

About this code

UNI founding partner FIET launched the 'On-line Rights for On-line Workers' campaign in March 1998, raising for the first time in the international arena many of the issues covered in this Code of Practice. At a time when e-mail and the internet were spreading rapidly in business, this campaign identified the need for electronic means of communication to be available to trade unions and representatives, and for employees also to have appropriate access to these new media.

The On-line Rights for On-line Workers campaign attracted the attention of a number of international bodies, including the OECD and the European Commission. The campaign launch was followed a year later by the publication of a Model Electronic Facilities Agreement for use by companies and trade unions. This model agreement has been the basis of similar agreements drawn up in, for example, Austria, the Netherlands and the United Kingdom.

UNI has actively continued the campaign, and in November 2000 co-hosted a high-level conference in Brussels on the legal and practical issues raised. This event was held in collaboration with the Royal Flemish Academy of Belgium for Science and the Arts and the European Japan Institute for Business and Law, and was co-chaired by Prof Roger Blanpain of the Catholic University of Leuven.

This Code of Practice draws on the contributions made at that conference and on the experiences of companies and trade unions which have already implemented electronic facilities agreements.

What does the code cover?

We use the term 'enterprise electronic facilities' to cover all communication and information services in the enterprise where the employee is working. It includes e-mail, the internet, company intranets, phone and fax. (This is not a definitive list)

The Code does not distinguish between different kinds of electronic facilities.

The physical place where the work tasks are carried out is also not relevant - the code shall apply regardless of when and where the electronic facilities are used by the employee.

More information is available from the UNI website:

www.union-network.org

Union Network International, 8-10 Avenue Reverdil, 1260 Nyon, Switzerland
+41 22 365 2100 (fax: +41 22 365 2121)

On-line rights at work

A UNI Code of Practice



UNION NETWORK INTERNATIONAL



Why an on-line rights Code?

Information and communication technologies are changing the way in which we keep in touch with others at work - our colleagues, our managers and also our clients and customers. Used appropriately, the exploitation of electronic facilities such as e-mail and the internet improve work efficiency and facilitate new ways of working.

However the use of these same powerful technologies at work also raises legal, ethical and managerial issues, which companies and employees' representatives have been attempting to grapple with.

Trade unions are concerned, among other things, at the implications for individual privacy of electronic monitoring of communications. Unions also point out that commercial web browser software is being designed with filters that block employee access to trade union websites.

Employers in their turn have natural concerns that employees may take personal advantage of e-mail and internet facilities to the detriment of their work - or that companies will be held legally responsible for the content of private e-mails.

This Code is designed to provide a common sense answer to these sorts of issues, and to establish an

internationally recognised yardstick of what constitutes good practice.

Under the Code, electronic facilities are provided by companies to works councils and trade unions and to their representatives for industrial relations purposes.

The Code clarifies that employees are able to use electronic facilities in the workplace for non-business use, with the proviso that such use is not detrimental to the proper discharge of their work responsibilities.

The Code does not permit the clandestine monitoring or electronic surveillance of employees (for example by recording e-mails sent or websites visited). It does allow for surveillance and monitoring where there is a legal obligation on the employer to do so, where this is authorised by collective agreement - or where there is reasonable grounds to believe a criminal or serious disciplinary offence has been committed.

In these situations, any use of electronic monitoring records is to be made with the agreement of, and involvement of, workers' representatives.

This code of conduct is a step towards ensuring the basic rights of employees working in today's and tomorrow's information society.

The UNI code

1 - Trade Union Communication

The works council/trade union and its representatives have the right to access and use enterprise electronic facilities for works council/trade union purposes, both internally and externally.

This includes the right to send trade union/works council information to all employees using the electronic communication tools available.

Employees have the right to use enterprise electronic facilities to communicate with their trade unions/works council and their representatives.

The Code extends into the electronic age the sort of facilities provision for workers' representatives which was the subject of the ILO Convention and Recommendation of 1971.

It recognises that in the electronic workplace the old ways in which unions and works councils traditionally communicated with members may no longer be the most appropriate. For example, employee representatives from different branches of a multinational company need to be able to cooperate and coordinate work across international borders.

As the information society develops, an increasing amount of employees are working from their own homes, from remote telecentres or whilst on the move.

2 - Non-business communication

Employees are permitted to use enterprise electronic facilities for non-business purposes, both internally and externally, provided that this is not detrimental to their job responsibilities.

3 - Monitoring and surveillance of communication

The employer undertakes that employees' use of the enterprise electronic facilities will not be subject to clandestine surveillance and monitoring.

Communication will be subject to surveillance and monitoring only if this is permitted by collective

agreement, if the employer is legally obliged to do so, or if the employer has reasonable reason to believe that an employee has committed a criminal offence or serious disciplinary offence. Access to surveillance and monitoring records relating to individual employees will only take place in the presence of a trade union representative or an employee selected representative.

The Code takes into account a number of recent international initiatives which have implications for individual privacy in the workplace.

The ILO adopted in 1996 a code of practice on the protection of workers' personal data, covering general principles of protection of workers' personal data and specific provisions regarding the collection, security, storage, use and communication of such data. The code, adopted by a Meeting of Experts on Workers' Privacy, is advisory.

The Council of Europe adopted a Recommendation in 1989 - R(89)2 - on the Protection of Personal Data Used for Employment Purposes.

The right to privacy is established in the European Convention on Human Rights. Recent European Court of Human Rights judgements suggest the Court views telecommunication, either through a telephone or the internet, as protected by this right to privacy.

The European Directive on data protection (95/46/EC of 24 October 1995) also has relevance, in that electronic monitoring in the workplace can be treated as a form of collecting or processing personal data.

4 - Conditions for use of electronic facilities

The right of employees to use enterprise electronic facilities is subject to the following conditions:

- Communication must be lawful and not include defamatory or libellous statements,
- Enterprise electronic facilities shall not be used as a means of sexually harassing other members of staff, or spreading offensive comments based on an individual's gender, age, sexuality, race, disability or appearance, [or knowingly to visit websites promoting pornography, racism or intolerance]
- The employer can require a disclaimer when employees are communicating internally and externally making clear that the views expressed are those of the author alone and not those of the enterprise.