if there is a structure in place for the development and evaluation of standards, and if that group already has legal focused technical committees, why would a group set out to develop a standard autonomously from that group?

Is there a technical reason why one would not at least coordinate efforts with such a group? Or, is there an accountability reason that one might not coordinate with such a group?

Additionally, if the focus is on true interoperability, one organization that has a great model for standardization is SNIA (Storage Networking Industry Association). SNIA standards are primarily related to data, storage, and information management and address such challenges as interoperability, usability, and complexity. Considering that law firms, corporations, and governmental agencies have a high propensity to use equipment from SNIA member organizations, might it not make sense to coordinate with SNIA to where the EDRM XML standard might fit in the data, storage, and information management area? Is there a technical reason why one would not at least coordinate efforts with SNIA? Or, is there an accountability reason that one might not coordinate with SNIA?

Based on my current understanding of EDRM coordination activities, it appears that a majority of standards considerations have been more introspective (focused on EDRM participating vendors), than extrospective. With this introspection in mind, I might suggest the emperor (EDRM XML standard) is not as fully clothed as he may like others to believe.

Consideration #2: Does the EDRM XML standard represent the actual needs of legal technology professionals in the field of eDiscovery?

No doubt the working organizations and members of the current EDRM XML2 project represent a great many of the thought leaders in the electronic discovery vendor arena.

However, in developing a standard ultimately designed to help consumers of electronic discovery technology, I would ask how many of the top law firms, corporations, and governmental agencies have even reviewed the standard to ensure it meets their needs? Interoperability between participating vendor legal products and services is great when one is championing the ease of use and integration of products/services with other products/services, but if the interoperability is based on the transfer of standard information between applications/devices, does it not make sense that the information is fully vetted with a representative body of the actual consumers before establishing a standard and beginning to announce vendor compliance with such a standard? Is there a technical reason why one would not at least seek to survey top law firms, corporations, and governmental agencies on what they believe the standard should contain? Or, is there an accountability reason why one would not seek to survey top law firms, corporations, and governmental agencies on what they believe the standard should contain?

Based on my current understanding, it appears that the EDRM XML standard has not been comprehensively vetted with potential end user consumers. With this lack of "vetting" in mind, I might suggest the emperor (EDRM XML standard) is not as fully clothed as he may like others to believe. One argument that could be made is that end users are not interested in spending the time to understand the standard and pronounce their needs concerning the standard. While I agree this is a solid argument, it also begs the question of who is ultimately driving the standardization? (Client needs or Vendor/Group desire?)

Consideration #3: Is there true interoperability testing prior to certifying a product/service as EDRM XML compliant?

With respect to software, the term interoperability is used to describe the capability of different programs to exchange data via a common set of exchange formats, to read and write the same file formats, and to use the same protocols. From a legal technology perspective, is it wise to pronounce a product or service "interoperable" when in fact those services may have never been tested with actual "other vendor" products/services? Said in a different way, does interoperability assume that if Widget A works with Product A, and Widget A works with Product B, that Product A and Product B work together? When one considers the extensive interoperability approach of organizations such as the SNIA Interoperability Committee and Microsoft (Windows Hardware Qualification Lab), I might suggest the emperor (EDRM XML standard) is again not as fully clothed as he may like others to believe.

Consideration #4: Can the EDRM organization be truly objective in evaluating its work and work product?

When you consider that standards organizations such as OASIS and SNIA are non-profit organizations that have elected leaders, it is understandable why they are considered objective in presenting their work and work product. Does that mean that because EDRM is not a non-profit organization and does not have elected leadership that it is not objective? Certainly not. However, I might suggest to you that for industry-wide acceptance of standards and work from standards bodies, it is very important to ensure an organization is viewed as one that is structured for objectivity. Is the EDRM structured in a manner today to portray objectivity? While that is certainly a subjective question, I might suggest that currently EDRM does not appear to be fully objective based on both the fact it does not have elected leadership and the fact that the founders have dual relationships with many of the EDRM participants (as they are very well known and well-respected consultants in the electronic discovery space). Can an organization like this be truly objective? Based on my view, I would say that perception is reality to a marketer and no matter how objective and noble the organization may be, it does need to come across as objective to be viewed as "an emperor with clothes." Again, as I mentioned earlier, this view is based on the current approach of the EDRM toward the XML standard, not the people involved.

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With these four aforementioned considerations in mind, I might suggest that in its current form today, the EDRM XML2 project and its XML standard will not gain wide spread acceptance beyond those organizations that participate purely based on the marketing benefit of participating. I might also suggest that there may become a point when based on acceptance without critique by analysts/media/users, the standard becomes a checkbox in Requests For Proposals and thus might hurt those organizations with excellent products/services that are not compliant with the EDRM XML standard.

Personally, I do believe in the value of an XML standard for the electronic exchange of information among electronic discovery vendors. However, in seeking this standard I would certainly recommend seeking it through the framework of discussion with those who have been down the standardization path before (OASIS/SNIA) and leverage as many of their resources as possible so as not to have to "reinvent" practices/processes. Also, I would recommend seeking to ensure the standard represents what the end user/

consumer requirements are as stated by the end user/consumer. Asking vendors for their thoughts is important - but certainly not as important as asking the end user/consumer. Finally, I would also recommend that the standards are prepared, presented, and evaluated by an organization structured for objectivity. Objective accountability seems to be a common denominator for the success of standards and standards organizations. If past performance is an indicator of future performance, it would make sense for the EDRM to organize to create not only the perception of objectivity, but a structure that lends itself to objectivity.

Does the emperor (EDRM XML standard) have any clothes on? While there may be areas in which I have overlooked and/or am misinformed, if asked today if the emperor had any clothes on, I would have to confess that I don't see any. What do you think?

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