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Result synthesis from the MAC work for 2005

- Publications / Projets de recherche - MAC (usages du téléphone mobile). -

Date de mise en ligne : Friday 14 April 2006

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"My mobile phone, I like it." Even if not every user express such an enthusiasm, numerous are those that are fond of speaking or simply speak about it. Anyway, their word is invaluable. Because the usage they make of it feeds largely the research work in different academic disciplines. In both disciplines to which we refer predominantly, sociology and law, there is a certain number of in-depth works, notably in the domain of sociology of uses. On a quantitative prospective, perhaps it could be said that the subject has induced less specific work in the field of law, even if the comparison of ICT and employment law is a largely explored question.

Object and scope of the study

Sociological studies were interested in all aspects of use of mobile phones, often conceding an important position to private uses and notably in love life. Juridical analyses are more focused on uses at work and on the problem of their junction with personal uses. They deal particularly with this question under the angle of personal data and private life protection.

The objective of this project is to study the use of mobile phones by managers and executives in a professional context. The telephone considered is the business telephone defined as the one made available by the employer or paid by him/her. Although this telephone is not attributed to executives so that they could pass their days playing on it like on a game boy, this professional status does not exclude personal use at all. Moreover, the object has not been envisaged solely to its utilitarian dimension, quite the reverse.

The specificity of this study lies also with the fact that it is interested in a particular population: managers and executives. Consequently, we can expect to see a certain specificity of use taking shape, in alignment for instance with the status of the executives, their level of implication at work, and the representation they make themselves of their position within the company.

Research issue

As everyone speaks a lot about mobile phones, the risk is seeing an off-the-peg discourse developing which may turn out to be wrong or at least simplifying. Could our starting hypotheses free themselves from it? However that may be, we have subscribed a priori to the idea, which benefits yet from large media coverage, that there are modifications, due to the use of mobile phones, of the boundaries between professional, private, and intimate spheres, in the sense of decompartmentalization. Conjoining this hypothesis with the one of modification of time, working place and reconsideration of the link of subordination notions, our goal was to determine how the new dialectic of autonomy and control is expressed.

To this fundamental problem, present in all phases of the study, adds up the issue of integrating mobile phones into the work station and processes, which emerged while the first interviews. Does it disturb them, how does it modify the methods of work? How shall be valued this potential pool of productivity?

On a juridical point of view, to the objective of identification of problems/search for solutions bound to the initial hypothesis of a law request, has been added the problem of positioning of the juridical issue in a context where it has turned out quickly, resulting from first discussions, that actors a priori rely upon self-regulation. The risk of law

disturbing certain balances was, consequently, not to be excluded within this context.

Methodology

We resorted to different types of material:

- qualitative interviews,
- sociological and juridical literature and
- formal sources of law.

However, the originality of the adopted method results from sharing the same material - quantitative interviews - by the lawyers and sociologists of the team. Considering the selected research question, the method which seemed the best adapted to us, was the one consisting of quantitative face-to-face interviews. Thus, the selected material allows avoiding interviews based upon declaratory, in other words upon theory often far away from uses and practices.

This method allows as well understanding the motivations of the players and the reasons stimulating them, for instance, to filter calls at certain hours, as well as their history facing this new "work tool". These interviews allow gathering trajectories, meaning courses envisaged consistent with a dynamic axis and not only a static one. The evolution in the management of this object can be detected. We opted, thus, for a comprehensive point of view. Thereby, about thirty face-to-face interviews with adults have been realized. As they have not been realized by the same interviewer, we took into account this potential bias for the analysis.

Considering the number of realized interviews, we did not try to establish a sample. A representativeness of different sectors was not searched otherwise. On the other hand, we have ensured to question persons from both the public and private sectors as well as both men and women. Functions were also various. Particularly, we have considered every elements, bound for instance to the nature of the work station or to the position within the company, in the analysis of the practice and how they fall within a social relationship between the company and the employee.

The inquiries were carried out in a short period of time from May to November 2005, so that no major technological evolution, no particular financial offer or no important juridical change could intervene and distort the results. Finally, all interviews were recorded and then retranscribed. They took place in different locations: domicile of the interviewee, domicile of the interviewer, workplace or public place like a café or a restaurant.

The data collected in the course of this qualitative study comprises different elements. It rests on 32 homogeneous interviews that follow an identical interview grid. Preliminary interviews have allowed getting the interview grid and the questionnaire into their stride in order to retain only relevant questions. When existent, charts of usage have been gathered as well.

The 32 interviews have been carried out face-to-face taking about two hours to two hours and a half. The questionnaire comprised a large number of open questions, half directive. It is available in appendix.

The preamble of the interview presents an identification form which was filled out at the end of the interview when the interviewee is at ease and confident. It recalls:

- age, gender,

- sector: public or private,
- status: sedentary or mobile worker,
- location: Paris or Brittany,
- sector of activity,
- level of management.

The context of the interview has been carefully recorded:

- date and time,
- location,
- other people present,
- interruptions during the interview.

Beyond the analyses of the interviews proper to each discipline for which we have mobilized specific resources (sociological conception schemes, juridical doctrine and formal law sources), this methodological choice allowed meeting different notions. For instance, as soon as the notion of reachability has established itself in the discourse of the executives surveyed, we compared this notion with a juridical one that presents some common point with it: the notion of penalty. This experiment was enclosed in a larger reflection on the possibilities (if not the opportunity) to juridically control reachability.

It is advisable to emphasize that the interviews, according to the treated subjects, have been used to different degrees. Sometimes, there was systematic treatment of the collected data at the moment of the interviews or "variations" on the themes identified at this occasion. When the interviews provided little elements, we favoured other sources. Dealing particularly with the study of the juridical aspects of mobile phone uses, it is based on the analysis of the interviews, but also and above all on the detailed analysis of the doctrine along with work collective agreements, professional charters and codes of good behaviour and, finally, jurisprudence of background jurisdictions and of the final Court of Appeal.

Main results

A certain diversity of uses

Beyond the hypotheses formulated at the beginning, which made a large space for autonomy and control dialectics and for the removal of boundaries between professional, private and intimate sphere, the study conducts to acknowledge a certain amount of diversity.

Diversity of the object's representations from a juridical status of work tool which could be determining, whereas it turns out to be rather pad out within representations, underlining the object's personalization, its individualization, its appropriation, its characteristics of statutory or aesthetic object.

Diversity in mobile phones uses in the context of social relationships which makes appear a variety of uses. Some

are limited to work locations and times. Hence, there is a division between working and not working time and space and the telephone stays at the office. Other uses are compartmentalized (private use then is moderate). To conclude, the group of executives, describing undifferentiated use, represents the majority of the people surveyed. In this case, the use of the professional mobile phone does not follow a simple separation between professional universe and private one, but is characterized by confusion. One does not switch off one's mobile phone and one can always be reached. From one group to another and from an individual to another, the behaviours face to this reachability and the manners to live with it are very different, because this situation is sometimes desired and sometimes not mastered.

At last, diversity of the uses in the context of work relations reveals the entire complexity of the dialectics of autonomy and control on grounds of reengineering of the subordination relation. As instrument of autonomy, mobile phone still reinforces the subordination in regard of the employer and we even assist sometimes to an "externalization" of this relation, which is transposed to the field of relationships with colleagues, privileged partners and customers. Paradoxically, the mobile phone is capable of diminishing autonomy by limiting the taking of initiatives and putting the executive in a pending position for guidance.

On the question of social uses of mobile phones according to gender, a certain asymmetry of intra and inter gender uses was observed. The detention of a mobile phone by female executives from private and public sector has revealed to be like a hidden indicator of professional inequality: occupying less often leading positions than men, they have less often access to fringe benefits and accessories that go along with positions of responsibility. Beyond this discrepancy, social practices of female executives indicates a certain asymmetry in mobile phones uses, which contributes more to the demonstration of the sexual division of social roles than to its disclosure.

What lessons can be drawn from having highlighted this diversity? This observation leads up to relativize the hypothesis of a systematic removal of boundaries between professional and private life in favour of a more qualified approach, rendering an account of the social relations in which the executives are placed. The weight of different hypotheses is also notably modified according to the essential issue, which represent the problematic of the mobile phone integration into the position and existing work processes as much as the question of the potential creation of new methods.

The diversity itself can be relativised. This is true particularly for professional uses defined as the set of processes to organize work, treat a file, make a decision, share responsibilities, collaborate, and communicate. In this case, cultural changes as much as the economical system and the organization of the company induce logics of uses. In the climate of general emergency which characterizes a number of corporations, it is pointed up that mobile phones allow to react quickly, to improvise, to be quick to react, to decide instead of someone else: hence, communication is rather operational and communicational performance is the one wanted. But we can also value more the promise of a communication and an exchange, facilitated by the access to a system of relations. Thus, mobile phones are instruments allowing direct access to people (human) and even a better accessibility of the institutions for instance.

When putting it into the field of social relations, the diversity of representations, uses, usage modes and behaviour is no surprise. The versatile character of mobile phones, real "Swiss army knives®", in fact, fits particularly well to the diversified uses provoked by the status of autonomy claimed by executives. From this perspective, it is not surprising that frequent references are made to bypass operations in the sense of invention of actors, quid pro quo strategies and self-regulation. The capacity to cobble together norms of use is very well illustrated, for instance, by the modalities of filtration that often rest upon a hierarchical organization of callers or tasks.

Consequently, if there is a part of innovation within the observed uses, they fall within in a brand new context. Even if it is not systematic, the removal of boundaries between private and professional life is a new fact. It refers to the increasing acknowledgement, notably jurisprudential, of a personal space at work due to the use of ICT. Concerning

computers, this acknowledgement passes by the identification of personal files a priori not accessible by the employer or by the ban on reading personal messages made to the latter. But what mobile phones and mobility in general contribute is the irruption of the working world in private life which constitutes the main issue of reachability.

This permanent reference to the notion of « reachability », a neologism we use to define both the situation when we think we must be reachable and the one we wish to be, is precisely new. The complexity of this notion is measured as the difficulty that there is to delimit and qualify it. Is it about a new normality, a social norm, a hidden constraint or an expression of autonomy of the executive?

If it seems clear that the reachability falls within a win-win relation with the professional environment which implies compensation, the consequences of a rupture of this balance are more difficult to evaluate and lead anyway to confront this notion with juridical rules. But it is not necessarily the law driving to adopt the most radical solutions. One of the interviewed executives, however, menaces simply to return the device if someone blames him/her to be not reachable.

Whatever the source of arbitrations is, the issue is to find an equilibrium position between virtuous uses and non-virtuous, even anarchical ways. An identical scenario can be presented lived differently. Preparing a sort of balance sheet of uses, hence, is a difficult exercise, because the conclusion likeliness can be seen. The relations to the mobile phone are moreover very differentiated, going from negative attitude facing an object perceived as an intrusion to neutrality which leads up to search for maximization of the profit we could get from innovation, to a positive attitude.

In favour of the reachability is the quality of compensations in a win-win game, as for instance a greater liberty in organizing one's time. Against, there is the deprivation of being entitled to days off, the impossibility to "disconnect", the risk by being permanently reachable to make up for the poor running of the company and for the procrastination of certain colleagues or business partners.

In favour of professional uses: the possibility to decide quickly, to substitute one self to another person in decision-making and possibly gain power. Against: the risks of opaqueness of the decision-making process, of non-communicating decisions to third parties, of errors, problems of proof and traceability.

If self-regulation plays an important role in these arbitrations, the modes of organization of companies and the way they consider the use of mobile phones are an essential element as well. Finally, what to expect from law in this perspective?

A relative juridical insecurity

Generally spoken, the interviewed executives do not know about possible juridical regulations organizing the use of mobile phones and realize only vaguely juridical problems that could come up. Therefore, they do not necessarily see the purpose of regulations they sometimes wonder if they would be prepared to respect. And it is not coercively dishonesty that justifies such mistrust, but really the fact that juridical framework is likely to disturb certain balances. This is the case of the new approach which shall guide the control of URSSAF* in terms of the qualification of mobile phones as fringe benefits as soon as there are unfair personal uses. This new role allocation constitutes a restrictive exogenous element that intervenes in social relations based largely on win-win rules. It may incite the company to regulate the use of mobile phones in a (too) rigid way.

Even among executives themselves, if we admit that in most of the cases it happens at the institutionalization stage in the innovation process, then, it is not surprising that persons being aware of the new sphere of freedom offered by mobile phones may be opposed to those wanting to lock in its use into precise norms.

In general, there are no collective norms, conventions, collective agreements or charters. There can be, however, particular contracts or clauses enclosed in work contracts that allow employees to use their personal mobile phone for professional purposes or to use the professional mobile phone for private purposes. Internal policies do not, in most of the cases, provide any measures for the use of mobile phones, except for security reasons. On the other hand, oral recommendations are often formulated when handing over the phone.

Consequently, the use of mobile phones develops within an informal framework. Concerning individual work relations, it is surely the mutation of the notions of working location and time that constitutes the phenomenon the most difficult to apprehend. When an employee is reached beyond working time on his/her professional mobile phone, first the issue of defining this thereby mobilized time arises: resting time, effective working time or on call job? If we accept this last solution, new questions arise: how on call job can be permanent, for instance?

But if we conform to the essence of the conclusions of this study, we would especially emphasize that within a *quid pro quo* relation with the professional environment, the situation of reachability proceeds rather from a voluntary approach of the employee, even, if we can wonder if this willingness does not come from self-subordination.

Supervising it as on call job, thus, would be negating this state of fact. If this latter [constraint] gets applied clearly to employees having a precise task to fulfil, it fits badly the functions of the executives who enjoy large autonomy in the organization of their work.

Other questions arise without having, however, the importance we sometimes would like to accord to them. An improper use of mobile phones may certainly motivate a dismissal, but this topic of abuse is hardly present in the discourse of the interviewed executives.

If spontaneously we are led to position the juridical questioning by reference on labour law, we do not have, in any case, to underestimate other contributions. The purview of the law of "Information and Liberty" and the law relating to electronic communication and to audiovisual communication services govern, for instance, the geographical location of employees. But once again, concerning executives, this preoccupation does not appear distinctly.

In the light of the juridical problems identified, it is possible to formulate some recommendations. To prevent juridical insecurity, the employer may enclose measures relative to the use of mobile phones in the company into the work contract by detailing in particular the conditions for personal use. They may alternatively make use of guides or charters of usage, following the example of an increasing number of companies.

As soon as we relativize the issue of the deletion of the boundaries between professional and private life and focus on professional uses, it is advisable to recommend the development of regulations of good professional practice, specifying, for instance, which types of decision can be made per mobile phone, by whom they can be made and to whom they have to be communicated. Indeed, the fact that uses develop in an informal juridical framework must not occult the fact that the use of mobile phones injects a dose of informality into the organizational and managerial scheme of companies or institutions as well. However, even uncertainty zones are of interest and these rules should not proceed of a simple opposition between formal and informal organization, an opposition that tends besides to withdraw behind the recognition of strategic interaction of players.

These recommendations and the conclusions of this study in general should not necessarily lead to consider mobile

phones as a singular object. Some elements speak in favour of such an hypothesis, particularly its weak junction with other work tools and its tendency of being personalized. A comparative study, especially with the use of e-mail, would certainly be justified in this perspective. Besides, the comparison could also be carried out with the uses in other countries in order to deepen the analysis of explanatory factors of the variety of uses (generational, cultural...)

- *Project MAC - ANIMA - 2006.*