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Facebook Banned In The Workplace – Employer Right Or Unfair Censorship?

Employers have the power to reasonably restrict internet access in the workplace.

On May 2, 2007, the Ontario government took a stand against Facebook, the popular social networking site, by barring its employees from accessing the site in the workplace. This decisive action has raised important issues regarding the extent to which an employer can restrict its employees' use of the internet while at work.

The banning of Facebook is due to growing employer concerns over a decrease in workplace productivity and the posting of derogatory comments causing damage to the company's reputation. These concerns are well-founded as studies show that approximately 2 million Canadians are Facebook users, with 500,000 of them in Toronto. Collectively, Canadians spend an average of 29.6 minutes per day on Facebook.

Courts and employers alike view the Internet in the workplace as a corporate asset which should be used primarily for business purposes. In recent years, excessive use of the internet in the workplace has given rise to "cyber-slacking" – employees who spend their time surfing the internet, abusing company time and money, rather than doing their work,

resulting in tremendous losses to the employer.

The case of *Syndicate Canadien des Communications, de l'énergie et du papier, section local 522 c. CAE Electronic Itee (grief de Petruzzi)* ("Petruzzi"), illustrates an employee's excessive use of the Internet at work, justifying termination. In *Petruzzi*, the arbitrator held that an employee who spent about 300 hours on the internet over a 4.5 month period and claimed 480 hours of overtime over that same period had committed time theft. According to the arbitrator, the websites viewed and the content of the information accessed by the employee was irrelevant; it was the amount of time wasted by the employee along with the claim for overtime pay that justified termination.

Through the use of properly drafted company policies, employers are permitted to establish rules to regulate employee behaviour, including the use of company electronic media equipment, to guard against excessive personal use of company resources or theft of company time and ensure the employer's reputation is not damaged in any way. Workplace Internet policies allow employers to limit or revoke access to sites

such as Facebook along with other inappropriate workplace sites involving pornography, gambling and dating. The policy should clearly address the following issues: (1) the amount of time employees are allowed to spend using company equipment to access non-work related websites; (2) whether an employer can revoke or limit employees' Internet access privileges; (3) whether an employer has the right to ban a website entirely; and (4) the type of Internet access on company equipment which is forbidden.

Thus, employers can exercise their discretion in determining whether certain non-work related websites are appropriate for the workplace and protect their corporate assets by regulating, limiting and revoking workplace Internet privileges through the use of an Internet policy that is clearly worded and consistently enforced. **MB**

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