



Whose Data Is It, Anyway? BYOD Policies at Work

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As a result of rapidly changing technology, many employees are shedding corporate-issued cell phones and computers in favor of using their own smartphones and tablets for both work and personal purposes.

This new phenomenon — commonly referred to as bring your own device (BYOD) — does have its benefits, yet it also creates a number of legal challenges. For employees, it may result in greater efficiency, fewer devices to manage and the ability to use the most up-to-date technology. For employers, it presents opportunity to reap substantial benefits from lower costs in software, hardware and IT support. But for in-house counsel, it raises a host of legal and practical issues, and an ounce of prevention is certainly worth far more than a pound of cure.

Smartphones, tablets and other personal electronics often contain huge amounts of personal data. When those devices go from personal property to tools of the trade, employers and employees must understand where the privacy lines fall between personal versus work-related information.

Employers must balance their needs to monitor employee usage, employees' privacy concerns, and the risk of legal liability or economic loss. Prior to implementation of any BYOD policy, the legal department should educate employees that they may have a limited or even nonexistent expectation of privacy related to information sent to or stored on personal devices used for work.

The Federal Trade Commission requires companies to provide reasonable security for technology infrastructure. As the BYOD trend spreads, in-house counsel face challenges as their companies relinquish control of such devices but remain accountable for use and misuse.

Now is the time to establish security and privacy policies governing employees' use of their personal devices for work functions. Attorneys must counsel their clients about the importance of educating, informing and training employees about privacy, security and evidence-recovery implications associated with use of personal devices for work. All is not yet clear about the boundaries of a BYOD workplace, but those parameters likely will be hashed out at the courthouse.

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