

Tattletale Email

by [Thomas W. Hazlett](#)

AUGUST 21, 2000 - Among the many lessons corporate America should learn from the Microsoft antitrust trial, one stands out above the rest: Burn the emails.

Why Microsoft, recently the world's most valuable private enterprise, did not delete sensitive email correspondence boggles the mind. The Department of Justice's May 1998 complaint merely connected the dots between internal emails plotting to "leverage" Windows to help squeeze rivals' "air supply." Thanks in large part to poetic spinning of these "smoking gun" emails by the DOJ's hired gun, David Boies, Microsoft found itself trapped in Judge Thomas Penfield Jackson's credulous gaze. The beast from Redmond was ordered straight to jail--do not pass Go, do not collect \$200.

Intel wised up long ago. It routinely expunges incoming emails in 35 days, outgoing emails in just seven. Peter Detkin, vice president and assistant general counsel, says, "If you don't need it for business reasons, get rid of it." This cheats history--but also federal prosecutors. It has not gone unnoticed among alert corporate counsel that the Federal Trade Commission folded up its monopolization case against Intel last year in a settlement masking capitulation.

Making old email disappear prevents "evidence" written in one context from being read to the court in another. As any user of email knows, raw text is potentially toxic in the wrong hands. A friendly directive from a manager can be read as the ravings of a monomaniacal boss if spun the right way. E-notes speak a digital, interactive rhythm; cryptic phrases with inside references shortcut madly. That's e-efficiency, IMHO.

Misinterpretation by those outside the immediate loop is therefore not occasional but the norm. This becomes obvious almost every time SEND (or, perhaps more commonly, REPLY ALL) is inadvertently clicked. Embarrassment ensues, and not just because of cheesy humor attachments (like the nasty nun joke sent by the Federal Communications Commission last year to its official Daily Digest mailing list). It is because context is routinely omitted in narrowly focused discussions. The result is staccato notes that sound brutally harsh to outside observers.

"If anything will bring about the downfall of a company," Disney Chairman Michael Eisner recently told graduating seniors at USC, "it is blind copies of emails that should never have been sent. Every fight that goes on seems to start with a misunderstanding over email."

Even dot-coms are learning to tidy up their hard drives. In 1998, Seattle-based Amazon.com rolled out a "Sweep and Keep" campaign to tidy up the company e-files, awarding bonus lattes to employees for hitting their Delete keys. "I love email," exclaimed CEO Jeff Bezos. "The problem is somebody can take it out of context and use it against you, and we have to guard against that."

In the meantime, emails are a windfall for litigators. Compared to paper trails, electronic correspondence is difficult to destroy, easy to locate, and a breeze to analyze. The old document dump, producing a trainload of internal correspondence to sort through, is thwarted by searching for a couple of key words.

The carnage heaped on Microsoft's equity value by the antitrust case should give every corporate manager in America pause--as should the sterling example set by the Clinton administration. It "lost" hundreds of thousands of emails sent between 1996 and 1998, and while aware of the "glitch," it failed to report this event to

investigators who had issued subpoenas for the correspondence. Presidential spokesman Jim Kennedy confided that White House employees purge emails regularly as a matter of policy. We finally may have found the activity in which government efficiency exceeds that of the private sector.

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