VLP Partner Michael Whitener Quoted in the Law360 Article “NY's 'Right To Be Forgotten' Bill Needs Narrower Focus”

VLP Partner Michael Whitener was quoted in the *Law360* article “NY's 'Right To Be Forgotten' Bill Needs Narrower Focus.” The article reported on proposed legislation by a New York lawmaker that would force online publishers, such as Google, to delete information flagged as inaccurate or irrelevant.

The Right to Be Forgotten Act, introduced by a New York State assemblyman, seeks to empower consumers to demand that search engines, publishers and similar online players remove information that individuals have identified as being "inaccurate, irrelevant, inadequate or excessive" within 30 days.

The article notes, however, that the proposal, which is modeled on a European Union law, fails to consider free-speech rights under the First Amendment.

Mr. Whitener said: "While there are certain limits to First Amendment protections, they don't go far enough as to require the wholesale deletion of material that somebody doesn't like or doesn't agree with how it's expressed. That's the concern with this type of legislation, that it would be abused to curb freedom of expression and suppress legitimate journalism."

"The ironic thing is that EU law seems to be more balanced than this proposed New York law, even though you would think U.S. lawmakers would be bending over backwards to protect freedom of expression,” Mr. Whitener added. “It's likely the New York proposal would have a better chance of surviving if that concept hadn't gotten inexplicably passed over."

He also noted: "It's easy to understand the concern that led to the introduction of this type of legislation and I wouldn't be surprised to see it brought up in other states. But in the U.S. the right to the freedom of expression and journalistic freedom are paramount principles, so unless legislation is just really very narrowly targeted to fixing a well-recognized problem, then I don't think any sort of broad-brush approach is going to fly."

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