



# Technology And The Workplace

Insights

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## ***How Email And Texting Are Transforming Business Interactions***

The automotive industry has embraced technology. Most dealerships have installed business development centers, and Internet departments to attract the online shopper, and just about every salesperson knows how to go after potential customers through Facebook, Twitter, and other social media sites. The “e”-experience is not even limited to the sales floor, as more and more dealerships utilize iPads and other tablets to diagnose vehicles in the service drive.

But the conveniences of technology do not come without problems. While texting may be an easy way to contact your boss, coworker, or customer regarding an upcoming delivery, it fails to satisfy many of the legal requirements for completing a sale and could actually expose the dealership and salesperson to potential liability.

Likewise, casual text exchanges among coworkers and customers may have seemed harmless when they were sent, but can take on new meaning or significance in the face of workplace bullying or harassment claims. And, while an electronic text message may appear to be an easy way for employees to “document” a request for leave or vacation, or to let you know that they’re running late, texts are easily lost and (surprisingly) not so easily retrievable, making it difficult to “prove” what you know was done. Finally, texting, emailing, or posting certain information may implicate serious privacy concerns.

### **“Let Me Text You A Deal”**

A text is a simple way to reach out to someone you haven’t spoken to in a while – it takes less than a minute to check-in with a simple “How R U?” However, if the text message includes anything that could be considered a sales pitch, service reminder, or other solicitation, it may implicate the Telephone Consumer Protection Act (TCPA) or the Controlling the Assault of Non-Solicited Pornography and Marketing Act (CAN-SPAM), which restricts telemarketing calls, including text messages.

It is unlawful to send text message solicitations through an autodialer. Sales people and service advisors can run afoul of the law if they send unwanted emails or text messages to customers which advertise a commercial product or service without prior express written consent. Notably, these rules do not prohibit “transactional or relationship” messages, that is, messages that are intended to facilitate a transaction that an existing customer has already agreed to.

But the regulations make clear that texts are not always an appropriate way to reach out to dealership customers, no matter how frequently texts are used to communicate with people outside of the work environment. Employees who rely on the use of text messages to prospect for new business should think twice about their marketing methods.

### **“It Was Just A Joke!”**

Text messages can also create problems among coworkers. What one person may construe as a casual joke or playful comment, another may deem offensive. These days, sexual harassment (or other illegal discrimination) claims are often founded on inappropriate messages or pictures sent via smart phones, Facebook or Snapchat.

So it's important for employees to remember that just because comments or jokes are exchanged via text message or online (or even after hours or on weekends), they must still be tasteful and appropriate. Employees who receive offensive or otherwise distasteful messages from coworkers, customers, or vendors are encouraged to bring the messages to their managers' attention. Dealerships should deal with inappropriate or offensive text messages or online posts just as if the comments were made in the dealership. Employees who send these messages may be subject to termination, even if it was “just a joke!”

### **Protect Your Information**

The increased use of technology also increases the possibility that confidential or private information may be shared or stolen. To state the obvious, when private information is being sent, received, and stored over a smart phone or tablet that the employer does not own, then the specter of data loss is present. This risk can come from individuals who are actively trying to misappropriate private information, or from an employee who inadvertently loses the information.

Either way, it's important to protect the privacy of information stored on employee smart phones and tablets. Some employers take the simple step of requiring employees to activate passcode protection on their devices, a procedure that costs nothing but greatly reduces the chance of losing private information. Others download an application that allows them to shut down or access a device when it is lost or stolen. Regardless of which option you choose, employee devices need protection measures in place to ensure that private company information is not lost or stolen.

### **Conclusion**

As the law continues to evolve to address new technology and the issues that arise with it, employees and dealerships are advised to consider which technology is appropriate... and when it may not be such a good idea.

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