MORRISON FOERSTER

Legal Updates & News Bulletins

Rise of the Cyber-Slackers: How Web 2.0 and Generation "C" Could Transform the Workplace December 2007 by <u>Christopher Hodson</u>

Employment Law Commentary - December 2007



It will not be news to employers that over the past few years online technology and culture have evolved in remarkable and, perhaps, unexpected ways. Nor will it be news that these advances have brought with them new questions and concerns regarding the role of the Web in employment matters. To date, however, the focus has generally been limited to issues such as work-blogging, inappropriate employee online conduct, and employers using Google and social networking sites such as Myspace and Facebook to inform recruiting and hiring decisions.

To be sure, these are important issues that merit continued discussion and action. For the most part, however, these issues are mere effects of a broader cultural transformation that promises to usher in a new era of creativity, collaboration, productivity, and information in the workplace. Although existing research and commentary on the topic are somewhat sparse, a number of commentators suggest that the next – and, to some extent, the current – generation of young workers will seek those employment opportunities that encourage and facilitate a work environment that enables them to use the online tools, skills, and communities to which they have grown accustomed.[1] Accordingly, employers that recognize the potential benefits of embracing not only new Web technologies, but also the culture that accompanies them, will be poised to reap those benefits.

An Inseparable Bond: Web 2.0 and Generation "C"

The evolution of online technology since the turn of the millennium has been extraordinary. Indeed, so significant is this transformation that the technology behind it is often referred to as "Web 2.0". With the arrival of Web 2.0 technology, the ordinary user's online experience has been transformed into one where individuals can network around virtually any idea, interest, or purpose; co-create content, services, and products (both virtual and corporeal); disseminate and acquire vast amounts of knowledge and information; and develop and implement new tools and resources to further facilitate the same.

One commentator explained Web 2.0 thus:

The most recent noteworthy transformation of the WWW is commonly referred to as "Web 2.0", a transformation so profound it marked the unprecedented ability of ordinary users to get more involved in creating online content.... The main feature of Web 2.0 is that internet users with limited computer skills no longer are limited to being mere passive recipients of web-based information. Blogs and other forms of Web 2.0 technology represent a huge shift in how users apply the internet. This represents a different way by which the internet can be explored by individual or collectivized workers.[2]

Most existing Web 2.0 technology was developed and is used primarily for purposes not directly related to employment, such as social networking and political activism. However, it is clear that this is changing, as individuals begin to experiment with ways of using Web 2.0 to improve all aspects of everyday life, including employment.

http://www.idsupra.com/post/documentViewer.aspx?fid=f1774ae6-954d-44a2-bbd9-547e9af3659b generation C (or "Gen C") is a term used to describe generally the substantial – and growing – sector of the population that uses Web 2.0 in any of the ways mentioned above. Wikipedia – one of the earliest and most prominent examples of Web 2.0 in action – describes Generation C thus:

Generation C...is the label given to a new generation by trend spotters, media commentators, technology industry observers/CEOs and semioticians.... The American Press Association's Media Center describes Gen C as "creating, producing and participating in news in a connected, informed society.".... Generation C could be said to comprise the people who use Web 2.0, create user-generated content and participate in the co-creation of products and services.[3]

Beyond the co-creation of products and services, Gen C appears determined to reform social norms and institutions that it believes are, for one reason or another, operating within an outdated framework.

But the most important characteristic of Generation C is, arguably, its view of and relationship with the Internet (in any of its iterations – past, present, or future). To Gen C, the Internet is inextricably intertwined with not only their daily lives, but also their very identities. Indeed, as one commentator recently observed, "Individuals are beginning to discover there are two versions of themselves: the corporal and the digital."[4] Furthermore, it is becoming increasingly clear that the "digital self" is comfortable with an unprecedented level of public disclosure of personal – often very personal – matters.

Web 2.0, Generation C, and Employment

Employers have already seen this in the context of social networking sites and employee blogging. For example, at least one research study suggests that roughly half of all employers are already using Google searches, as well as social networking sites like Myspace and Facebook, to vet prospective employees.^[5] Hiring decisions are among the most difficult decisions employers regularly must make, and the traditional means – resumes and interviews – are at times insufficient in helping employers find what they want: employees who are productive, reliable, and motivated, and who are generally the right "fit" for the company.

Perhaps not surprisingly, many employees report the same frustration with the process of obtaining employment. And, like many employers, employees are turning to the Web to obtain the information they feel they require to make informed decisions. Websites, blogs, and other Web 2.0-fueled forums dedicated to employment issues are gaining in popularity, and are becoming increasingly adept at putting more information and collaborative networks into the hands of those who seek them.

The website "Employee Evolution," which was launched in early 2007, is just one example of an employment resource developed and used by Gen C, and powered by Web 2.0. Employee Evolution's mission is summarized on the site's "About" page:

Employee Evolution is dedicated to helping the millennial generation answer the hard-hitting questions that come with the biggest transition of our lives.

By creating an opportunity for open dialogue, we hope to shed light on the real wants and needs of young people entering the workforce. Success is dependent on outspoken millennial voices who can engage employers to actively listen. Employee Evolution gives managers and HR professionals a glimpse into the millennial mindset – straight from the source.

The proprietors of Employee Evolution guarantee insightful, thought-provoking columns every day, but recognize that we are just a miniscule sample of the largest generation to enter the modern workforce. We respect the thoughts and ideas of anyone and everyone who wants to share. Real change can't transpire from two guys who went to the same school and share the same name. It comes from a community of dialogue.[7]

As the statement quoted above indicates, much of what Gen C apparently wants in an employment relationship is a more collaborative, community-oriented work environment. This is to be expected – naturally, individuals who fundamentally view themselves as "plugged in" to collaborative online communities will expect to see similar collaborative structures – whether online or offline – at work.

The ways in which an employer might begin to create a Gen C–friendly environment vary, and certainly do not relate exclusively to Internet and technology use. For example, W.L. Gore, which has been spotlighted on Employee Evolution as a millennial-friendly employer, implemented the following policies:

- There are no job titles. All employees are "associates," and upper-level employees are also referred to as "sponsors." A sponsor, in his or her capacity as such, is to assist other associates in identifying where in the company they will be most satisfied and productive.
- There is no bureaucracy with respect to expressing and developing new ideas. For example, any
 associate who thinks up a new product idea is permitted indeed, encouraged to find other
 associates who are interested in assisting and developing the idea.
- The only way for an associate to be promoted to manager is by finding other associates who agree to work for him or her.[8]

The work environment at Gore, which in many ways mirrors the Gen C/Web 2.0 online environment, appears to be paying off – the company receives 38,000 applications for employment annually.[9]

Conclusion: Friend or Foe?

Individuals – both in and out of the employment context – always have the choice to engage in unhelpful, inappropriate, or illegal behavior. To be sure, new technology brings with it new risks of such behavior, and Web 2.0 is no exception. There are, however, potential benefits to inviting certain aspects of the Web 2.0/Gen C culture into the workplace, and time will tell whether those who predict that the benefits will far exceed the potential risks are correct. Yet one thing is clear – employees are increasingly using Web 2.0 in highly creative ways for a range of employment-related ends. Rather than regarding Web 2.0 as primarily a means of online misbehavior and cyber-slacking, employers should consider how best to tap into Generation C's and Web 2.0's networking, collaborative, and creative abilities. The limited evidence that is available suggests that few employers are currently tuned in to the benefits of embracing the new era of online technology and culture, which means there is a wide window of opportunity for employers to place themselves at the forefront of this techno-cultural phenomenon.

[2]: James Richards, Unmediated Workplace Images from the Internet: An Investigation of Work Blogging 3 (2007), *available at* http://www.esnips.com/doc/efbc63bc-0810-4124-a83da82a4a6d6da3/J Richards paper 112.

[3]: Wikipedia Page for "Generation C", http://en.wikipedia.org/wiki/Generation_C (last visited December 20, 2007).

[4]: Robert Sprague, *Googling Job Applicants: Incorporating Personal Information into Hiring Decisions*, 23 The Labor Lawyer 19, 28 (2007).

[5]: It is likely that many if not most employers have had some firsthand experience with the dilemma this has created. On the one hand, the transparency created by Web 2.0 can provide employers with previously unavailable and potentially useful information about an applicant or employee. Many employers view these new information resources as invaluable aids in making employment decisions, especially with respect to avoiding liability for negligent hiring. On the other hand, employers are generally advised by prudent employment counsel to proceed with caution when using the Internet to gather intelligence on applicants and employees. This advice is rooted in the dearth of developed legal doctrines governing these still-novel issues, and a number of existing state laws that prohibit generally employment discrimination based on "lawful off-duty conduct," such as tobacco and alcohol use, that is unconnected to an employer's legitimate business interests.

[6]: See generally James Richards, Workers Are Doing It for Themselves: Examining Creative Employee Application of Web 2.0 Communication Technology (2007), *available at* http://www.esnips.com/doc/649bbecc-2acb-4489-b79b-9542a119cea8/J_Richards_WES2007.

[7]: Employee Evolution – About, http://www.employeeevolution.com/about/ (last visited December 20, 2007).

[8]: Employee Evolution – Work at W.L. Gore, http://employeeevolution.com/jobs/wl-gore/ (last visited December 20, 2007). See also Patrick J. Kiger, Small Groups, Big Ideas, WORKFORCE MANAGEMENT, February 27, 2006, available at http://www.workforce.com/section/09/feature/24/29/22/.

^[1] See generally James Richards, Workers Are Doing it for Themselves: Examining Creative Employee Application of Web 2.0 Communication Technology (2007), *available at* http://www.esnips.com/doc/649bbecc-2acb-4489-b79b-9542a119cea8/J_Richards_WES2007. See also Rackspace Managed Hosting, Web in 2020 (2007), *available at* http://www.rackspace.co.uk/2020/ (white paper, registration required).

© 1996-2007 Morrison & Foerster LLP. All rights reserved.