

GLOBAL REFERENCE GUIDE



# employment & human resources

with global advisor directory

**FINANCIER**  
WORLDWIDE corporate finance intelligence

**2011**

**IMPORTANT COPYRIGHT NOTICE**

© 2011 Financier Worldwide. All rights reserved.

**DISTRIBUTION RIGHTS**

This version of

**“Global Reference Guide:  
Employment & Human Resources 2011”**

is for

**LIMITED PERSONAL USE ONLY**

Rights have been granted to the original recipient to store this file on his or her local PC and send it internally to other colleagues within his or her firm.

External distribution, to any contact outside the recipient's firm, in electronic or any other format, is strictly prohibited by the publisher.



GLOBAL REFERENCE GUIDE

---

---

**employment & human resources  
2011**

Published by  
Financier Worldwide  
23rd Floor, Alpha Tower  
Suffolk Street, Queensway  
Birmingham B1 1TT  
United Kingdom

Telephone: +44 (0)845 345 0456

Fax: +44 (0)121 600 5911

Email: [info@financierworldwide.com](mailto:info@financierworldwide.com)

[www.financierworldwide.com](http://www.financierworldwide.com)

First edition

Copyright © 2011 Financier Worldwide. All rights reserved.

---

---

**Global Reference Guide**  
**Employment & Human Resources 2011**

No part of this publication may be copied, reproduced, transmitted or held in a retrievable system without the written permission of the publishers.

Whilst every effort is made to ensure the accuracy of all material published in Financier Worldwide, the publishers accept no responsibility for any errors or omissions, nor for any claims made as a result of such errors or omissions.

Views expressed by contributors are not necessarily those of the publisher. Any statements expressed by professionals in this publication are understood to be general opinions and should not be relied upon as legal or financial advice. Opinions expressed herein do not necessarily represent the views of the author's firm or clients or of any organisations of which the author is a member.

## CENTRAL &amp; SOUTH AMERICA

**Social networks in the workplace**


---



---

*by Javier E. Patrón and Enrique M. Stile | Marval, O'Farrell & Mairal*

IN THE CONTEXT of the current trend of social networking and the rapid exchange of information online, employers have become especially interested in controlling the use of social networks and the internet by their employees in the workplace. We discuss the most frequent questions that employers in Argentina have regarding this hot topic.

**Are employers permitted to monitor social network use of employees at work?**

The use of social network tools in the workplace is not regulated under specific law in Argentina and the parameters and rules of its use are usually generated by employers and case law. Nevertheless it has become a rising concern for employers. In that context, employer control should be executed under certain parameters, and taking the employee's privacy rights into account. Considering the boundaries established by a company's common practice and case law, there are some 'rules' that must be observed in order to comply with normal standards and to minimise the risk of claims or disputes with employees: (i) notifying employees of the regulation of social network use in the workplace; (ii) signing documents and, if necessary, confidentiality agreements with employees; (iii) implementing a password system for logging on to IT systems; (iv) training executives, management and employees in general, in the correct use of information systems; and (v) being able to prove (even in court) the misuse of the social network tools by an employee. If a company fulfils these requirements, it will have better arguments for defence in the face of any claims.

**If employers are permitted to monitor social network use by employees at work, what limits and considerations apply?**

On the one hand, employers could be considered to be allowed to monitor how much time an employee uses the internet and the sites he/she visits. On the other hand, if the employer accesses an employee's social network account, it would be an infringement of the employee's privacy rights and they would be entitled to file a complaint. Regarding the privacy of social network use by employees, the limits of employer control should be established early on. In order to reduce the risk of future claims regarding this or any related issue, common practice

recommends signing a document at the time employment starts in which the employee acknowledges the power of the employer to control the use of social networking tools at work. This practice would minimise the risk of future claims by the employee concerning invasion of privacy matters. However, any action will require an analysis of the specific case.

### **Can employers prohibit the use of social network sites during work hours and on company equipment?**

The employer has the power to organise the manner in which the employees render their services. Therefore, if the use of social network tools is not essential for the company's activity, the employer is entitled to prohibit its use during the working day, and on the company's computers or work stations. Such limitations would have to be clearly explained by the employer, in writing, preferably prior to employment. From a practical point of view, the employer could even block access to such sites so that if employees attempted to visit such sites, no access would be granted.

### **To what extent can employers limit use of social network sites of their employees outside of work?**

Limitations of the use of social network tools outside of work extend only to instances where there is a connection with the workplace or where information about the employer is passed to third parties. These limitations relate to the image of the company on the social network. But where there is no legitimate interest in the limitation, it will be considered an invasion of the employee's private life, which entails serious risks.

### **Final comments**

It is of great importance that employers find a balance between their employees' online freedom and the exercise of power of control. Argentine law provides legal protection to control virtual activity, but in the absence of specific regulations regarding social networks in the workplace it must be used, in this case more than in others, with caution, to avoid invading employees' privacy, which may generate constructive dismissal and invasion of privacy claims, along with others. ■