

# ISPIRIAN INSIDER

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## Closing Pandora's Box

*An effective electronic use policy, combined with computer forensics, can help prevent employee misconduct.*

Organizations purchase computers and other electronic equipment to increase productivity and improve customer service — but that doesn't mean that's all the equipment is used for. Employees tend to assume a degree of "ownership" of the devices on their desktops, and use them to some extent for personal reasons.

Employers generally don't mind if employees use their PCs to surf the Internet now and then or even play an occasional game of Solitaire. It's just when employees go beyond an employer's "limits" that problems arise. That's why it's important for organizations to establish an acceptable electronic use policy and to communicate it properly to the staff.

"Employers should establish policies governing the use of electronic equipment for the same reasons they should establish any employment policy — so that employees understand what the employer's expectations are," said Bradley G. Kafka, Chairman of the Labor and Employment Department of Gallop Johnson and Neuman, L.C. "Typically, such policies will emphasize that electronic equipment and software are provided for business use consistent with any licensing requirements. Of course, most policies recognize that some limited personal use is permissible

as long as it does not detract from work, does not use other people's intellectual property and is not otherwise unlawful, inappropriate or in violation of the employer's policies."

### Beyond the Internet

Often overlooked, detailed policies on the use of computers within an organization are an ever-increasing neces-

While it seems very straightforward, an electronic use policy must be carefully drafted to be effective. It's very difficult for employers to create such a policy themselves without the services of qualified legal counsel.

sity. Corporations and government agencies are racing to provide Internet access to their employees.

When most of us think of the potential for misuse of electronic equipment in the workplace we think of accessing inappropriate Internet content. Internet access can open a Pandora's Box of problems: lost productivity, creation of a hostile work environment, etc. However, misuse of electronic equipment goes beyond the Internet, and electronic use policies should extend to all electronic equipment, including telephones and fax machines, and to any use that might potentially harm the employer.

"Obviously it is inappropriate to display sexually explicit images or make comments that are hateful in some way. The electronic use policy extends those rules to electronic equip-

ment," Kafka said. "If the policy is drafted well, the employee could not use the excuse that accessing pornographic sites was not time-consuming and or distracting from work."

Kafka says another key purpose of an electronic use policy is to establish that the employee typically has no expectation of privacy when using employer-owned equipment.

"Employees often have an incorrect impression that the things they communicate electronically are private," he said. "That is almost always incorrect but in order for an employer to protect itself against privacy claims it is important to state specifically that the employer reserves the right to access anything that comes through its computers or servers or through the use of its licensed software. The same holds true with respect to the use of telephones and other equipment."

### Avoiding the Pitfalls

While it seems very straightforward, an electronic use policy must be carefully drafted to be effective. It's very difficult for employers to create such a policy themselves without the services of qualified legal counsel.

"Employers typically are not familiar with the legal challenges that can arise," Kafka said. "We help our clients draft policies that will enable them avoid claims with respect to allegations of harassment or other inappropriate conduct by their employees. Such policies also allow them to access the information they need to without fear of an invasion of privacy claim."

Kafka also recommends that the electronic use policy be combined with routine, periodic assistance from a competent, third-party forensic computer examiner to verify that the policy isn't being abused.

"In many cases, employees assume

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# Fine-Tuning Performance

*Executives want IT tools that help them respond to change.*

The July 10, 2006, issue of Fortune magazine takes aim at former GE CEO Jack Welch's time-honored business wisdom, trumpeting that business rules have changed. Most executives would agree that change is about the only rule in business today, and many are dissatisfied with their organizations' ability to respond to it.

IT is, in part, to blame, according to a recent study by the Business Performance Management Forum and webMethods. While recognizing the strategic role that IT can play in addressing today's business paradigm, respondents indicated that IT often fails to keep pace with business demands. Some three-quarters of executives from companies with more than \$500 million in revenues said they are not satisfied with their organizations' ability to respond to change. Forty-five percent of these executives believe that their IT departments are either having "significant difficulties" keeping pace or "can't keep up at all."

At the same time, however, IT matters

more than ever. Some two-thirds of all respondents, and more than three-quarters from larger companies, said IT plays an important role in helping them maximize business performance. Only about 10

percent of respondents — and 5 percent among larger companies — said IT was "not very important."

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percent of respondents — and 5 percent among larger companies — said IT was "not very important."

"Executives in our study were consistent in their need to better grapple with business change," said David Mitchell, president and CEO of webMethods. "Specifically, they recognize that the increasing pace of change requires a new model that allows them to more readily transform operational insight into better business performance. The other key finding is that IT — despite current challenges — is viewed as critical to achieving this

## Gaining Insight

Executives are looking to IT to not only collect, process and organize data, but provide near-real-time metrics that help them pinpoint how they are doing and, more importantly, what they should be doing and why. Nine out of 10 executives from the largest U.S. companies say they need stronger business intelligence capabilities that provide better analysis of and insight into their operations if they are to grow successfully in an uncertain economic and political environment, according to a recent survey by Accenture.

A recent report by AMR Research found that spending on performance management (PM) tools will increase to nearly \$23 billion in 2006, with more spending on dashboards and business intelligence (BI) and less on analytic applications. The dashboard and scorecard segment will grow to \$5.22 billion in 2006 — corresponding with a growth rate of 26 percent.

"Not surprisingly, the dashboard and scorecard segment is on fire," said John Hagerly, vice president, research, at AMR Research. "As companies strive to expand the use of PM across the business, dashboards are appearing in all manner of forms, from dedicated products to components of other applications."

BI will also grow substantially, reaching \$6.35 billion with a growth rate of 10 percent. This upswing is due in part to a new generation of products available from best-in-class vendors and the introduction of new and expanded products from enterprise and technology platforms. Spending on analytics applications has dropped substantially, by 17 percent.

## Garbage In, Garbage Out

These tools all fall into the category of performance management, defined by Gartner as "an umbrella term that describes all of the processes, methodologies, metrics and systems needed to measure and manage the performance of an organization." It sounds simple enough

but in practice it can be highly complex due to the sheer volume of business performance data available and the challenge of tapping and correlating disparate data stores.

"The biggest impediments companies report in deploying PM are access to enterprise-wide data and data from customers and suppliers outside of the firm," Hagerly said.

Organizations are swamped with data — particularly in the wake of data-retention requirements of recent legislation such as Sarbanes-Oxley, HIPAA and Basel II. Gartner analysts recently reported that most companies have about 200 data sources and much of it is poor quality and inconsistent. Only 30 percent of organizations are using their enterprise resource planning (ERP) systems in ways that support performance management.

As a result, many organizations routinely base important decisions on remarkably inaccurate data. Only about 30 percent of respondents in the BPM Forum/webMethods survey said they have the ability to frequently access real-time insight into operations and business processes. IDC estimates that poor data quality costs global business more than \$600 billion every year.

## IT's Role

The leading pain points requiring real-time information access include a need for improved competitive intelligence, more accurate customer information and better performance metrics, according to the BPM Forum/webMethods study. The study proposes a new model called the "Alert Enterprise" that emphasizes the emerging role of IT in sensing operational performance and market change, assuring business agility, and driving market distinction.

Executives want IT to be more strategic in its thinking and more integrated in its approaches. Specifically, participants indicate that their IT Dream Team would be: 1) flexible and responsive in delivering applications, 2) performance-driven and outcome-oriented, 3) understanding of strategic business needs, and 4) a leader in taking the initiative to bring new ideas to the table.

"The Alert Enterprise Audit indicates there is still a significant gulf between the expectations of business executives and the capacity of IT departments to keep up with demand," said Dave Murray, a BPM Forum executive and co-author of the report. "Closing the gap is an essential requirement for becoming an Alert Enterprise."

## Business Intelligence Takes More Than Just Technology

Understanding an organization's business objectives and metrics is the cornerstone on which to build a successful business intelligence (BI) initiative, but too many organizations risk failure by focusing too much on the technology, according to Gartner.

"Through 2009, overcoming complex organizational dynamics and having the skills to use business intelligence more broadly will become the most significant challenge to the success of business intelligence initiatives and implementations," said Betsy Burton, vice president and distinguished analyst at Gartner. "Best-in-class organizations focus on business objectives and use a business-driven approach to define and scope their people, process, application, technology and/or services strategy."

Business intelligence is more than just using reporting, querying and online analytical processing tools to gather and disseminate information for senior managers to make decisions. It is about driving broad business impact, positive change and higher performance across a diverse group of people, and supporting the processes, applications, organization and technol-

ogy to make that possible.

Defining and supporting a Business Intelligence Competency Center (BICC) is the key to ensuring that an organization is gaining maximum business value from its investments. A BICC focuses on several key aspects, such as the justification, scope, budget and technologies/services that should be dedicated to creating a sustainable business intelligence initiative. In addition, the BICC helps evangelize the business value and also educate and train users.

The BICC consists of business people throughout the company, business analysts and the company's IT "gurus" working together to drive and balance the appropriate business intelligence evolution. By 2009, more than 60 percent of global 2000 companies and government agencies with cross-enterprise, strategic business intelligence initiatives will have formed BICCs, according to Gartner.

"Demands of the competitive environment mean that business intelligence will become more pervasive across business applications and processes, supporting an increasingly diverse set of users," Burton said.

## Microsoft to Play Nice

Microsoft announced in July that it is adopting voluntary principles to guide development of its flagship Windows operating system in order to ensure choice for computer manufacturers and customers and guarantee that software developers will be able to create applications that run on top of Windows.

Those principles include allowing computer makers to set Google and other non-Microsoft search engines as a default, and allowing OEMs to remove any Microsoft products when shipping a PC with the Windows operating system. Microsoft also said it will release all of its software application programming interfaces (APIs) for programs such as Microsoft Office — not just middleware APIs as required in the 2002 antitrust settlement with the U.S. government.

## New AIM is All Business

AOL recently launched a free instant messaging application for business users. Designed to legitimize IM as a business tool, AIM Pro Professional Edition integrates with Microsoft Outlook corporate directories and calendars, and offers quick access to business conferencing services from WebEx Communications.

Although around 14 million people already use AIM as a daily business tool, there has been nearly universal security concerns about such ad-hoc implementations in a corporate environment. AIM Pro addresses many of those concerns. Unlike the public AIM Triton client, AIM Pro does not include any advertisements, and it encrypts messages and scans them for viruses.

## Closing Pandora's Box

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they can get away with things because no one can trace their activities," Kafka said. "However, a forensic computer examiner can almost always figure out who is involved. Prevention is a big part of labor and employment law and anything that can be done to identify potential problems before they arise is very worthwhile."

### Gathering, Preserving and Presenting Evidence

More and more employers are using software that blocks access to certain types of Web pages or monitors Internet usage. However, such programs cannot control all inappropriate activity and may not provide the evidence an employer needs to take disciplinary or legal action.

"Computer forensics is the application of the scientific method to digital media in order to establish factual information for subsequent legal or administrative review. This process often involves investigating computer systems and digital media to determine whether they are or have been used for illegal or unauthorized activities. It can be a very effective and reliable means of finding electronic use policy violations," said Tom Smith, CEO of Ispirian, Inc., forensic computer examiner and a member of the American College of Forensic Examiners Institute of Forensic Science (ACFEI).

A competent forensic computer examiner is a professional investigator who will ensure that any evidence collected can be used for litigation should a situation rise to that level. Lacking proper forensic investigative training and experience, even proven, computer-literate professionals can cause otherwise recoverable files to become unrecoverable. Important evidence can be tainted or simply overlooked.

"I recommend that companies seek the assistance of a trained and qualified computer forensic specialist — not a downloaded software program or an untrained 'computer expert' — before exercising any sensitive computer examination activities," Smith said. "Even something as simple as turning on or continuing to operate a computer suspected of misuse can render a great deal of data on the hard drive unusable, or at least extremely expensive and time-consuming to recover."

Employers don't like to think that their employees would misuse electronic equipment. At the same time, however, it's naive to assume that employees would never access inappropriate content, infringe upon intellectual property or otherwise place their employer in legal jeopardy. To prevent such circumstances it's essential that employers establish an electronic use policy and utilize the services of a forensic computer examiner to ensure the policy is being followed.

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