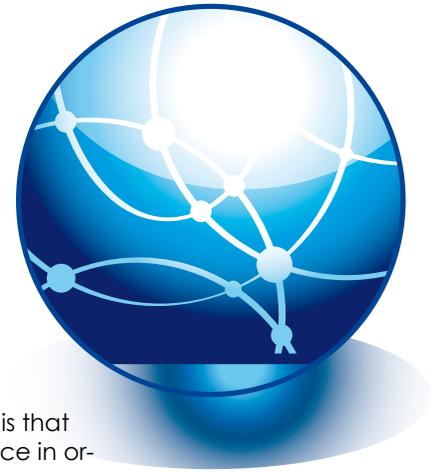


DON'T SAY YOU HAVEN'T BEEN WARNED



Do you surf the internet during working hours? Be careful, because if you abuse the privilege too much the company could fire you.

For a long time now, using the computer resources provided by the company (such as the internet or email) for employees' "private purposes" has provoked many controversies, and will continue to cause a lot more.

The High Court has now established general criteria that should be taken into consideration for these matters. Firstly, all of the resources in question must be work tools provided by the company to the employees with the purpose that they be used for professional purposes, and secondly the employer has to establish the rules of usage for these resources.

It is common practice that the employer will allow a certain margin of tolerance for the private use of these resources, but it is necessary that the employer has informed his employees of the measures that will be adopted, if required, to guarantee effective professional use. Otherwise, the employees' fundamental intimacy rights may be violated.

The employer is permitted to adopt any control measures that it considers appropriate, with the objective of verifying the employees' fulfillment of their employment obligations and duties.

What companies have learned now is that they need an internal code of practice in order to explain to employees what they can do and what they can't do, and to inform them that the use of the computer resources may be controlled. In this way they can protect themselves if an employee chooses to abuse their use of the computer.

This spelled out in the High Court's recent ruling issued by the Superior Court of Justice of La Rioja (May 25 2011). This sentence confirms that it is fair to dismiss an employee who surfs "Facebook" in their working time when established rules are included in an internal handbook. Furthermore, the company in question had warned the employee several times of the consequences his conduct would cause.

If you have been warned that you are abusively using the internet at work you should be careful, because the next time it occurs you could be fired.

Don't say you haven't been warned!



About the author:

Fátima Vera is a labour law and social security specialist lawyer at Lexland Abogados. She regularly advises clients on the drafting and termination of ordinary and senior executives' employment contracts, bonus schemes, stock options, collective bargaining agreements and social security contributions. She also provides companies with guidance on staff restructuring (e.g. collective dismissals, transfers or change of work conditions). Fatima writes a blog at labouradvice.wordpress.com giving legal advice on all Spanish labour matters and is contactable at fvera@lexland.es for any questions you may have.

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