

Everybody's Gone Surfin' !?! You Need An Acceptable Internet Usage Policy.

By Puneet S. Kohli

The Internet is supposed to increase employee productivity and is an important resource today for businesses. However, the misuse and abuse of a company's Internet service can all but eliminate the advantages of having it and may result in unwanted risk and liability for the unaware employer.

Unlawful Use

Imagine this scenario: the employee from hell that you never got around to sacking uses his time at work and your company's computer to send out an email virus that intentionally sabotages a star client's computer network. Pretty bad, but even worse is that your now former client is suing your company. Worse still is that a few days later you receive notification from your insurance company that they will not cover you since your employee was using company equipment for an unlawful purpose outside of the scope of their employment. Now that is a scary situation!

Gone Surfing

Here's another. Almost every employee of yours acts as if your company Internet service is there for their personal use during working hours. They send email and instant messages to their friends, they forward inappropriate jokes, and exchange comments among each other regarding various aspects of your business, much of it confidential. They also take full advantage of Web access by planning their vacations, playing on-line games and downloading music. You could be an unwitting victim of employee e-theft, defamation, harassment, employee moonlighting on your time and general 'cyber-slacking'. Have you started calculating the lost productivity and how much this could be costing you annually?

The Proper Safeguards

A lawyer cannot protect you from hiring bad employees but a lawyer can prepare a well drafted corporate Internet policy which may make this nightmarish scenario a whole lot less frightening and manageable.

As The Owner, You Are At Risk

A company without an adequate corporate Internet policy is exposed to many risks and potential problems. As an owner or director, you may be personally at risk.

A sound corporate Internet policy should minimize legal liability and perhaps, most importantly, prevent public embarrassment to the company. At the very least, an employer should consider the following when formulating their internet policy:

1. **YOU are the Boss, Judge and Executioner.**

The most effective corporate Internet policy clearly advises employees of acceptable Internet use and sets forth the disciplinary measures for non-compliance. Penalties for breach should be formally administered and can range from a verbal reprimand to dismissal.

2. **EMAIL – watch what you say**

Email is such an informal form of communication that employees often have the incorrect impression that they can write or send anything from their email account without consequence. This is not the case. Vicarious liability is a real issue for employers. Defamation, copyright infringement, harassment, are just a few examples of employee actions that can impose liability on an "innocent" employer. It is advisable for an employer to prohibit offensive emails in their Internet policies and insert a standard disclaimer in all email messages.

3. Watch out for the Surfers!

The Internet offers a lot of potential distractions and, if used improperly, will reduce a company's productivity. Liability such as workplace harassment can ensue from inappropriate activities like illegal downloading and visiting pornographic websites. In extreme cases it could lead to a criminal charge against the employer as the company owns the computer system!

4. Its Like Reading Your Daughter's Diary

Does monitoring an employee's email and Internet use constitute an invasion of privacy? Perhaps. Tort law can extend to areas considered privacy-related if there is conduct that is found to be especially egregious or invasive. The Criminal Code of Canada deals with invasion of privacy as well and, absent of written notice, employers should not read an employee's email (no matter how interesting or scandalous!).

5. Top Secret! Keep Confidential!!

Internet policies should also address the transmission of confidential or sensitive information. Special steps should be taken so as to minimize risk such as implementing a firewall, keeping confidential files off the network, using encryption technology and passwords.

The Entire Business Suffers

The points above should be taken as basic guidelines. Remember, it may be an employee who commits an illegal act or who uses your Internet service as their personal service, but the whole company is at risk. Be proactive, talk to a lawyer and protect your assets. As for the employee from hell..... a lawyer can also draft an employment agreement with an appropriate termination clause to deal with such undesirable situations.

All of the examples above are real cases that I have been involved in. So if you have allowed yourself to get into a tight spot – there may still be hope of protecting your interests. If you haven't got into that spot yet – think ahead of time and make sure your interests are properly protected.

Puneet Kohli is a lawyer at Simmons da Silva & Sinton LLP in Brampton, and practices corporate-commercial law, with a focus on entrepreneurial ventures, small and large privately held companies and family businesses. He can be contacted at (905)457-1660, Puneet@sdslawfirm.com

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**Fax To: 905.457.5641 or mail to:
Simmons da Silva & Sinton LLP, 201 County Court Blvd,
Suite 201 Brampton, Ontario L6W 4L2**