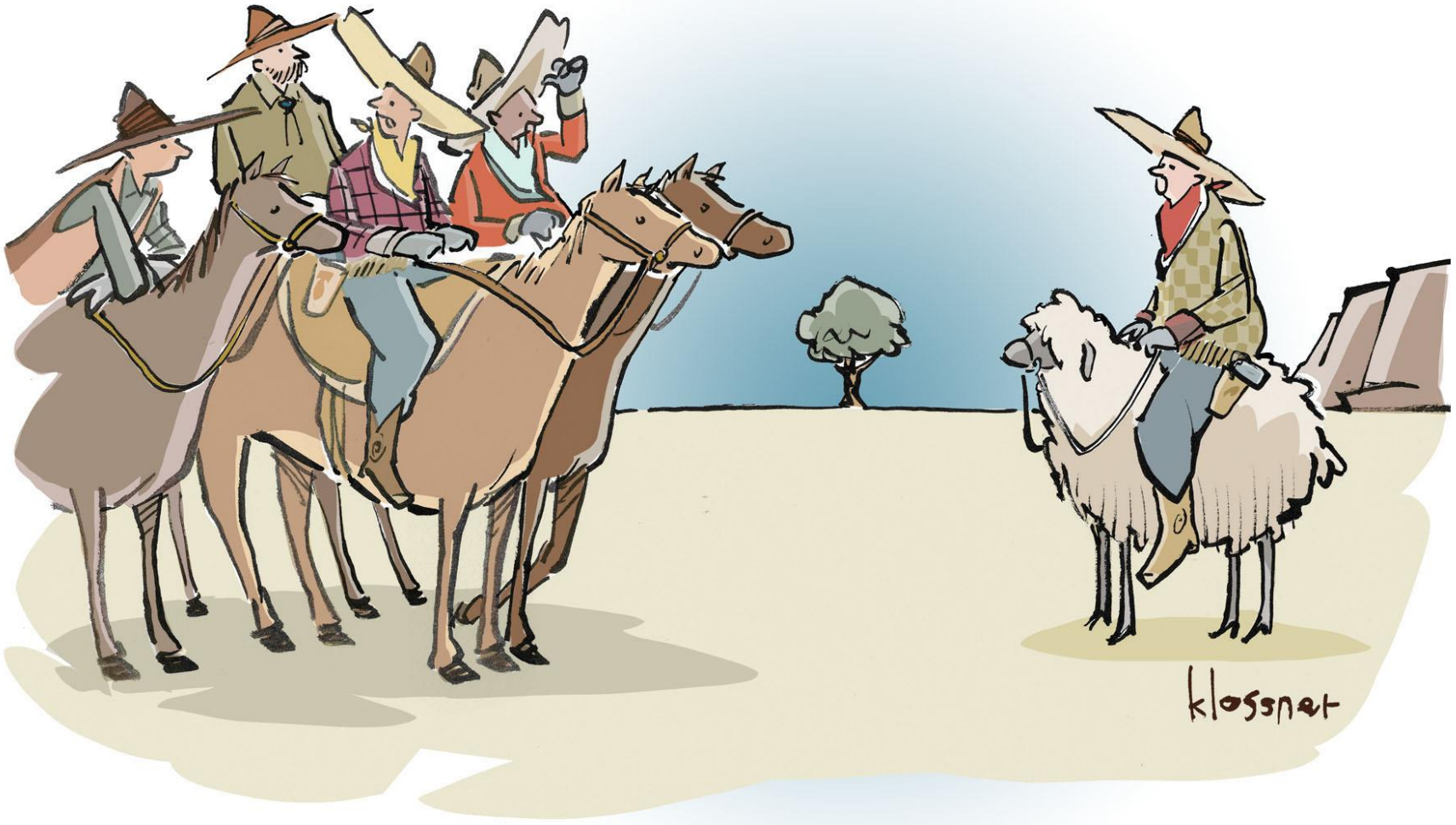
Emerging trends in BYOD

Arvind Dixit
Senior Associate
Corrs Chambers Westgarth

arvind.dixit@corrs.com.au



"DO WE HAVE A BYOD POLICY?"

Advantages / disadvantages

- Theoretical advantages of BYOD are:
  - Cost savings
  - Productivity
  - Employee satisfaction

- Major technical challenge is the fact that the perimeter of the organisation is blurred and more difficult to secure

Data Security

Confidential Information

- What confidential information do employees have access to?
- Possible breach of third party obligations
- Confidential Information is protected under common law if:
  - the information has the necessary quality of confidence about it; and
  - the circumstances in which the information was communicated or obtained gives rise to a relationship of confidence.
- The rise of “BYOC”

Data Security

Privacy

APP 11.1

If an APP entity holds personal information, the entity must take such steps as are reasonable in the circumstances to protect the information:

(a) from misuse, interference and loss; and

(b) from unauthorised access, modification and disclosure.

APP 11.2

If an APP entity…no longer needs the information…the entity must take such steps as are reasonable in the circumstances to destroy the information or to ensure the information is de-identified.

Liability issues

Support and licensing

- Apportionment of liability between individual and the company
- Use of BYOD technologies could potentially breach licensing agreements company has with third parties
- Regulating use of apps/software on a personal device for work purposes where the company does not hold the licence rights

Surveillance and interception

- NSW and the ACT have specific legislation governing **data surveillance by employers** (such as the monitoring of emails and use of devices)
- All Australian jurisdictions have Acts dealing with the **use of surveillance devices**
  - In some states (such as Vic and NSW) these acts make it unlawful for any person to install a tracking device to monitor the location of a person or an object (such as a BYO device) **without the express or implied consent** of that person or the person in lawful possession of the object
- It is an offence for an employer to **"intercept" any communication** (either voice, or text) that travels over a telecommunications system (including an internal telecommunications system)

Governmental guidance

- Various Australian States, and governmental departments have issued "mobility" guidance
  - NSW government – Mobility Solutions Framework
  - SA government – Securing smart-phones and other portable storage devices
  - Qld government – Recordkeeping implications of mobile and smart devices
  - Dept of Defence – Risk Management of Enterprise Mobility Including BYOD
- Extent of overseas regulation and attitudes vary

Shifting perceptions

1. User error is the greatest risk factor

2. Security through technical innovation rather than regulation

Shifting perceptions

3. Less is more in your BYOD policy

4. Remote wiping poses a large potential risk

Arvind Dixit
Senior Associate
Corrs Chambers Westgarth

arvind.dixit@corrs.com.au