



## BLOGGING AND THE WORKPLACE: The Good, the Bad and the Ugly<sup>1,2</sup>

Sherrard Kuzz, LLP Employment & Labour Lawyers

*“Getting to surf the web for 3 hours while being paid: Priceless.*

*Getting to blog for 3 hours while being paid: Priceless*

*Sitting around doing nothing for 3 hours while being paid: Priceless.*

*Installing Windows 2000 Server on a P2 300: Bloody Freaking Priceless.”*

(Blog entry that resulted in the termination of Manitoba Health system administrator Jeremy Wright)

### THE “BLOG”

In the beginning – circa 1994 – the phenomenon now known as blogging was little more than the sometimes nutty, sometimes inspired writing of online diaries. These days there are blogs about almost any subject including: technology, sex, business, music, sports, news and, of course, the workplace. Blog sites are often packed with links, quips, ideas and arguments that only months ago were the near monopoly of established corporate news outlets. In Canada alone, it is estimated that more than 250,000 people maintain some type of blog.

Regardless of the topic, all blogs share two fundamental characteristics. First, they are personal. Second, unlike traditional journalism, blogging seizes the means of production. For as long as journalism has existed, writers have had one route to readers – through an editor and a publisher. Even in the most benign scenario, this process subtly distorts journalism. Blogging bypasses this ancient ritual, and as such, may well be journalism at its purest and free speech at its best.

### Workplace Blogging

It's inevitable – your employees will blog with or without your permission. Although you could clamp down and forbid personal blogs outright, you probably cannot stop them – employees will likely start to post the same comments in an anonymous blog. As such, workplace blogging is in 2005 what email was in early 1990s – an unbridled form of workplace communication that, while potentially very useful, can create considerable risk to employers.

### The Good

At its best, workplace blogging can be an effective and inexpensive means of direct advertising. Good quality blogging can raise your company's visibility and profile and has the potential to reach millions of readers. Sun Microsystems knows this benefit well and has dedicated an entire portion of its website to blogs written by employees. In fact, functional areas such as employee recruitment are a good, non-controversial place to

**Blog:** A short form for “web lot” – a regularly updated online journal of information and opinions.

**Dooced:** The act of having been terminated for blogging about one's workplace.

1. Sherrard Kuzz LLP Employment & Labour Lawyers. *Management Counsel Employment and Labour Law Update* (2005) December, Vol. IV, No. 6. Reprinted with permission.
2. *Disclaimer:* The information contained in this article is provided for general information purposes only and does not constitute legal or other professional advice. Reading this article does not create a lawyer-client relationship. Readers are advised to seek specific legal advice from members of Sherrard Kuzz LLP (or their own legal counsel) in relation to any decision or course of action contemplated.

workplace blog. From the standpoint of a prospective employee a good blog can provide a unique perspective on what it's like to work for your company. A recruiter for Microsoft maintains a blog where she discusses topics including what the company looks for when hiring for certain positions.

### **The Bad**

*What, then, is all the hysteria about the blog?*

In a word blogs can be dangerous. Left unregulated and unmonitored, blogs are devoid of any form of external check or balance. As a result, blogs often claim as fact that which is little more than opinion or speculation. They can also quickly turn into the worst example of the children's game "broken telephone". In the majority of circumstances, readers have no means, and no reason, to question the authenticity of the blogger's statements. As such, much like newspapers but – ironically in the current climate of media distrust – with an air of greater credibility and reliability, blogs can cause enormous damage in a relatively short period of time.

This is particularly true when the blog is a workplace blog. Disgruntled, disenfranchised, angry employees have much to say about their employers. Sometimes the information is accurate; often it is not. Many times it is misinformed or misconstrued and occasionally it contains confidential information. Often it embarrasses or defames the employer.

A Delta Air Line flight attendant was fired for posting to her blog suggestive pictures of herself in a company uniform inside a company airplane.

A former Google employee was terminated over a blog that discussed life at the company, including speculation about the company's finances.

Last year Microsoft got a truckload of bad PR after firing an employee who posted a picture of his blog Apple computers being delivered to Microsoft's Redmond campus – provoking much guffawing among the Mac community. Microsoft said it fired the employee for breaching a confidentiality agreement rather than the blog embarrassment factor.

Recently, during the work stoppage at the Canadian Broadcasting Corporation (CBC), a number of employees maintained blogs attached the employer and attempting to sway public opinion. The impact of these blogs was so disturbing to the CBC that it insisted that the Return to Work Protocol include the clause to read "... [the Union] will encourage ... members to remove, as much as is possible, negative references and material related to the work stoppage from websites, podcasts, blogging, etc. consistent with the CBC and [Union's] accepted journalistic standards."

### **The Ugly**

Although you are entitled to take appropriate steps to protect your assets, including your employees, the situation can become ugly very quickly when the employee's "right to free speech" appears to be under attack. In July of this year, telecommunications giant Telus came under fire when, during a strike of its workers, it blocked Internet access (of Telus users) to two website associated with the union. One site called on striking workers to jam customer service lines while the other posted pictures of Telus employees crossing picket lines to go to work. The company defended its actions as necessary to serve clients and protect the safety of its workers. Still, questions have been raised whether a private Internet provider can arbitrarily and in an unaccountable manner simply shut off access to information.