

GOWLINGS



Blogs, Social Networks and Web 2.0 What's An Employer To Do?

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Program Agenda

- Overview of Technology
- Policy Development Issues
- Examples of Employee Use and Misuse of Technology
 - Business Issues
 - Legal Issues
 - Policy Pointers
- Examples of corporate Blunders
- Suggestions for Corporate Policies

Technologies/Applications

- Email
- Internet
- Instant messages/text messaging
- Blogs, message boards
- Social networking (Myspace, Facebook)
- Game worlds (Second Life)
- Wikis

Technologies/Applications

- Video and camera phones
- Podcasts (Youtube)
- Web applications (email, spreadsheets, document sharing)
- E-meeting and other collaboration tools
- Voicemail/video conferencing
- Always new technologies and applications

“New” Media Communications

- Audiences don't always trust traditional messages and channels
 - Dismissive of “corporate spin”
 - Mistrust of the “organizational voice”
 - Credibility shifting to individual voices
- Audiences have more choices than ever before
 - About 23,000 daily newspapers and news periodicals around the world
 - More than 112 million blogs worldwide

“New” Media Communications

- Audiences taking control of message and medium
 - Organizational role becoming that of influencer as much as authority
 - Relationships are still key, but now we’re selling affinity and not a product
 - Dialogue now the critical element for outreach
 - Candor is respected – and expected

Technology Profile for Gen Y'ers or Net Gen

- 97% own a computer
- 94% own a cell phone
- 76% use instant messaging
- 15% of IM users are logged on 24 hours a day/7 days a week
- 34% use websites as their primary source of news
- 28% own a blog and 44% read blogs

Technology Profile for Gen Y'ers or Net Gen

- 49% download music using peer-to-peer file sharing
- 75% of students have a Myspace or social networking account
- 60% own some type of portable music and/or video device such as an iPod

Policy Development Issues

- Integration & coordination with other policies
 - Overlap
 - Coordination
 - Policy-Proliferation (and confusion)
- Policy v. Cultural First Principles

Policy Development Issues

- Strategic and Tactical considerations
 - Fast-changing environment not yet ripe?
 - Getting ahead of the curve
 - Effect of inherently unreachable standards?
 - Implementation
 - Training
 - Revision/iteration process

Examples of Employee Mis-use

- Delta Flight Attendant: Queen of the Skies
- In 2004, Delta Airlines flight attendant, Ellen Simonetti, was fired for “racy” pictures on her blog in a Delta uniform
- According to Ellen’s blog:
 - Delta refused to say what “inappropriate” means, which pictures (and/or comments) are “inappropriate” and grounds for dismissal
 - All uniform pictures were removed once suspended and she was still fired

Delta Flight Attendant: Queen of the Skies

- A sexual discrimination complaint filed in the U.S.
- “There are TONS of Delta male employees in uniform on the Web, none of whom have been disciplined. Delta’s firing policies are arbitrary and discriminatory”
- “My blog is therapy to me. I lost my mother in Sept. 2003 to cancer and I lost my grandmother to Alzheimers in March. My father was diagnosed with prostate cancer in June. My blog makes me feel good. Delta management knew about all of my recent losses”

Delta Flight Attendant: Queen of the Skies

- **Business Issues**

- Did Delta have a coherent policy or policies in place for addressing this event?
- Did Delta execute that policy or policies in a fair manner?
- Fear of negative public perception

Delta Flight Attendant: Queen of the Skies

- Policy pointers:
 - Have a corporate policy in place which is fairly and uniformly enforced
 - Educate employees to be aware when representing employer
 - Should there be standards for appearance and conduct?
 - What controls and reviews should be in place before an employee is disciplined or fired?

Take away: Stick to what is important!

Wal-Mart's Fake Blogs or Flogs

- 2006 Jim and Laura create a blog called Wal-Marting across America to chronicle their maiden trip in their RV staying in Wal-Mart parking lots
- Glowing reports of happy Wal-Mart employees make some wonder almost immediately whether Jim and Laura are real
- It is quickly discovered that the bloggers and their trip were underwritten by Working Families for Wal-mart, a company-sponsored group organized by Wal-Mart's outside public relations firm

Wal-Mart Flog

- Business Issues
 - Embarrassment and discredit of company
 - Undermine other efforts to improve image
- Legal Issues
 - Deceptive trade practice
 - Disclosure of compensation for word of mouth advertising
 - Spillover impact on other issues which Wal-Mart is before governmental bodies for-Labour Practices, Zoning and Permitting, Health care issues

Wal-Mart Flog

- Policy Pointers

- Is this common sense? How do you mandate common sense?
- What corporate policy should address this?
- Is new media “advertising” reviewed the same way traditional media advertising is?
- Control and checks on PR, advertising firm and other providers

Target Tells a Blogger to Go Away?

- Blogger, Parents for Ethical Marketing: the Corporate Babysitter, who focuses on marketing that targets kids, said an image, which appears on a Times Square billboard, objectifies women
- Target maintains merely part of ad campaign featuring winter activities – like making a snow angel – atop the Target logo
- Picked up by other bloggers and other media

Target Tells a Blogger to Go Away?

- Target advised via email that it has a policy of not communicating with what it calls “non-traditional media outlets” – which includes blogs
- But, target has since said “But we have made exceptions... [a]nd we are reviewing the policy and may adjust it.”
- Reaction mixed: “If you want to be taken seriously by the mainstream population, you need to pick your battles a little bit more wisely.”

Target Ad Comes Down: Early Or According To Schedule?

- **Business Issues**

- Was Target out of touch not to communicate with bloggers?
- Should Target be monitoring blogs, newsgroups, etc. to get potentially valuable feedback quickly?
- Does Target know how to respond to a PR crisis through new media?
- Because of its image as progressive company, are expectations higher?

Target Ad Comes Down: Early Or According To Schedule?

- Legal Issues
 - Are there any? [Gasp]
- Policy Pointers
 - Company needs to understand new media in order to monitor it and be able to respond
 - Company needs to consider and be able to use all forms of media and their impact on Company's message and image
 - Was Target's response appropriate and effective?

Legal Considerations

- Employment Law Issues
- Harassing Behaviour
- Invasion of Privacy
- Surveillance / Monitoring
- Ownership and Protection of IP - Eric
- IP Infringement – patents, copyright, trademark and trade secret

Legal Considerations

- Defamation / Trade Libel
- Advertising Laws
- Reps and Warranties about Products
- Securities Regulator Issues
- Contracting Issues
- Apparent v. Real Authority

Guidelines for Bloggers

- Suggested Employee Policy
 - Keep it simple!
 - Focus on the content!
 - What is your policy about talking in public?
 - Remember some employees may use technology differently than you do

Guidelines for Bloggers

- General Thoughts
 - Have fewer policies
 - Talk concepts and reinforce them
 - Train, Train, Train!

Guidelines for Bloggers

General thoughts on First Principles

1. Confidentiality: covers many evils
2. Privacy of others
3. Respect for others
4. Duty of Loyalty
5. IP considerations
6. Honesty
7. Common sense
8. Don't boil the Atlantic Ocean!

GOWLINGS



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Thank you

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