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Use of Social Media by Employees

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In this age of social networks, the dividing line between private life and public life seems more and more blurred. The same is true of the boundary between individuals' personal and professional lives.

Indeed, headlines in the past few weeks remind us that the personal and professional aspects of an individual's life can sometimes become confused, at great cost to the individual. We are referring here to the employee of an Ontario company who was fired because of his behavior toward a journalist, which was captured on camera and went viral.[1] This incident raised a number of questions on the scope of the rights, powers and obligations of employers and their employees. In fact, there is a conflict here between the employer's need to protect the image and reputation of its business and the employee's right to their sphere of personal autonomy.

In many areas of business, especially information technology, the use of social media is imperative and they play an increasingly important role. Social media enable many businesses to make themselves known, develop their brand, and maintain contacts with customers. However, the use of social media entails some challenges, particularly regarding the manner of their use by employees. Indeed, no employer wants a disgruntled employee to criticize its business, or even the employee's colleagues, on Facebook or Twitter, for all to see. Also, while an employee's conduct, words or writings may be unrelated to his work, there may be clues or indications in his profile or otherwise that can lead back to his employer. Offensive comments made by an employee in a personal context could thereby affect his employer's image. Employees' personal use of company computers is also an important consideration because it can lead to lost time and decreased productivity.

In this context, the employer has a strong interest in being fully informed of its rights and implementing the necessary tools to govern the use of social media by its employees. Accordingly, it is essential to adopt a clear policy on the use of social media. This enables the employer to accurately articulate its expectations of its employees and ensure that they clearly understand them. The employer can thereby take a position on and provide guidelines for the use of social media in the workplace, whether for personal or professional purposes. In doing so, the employer can also, under certain circumstances, reserve a right of access for itself to the contents of computers made available to its employees, which, by the same token, decreases their expectations of privacy. In terms of the professional use of social media, the employer may also determine in advance the information that can be posted online regarding the business and set out its expectations relating thereto. The policy on the use of social media therefore plays a preventive role by making employees aware of the consequences of their actions. Beyond prevention, it also plays a role in controlling troublesome behavior through the imposition of pre-determined disciplinary measures.

Social media should be considered as instruments for developing a business and not as obstacles to the business. To this end, the policy on the use of social media can be viewed as a tool for helping to ensure the optimal and harmonious management of the business.

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[1] ICI Radio-Canada. *The employee fired for uttering an obscenity on camera could sue Hydro One,* May 13, 2015, online (in French)

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