# **Enterprise IM Archiving for Regulatory Compliance and Business Continuity**

An Instant Technologies White Paper



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#### Introduction

Instant messages (IM) have historically presented regulatory bodies, courts, and enterprises with a difficult question: Are they conversation? Or are they communication?

For many years, IM usage in the enterprise mainly centered on public IM systems such as MSN Messenger and Yahoo. But because these public IM systems were beyond the control of IT departments, concerns arose regarding their impact on user productivity, the security of corporate networks, and possible leaks of corporate intellectual property.

These concerns had two effects: First, a number of vendors released products to control/monitor employees' usage of public IM systems; and second, IBM and Microsoft each released enterprise IM platforms to complement their enterprise email servers.

Instant messaging is now a vital component of Unified Communications (UC), in which the 'presence' benefits of IM are being extended to voice, email, and video communications, offering the ability to collaborate with anyone, anywhere, anytime, through any device.

As a result, certain regulatory bodies (particularly the SEC and the NASD) view IM as a form of communication that is subject to regulatory compliance requirements.

Further, enterprises must be prepared for the possibility that litigants will subject IM conversations to legal discovery.

IM's increasing use as a key communications medium means that IM conversations can be valuable digital assets—but only if they are preserved and (even more importantly) easily retrievable and searchable.

## The Promise of Unified Communications

Real-time collaboration. Presence awareness. Device convergence. Limitless productivity.

Vendors have been making these promises for a long time; now, they are finally delivering: Unified Communications (UC) is driving the greatest transformation in the way we work since the email revolution of the 1990s.

Presence awareness—a status indicator that conveys ability and willingness of a person to communicate—is the cornerstone of Unified Communications. But while presence awareness has been inherent to instant messaging from day one, only recently have IBM and Microsoft started building it into other forms of communication.

Visit these sites for more information on Lotus Sametime and Microsoft OCS 2007:

http://www-306.ibm.com/software/lotus/categ ory/uc2/

http://www.microsoft.com/uc/default.mspx

Both IBM's Lotus Sametime and Microsoft's Office
Communications Server 2007 unite all the contact information for each individual in a single directory, so with a single click you can start an IM conversation, make a phone call, or launch a video conference—knowing in advance that the person on the other end is available to participate—and instantly switch between communications methods as necessary.

The overarching goal is increased productivity: Goodbye, telephone tag. No more wondering if that critical email was received (and read). Down go the barriers of time and distance.

Business gets done faster than has ever before been possible. And it all begins with instant messaging, the killer component in real-time communication and collaboration.

## **Surprise – IM is Both Conversation and Communication**

As it turns out, the struggle to define IM as either a transitory conversation or a permanent form of business communication was pointless—it is, in fact, both.

And therein lays its value...and its danger.



Depending on which research you believe, somewhere between 80% and 95% of businesses currently use some form of instant messaging. Analysts predict IM to achieve near 100% penetration sometime in 2009. And as with email, you can expect IBM and Microsoft to own the lion's share of the market.

IM has quickly become a ubiquitous (and, in many cases, preferred) method of interacting with colleagues, customers, suppliers, and business partners. But because IM is a sort of hybrid of face-to-face conversation and email, it lends itself to both meaningless and meaningful dialogue.

An IM such as "John, we need you in the boardroom" and his instant response "OK, I'm on my way" delivers the desired result, but it has zero long-term impact on the business. On the other hand, an IM such as "Mary, looks like we're about to be hit with a massive class action lawsuit" has significant impact if Mary suddenly dumps her shares in the company and is subsequently investigated for insider trading.

These are extreme examples; in reality, most IM conversations fall into a grey area between the two. How, then, to decide which conversations need to be preserved?

The answer is simple: Each IM conversation has different value to different people at certain points in time, so archive everything to mitigate the risk of destroying data that might be needed at some point in the future.

## I. IM Archiving for Regulatory Compliance

For financial services firms, the requirements are explicit: NASD Conduct Rule 3010 requires that firms archive their brokers' and dealers' e-mail and IMs. SEC Rule 17a-4 requires that certain business records and communications be kept (and accessible) for three years, and that transaction-related communications be kept and made accessible for seven years after the event. In March 2003, the NYSE issued a memo stating that SEC Rule 17a-4 requires the archiving of both e-mail and IMs.



Sarbanes-Oxley does not specifically mention IM (nor does it specifically mention email), but its stringent record-keeping requirements have prompted most affected organizations to include email in their compliance strategies.

Many regulations can be similarly ambiguous, so compliance experts recommend that companies compelled to archive their email also archive their instant messages.

## II. IM Archiving for Business Continuity

IM and Legal Discovery. On December 1, 2006, revisions to the Federal Rules of Civil Procedure (FRCP) came into effect. Rule 26, in particular, governs the production of electronic stored evidence (ESI) in federal court cases. ESI covers any and all information that can be stored electronically—including instant messaging conversations.

Rule 26 effectively requires organizations to manage their data in such a way that this data can be produced in a timely and complete manner when necessary during legal discovery proceedings.

## IM and Lega

In a recent survey, only 7% of corporate counsel described their companies as being ready to meet Rule 26 ESI requirements.

ongoing legal matters at any one time requiring some

A typical Fortune 500 company has more than 90

form of ESI.

US companies spend almost \$2 billion annually on outside ESI services.

## **Gartner**

Most Companies Aren't Even Aware

"Many companies aren't even aware of the new e-discovery requirements... this could cost them billions of dollars if they don't get up to speed quickly..."

-Debra Logan, Vice President of Research, Gartner

The risk of litigation is an unavoidable business reality. But with proper planning—and the right tools—you can protect your business against executive liability, fines, and sanctions stemming from spoilage of evidence.

*IM and Preservation of Intellectual Property.* Important business discussions take place over IM: Decisions are made, contracts are negotiated, and transactions are completed.



No one would ever dream of deleting every email immediately after reading them or replying to them; rather, users carefully file emails so they can refer to them in the future.

IM conversations, just like email, contain important business intelligence that should be treated as a valuable digital asset.

## Native Archiving in IBM Lotus Sametime and Microsoft OCS 2007

Both Sametime and OCS 2007 ship with some basic IM archiving functionality. In Sametime it is called Chat Logging; in OCS 2007, it is OCS Archiving Service. Sametime logs chats to a Notes database; OCS 2007 archives IMs to a SQL database. What they both have in common, however, is a shortage of the functionality required to comply with regulatory requirements and protect the continuity of your business.

## Experts in Unified Communications and Real-time Collaboration

Instant Technologies specializes in developing innovative, enterprise-class compliance and productivity solutions for IBM Lotus Sametime and Microsoft Office Communications Server.

Our multiple-award-winning products enable organizations to meet regulatory requirements, improve customer service, and increase employee productivity.

Our expertise in unified communications and real-time collaboration dates back to the release of our first product in 2002. Today, many of the world's largest companies rely on our products for IM archiving, IM queue management, persistent chat rooms, IM bot development, buddy list administration, and more.

## **Instant IMtegrity for IBM Lotus Sametime**

Instant IMtegrity is the leading solution for secure logging and archiving of both IBM Lotus Sametime Connect and native AOL Instant Messenger chats. Instant IMtegrity is specifically designed and natively built for IBM Lotus Sametime. It enables organizations to preserve the valuable business intelligence contained in IM conversations, and to audit and search IM conversations for SEC 17a-4 and NASD 3010 compliance.

## Instant Archive Viewer for Microsoft Office Communications Server 2007 (Also supports Microsoft LCS)

Instant Archive Viewer enables organizations to monitor and audit LCS/OCS conversations for internal policy enforcement and/or external regulatory compliance. It converts the contents of your LCS/OCS archives into a usable business asset, and it gives end users access to past conversations—inside the LCS/OCS client—so they can do their jobs effectively.

## **Take Action**

For more information on Instant Technologies' IM solutions, or to discuss your IM requirements, please contact us:

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