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The Reopening Playbook: Addressing Key Privacy and Employment Risks

June 4, 2020 | Presented in partnership with the Association of Corporate Counsel, Chicago Chapter

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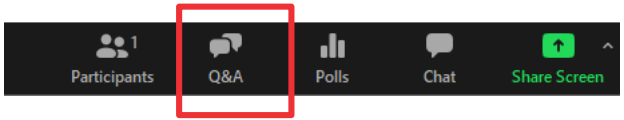

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Trade secrets and key employment risks

Key Considerations

- Protecting company trade secrets when employees are working from home
- React quickly if company trade secrets have been compromised
- Take extra precautions with departing employees

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Protecting company trade secrets when employees are working from home

Protecting company trade secrets when employees are working from home

React quickly if company trade secrets have been compromised

Take extra precautions with departing employees

Key considerations

- Remind employees of their confidentiality obligations
- Establish, distribute, and implement appropriate telework policies
- Use remote monitoring, but stay in compliance with your jurisdiction
- Reiterate cybersecurity hygiene
- Make sure employees have confidential information on only a “need to know” basis

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React quickly if company trade secrets have been compromised

Protecting company trade secrets when employees are working from home

React quickly if company trade secrets have been compromised

Take extra precautions with departing employees

Key considerations

- Determine:
  - What measures are in place to alert you of a breach?
  - How easily can you determine the source of the breach?
  - How quickly can you stop the breach?
  - How quickly can you get information out to employees or other stakeholders?
  - What do you need to do to decrease reaction time?

Take extra precautions with departing employees

Protecting company trade secrets when employees are working from home

React quickly if company trade secrets have been compromised

Take extra precautions with departing employees

Key considerations

- Make sure your policies consider employees who depart from the virtual office
- Require departing employees to sign a certification that they have returned or destroyed confidential information
- If they have access to company information, cut it off
- If they have confidential company information, get it back

Data privacy and security considerations

Key Considerations

- Protecting the workplace by entry checks
- Contact tracing
- Teleworking and remote workforce monitoring
- Vendors engaged in remote servicing
- Rapidly changing business models

Protecting the workplace by entry checks

Protecting the workplace by entry checks

Contact tracing

Teleworking and remote workforce monitoring

Vendors engaged in remote servicing

Rapidly changing business models

Key considerations

e.g. temperature checks, anti-body testing, health questionnaires

- In general, a carefully devised return to work plan is required
- Monitoring of scientific developments is necessary to determine whether implemented measures are still adequate and appropriate
- Voluntary verse compelled reporting

Contact tracing

Protecting the workplace by entry checks

Contact tracing

Teleworking and remote workforce monitoring

Vendors engaged in remote servicing

Rapidly changing business models

Key considerations

- What is the solution and how will the data be collected?
- What data will be collected?
- How will the data be used?
- What to consider when engaging app developers / vendors?
- Be aware of potential regulations

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Teleworking and remote workforce monitoring

Protecting the workplace by entry checks

Contact tracing

Teleworking and remote workforce monitoring

Vendors engaged in remote servicing

Rapidly changing business models

Key considerations

- Need to re-visit the devices which are used and the applicable procedures/policies to make sure the 'home' office is secure as the 'traditional' office
- Training is of essence, and companies must document the training
- In terms of data confidentiality/security, companies should consider exposure also in relation to confidential business information and relevant impact in terms of contractual agreements
- Monitoring of employees in general subject to high requirements due to intrusiveness and impact on employee's privacy

Vendors engaged in remote servicing

Protecting the workplace by entry checks

Contact tracing

Teleworking and remote workforce monitoring

Vendors engaged in remote servicing

Rapidly changing business models

Key considerations

- Agreements with vendors (or with customers) should be verified to make sure the remote working ecosystem is captured
- Allocation of liabilities and SLAs to be scrutinized
- Auditing issues
- Consider any implications on data transfer to third countries
- Consider whether a separate DPIA would be needed for high risk vendors

Rapidly changing business models

Protecting the workplace by entry checks

Contact tracing

Teleworking and remote workforce monitoring

Vendors engaged in remote servicing

Rapidly changing business models

Key considerations

- COVID-19 has disrupted our lives as much as companies' business models
- We've witnessed a sharp increase in use of digital solutions such as e-commerce / m-commerce during lockdown and this trend is expected to continue steadily in the new normal
- The journey towards digitalization had already started pre-COVID and we will now see an acceleration in digital transformation processes across all sectors

Additional resources

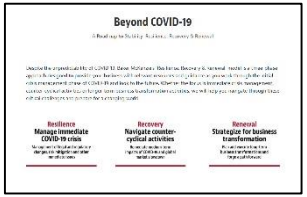
Keep up with the latest developments in data and technology from around the world by subscribing to Baker McKenzie's Connect on Tech blog. Posts and episodes cover a wide array of topics, including data privacy, artificial intelligence, machine learning, digital innovation and other related to disruptive technology. Click here to access.

In this guide, Baker McKenzie lawyers cover 39 jurisdictions and share their high-level views on common questions many companies are facing around workplace safety & prevention strategies and the data protection requirements for testing and health screening.

Request Access

Baker McKenzie is pleased to bring you our 2020 Global Data Privacy & Security Handbook, which provides detailed overviews of the increasingly complex and sophisticated data privacy and security standards in over 50 countries.

Request Access



Baker McKenzie's 'Resilience, Recovery & Renewal' model is a three-phase approach designed to provide your business with relevant resources and guidance as you work through the initial crisis management phase of COVID-19 and look to the future. Click here to access.

Baker McKenzie's **US Shelter-in-Place / Reopening Tracker** identifies the relevant state-wide shelter-in-place orders and their related expiration dates as well as the state-wide reopening plans, and whether local (county/municipal) orders also apply, in each of the 50 United States. Click here to view, and come back for weekly updates.

Subscribe to The Employer Report, where you'll find highly relevant posts, such as Quick Check on Temp Checks, added regularly.

Questions