

# It can pay to monitor workplace texting

Guest Column

Brian J. Lamoureux

4/14/2014

A recent study by independent media regulator Ofcom confirmed what most employers are starting to see in their companies: 16- to 24- year olds prefer texting over voice calls and other e-messages. Also, 97 percent of this age group text at least once each day, whereas only 67 percent of this group talks on the phone daily.

Moreover, this demographic is part of Generation Y, or the millennials (individuals born roughly between 1977 and 1994), who comprise the fastest-growing segment of the American workforce today at almost 80 million strong, according to careerbuilders.com. With the expected growth of millennials entering the workforce and their preference for texting over emailing and phone calls, these workers pose several risks in the workplace for employers.

First, text messages are virtually impossible to retain as part of an electronic filing or tracking system. Although there are software programs that allow users to transfer text messages to a computer, these solutions are awkward and onerous. Simply put, there is currently no intuitive or easy way to assemble and archive text messages. In order to save a text conversation on an iPhone, for example, a user must take a screenshot of the conversation and then email that screenshot for later saving or archiving. It's fair to say that employees will not be diligent in saving text messages this way if they routinely use texting as a means of communication at work.

Second, most major wireless providers do not retain the context of text messages for any appreciable length of time. In fact, only Verizon Wireless keeps text-message content, and only for a few days, at most. Therefore, if employees are conducting business by texting, they are

doing so in the ether, with no digital trail. This can cause major problems when disputes arise with customers or one employee accuses another employee of harassment.

Third, texting is often a careless form of communication. How often have you fired off a quick text and wished you could call it back? How often do you have to clarify a text you just sent? These communication breakdowns rarely happen when you send a handwritten letter, or a carefully crafted email. Yet, when we text, we often engage in lazy and poorly thought-out behavior. Employers, therefore, should be concerned when their employees communicate with each other or with customers in this way.

Finally, employees who sexually harass other employees or cause other problems in the workplace know that their company's systems track and store all company-related email. Therefore, these employees are now savvy enough to avoid using email when behaving badly in the workplace. Texting has become their preferred form of communication due to its "underground" nature and their employers' difficulty in tracking and monitoring these communications. As a result, employers have no ability to conduct routine searches or monitoring of their employees' texts.

Employers should have a written policy that prohibits employees from texting when conducting business or communicating with customers or other employees about work. Employees should be required to use their work email address for all business-related communications, no matter how innocuous. This prohibition will also have the added benefit of prohibiting employees from texting anything business-related while driving, which is illegal in Rhode Island and many other states.

Next, if an employee receives a work-related text from a customer or other business contact, the employee should reply to the person via email. Then the employee should take a screenshot of the text, email it to himself or herself, and archive it in accordance with the employer's document retention policy. Until better text-message retention and archiving solutions come to market, this is the best – albeit imperfect – approach.

Employers must tread carefully when asking an employee for permission to inspect a phone that is owned by or paid for by the employee. However, employers who provide (and pay for) phones for their employees to use for work have the right to inspect those phones.

Finally, employers should also monitor the texting volume and billing incurred as a result of their employees' texting.

Quite often, where there's smoke, there's fire, so employers must diligently monitor texting behavior in an effort to spot problems before they grow and become unmanageable. •

---

*Brian J. Lamoureux is a partner at Pannone Lopes Devereaux & West LLC, in Providence.*