

MOONLIGHTING: ETHICAL OR NOT?

As the IT industry grapples with the issue of moonlighting by staff, Team ET spoke to industry veterans for their take. The IT leaders – who have spent decades building software businesses from scratch and mentoring entrepreneurs – weighed in on the ethics of full-time contracts, pursuing passion projects and building startups, as well as navigating a fine line between the legal and illegal.

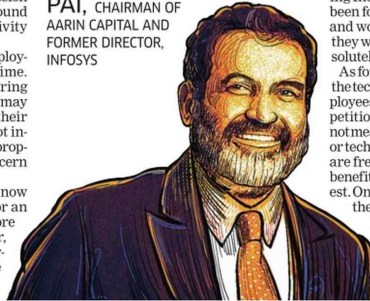
FOLLOW YOUR PASSION, BUT NOT AT EMPLOYER'S EXPENSE

If the contract does not allow an employee to work for another employer, then the employee must adhere to that. However, this does not preclude doing non-commercial work or passion work during your spare time. There are discussions around how moonlighting could impact innovation and creativity but most of these arguments are misdirected.

Most employment contracts are time based. The employer specifically pays you for your effort during that time. Employees are free to work on their passion projects during their spare time. There is no restriction on how people may use their free time, but this should be done outside of their employment hours and, most importantly, it should not involve official devices, proprietary data or intellectual property that belongs to your employer. This is the core concern of companies.

Moonlighting has become a concern for companies now because employees have been working from home for an extended period. On the one hand, employees have more spare time in a work-from-home model, and, on the other, gig platforms have been aggressively reaching out to service a strong demand environment. Such companies are willing to pay for services, irrespective of their existing

TV MOHANDAS PAI, CHAIRMAN OF AARIN CAPITAL AND FORMER DIRECTOR, INFOSYS



employment contracts or location.

There are counterviews stating that several leading Indian IT service companies could never have been founded if the founders had not moonlighted and worked on their own software business while they were employed elsewhere. Such claims are absolutely unfounded.

As for concerns that this could stifle creativity in the technology sector, the basic argument is that employees do not work for commercial gains with competition, especially named competitors. That does not mean that they cannot work on their own startup or tech projects during their spare time. Employees are free to work for NGOs or even for commercial benefits in areas where there is no conflict of interest. One will not say that a person is moonlighting if they earn on the side by, for example, pursuing performance arts, running a bakery, writing content, teaching or doing anything that does not conflict with their duties for employers.

As told to Romita Majumdar

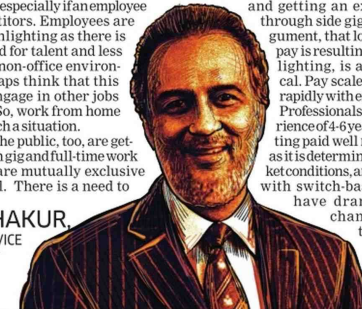
A TALENT DEMAND-SUPPLY ISSUE

If a person wants to do multiple jobs, then he/she can enter into part-time contracts with multiple organisations. But if an employee has got into a full-time employment contract, then it is only fair to honour the terms of that specific contract. If the contract states that the employee needs to devote all his time and professional interests to the organisation, then there is no ambiguity on dual employment.

It is a serious issue if a client of the IT services provider comes to know that an employee is working elsewhere too, apart from the original project. The knowledge and investments are done for an individual to contribute to one's original organization. There could be the risk of inadvertent leakage of company secrets and intellectual property in such situations, especially if an employee works for competitors. Employees are engaging in moonlighting as there is a spurt in demand for talent and less supervision in a non-office environment. They perhaps think that this opens doors to engage in other jobs simultaneously. So, work from home (WFH) creates such a situation.

Employees and the public, too, are getting confused with gig and full-time work contracts. They are mutually exclusive for a professional. There is a need to

ARVIND THAKUR, FORMER MD AND VICE CHAIRMAN OF NIIT TECHNOLOGIES



educate the workforce. Companies have to communicate a lot more, which is easier when everyone is together and not operating remotely. They need to be told that they are engaged as per the employment contract to serve the organisation. They should understand it is a two-way street. The organisation is also investing in their skills, providing opportunities and giving a career path. Gig, on the other hand, is only a pecuniary and monetary relationship. Moonlighting is a phenomenon resulting from demand and supply of talent.

The way to address it is for the organisation to clarify its policies by informing employees what they can and cannot do, and that they can have the best of both worlds – job security of a full-time employee and getting an extra buck through side gigs. The argument, that lower entry pay is resulting in moonlighting, is also illogical. Pay scales increase rapidly with experience. Professionals with experience of 4-6 years are getting paid well nowadays, as it is determined by market conditions, and salaries with switch-based hikes have dramatically changed over the last few years.

As told to Sai Ishwar



ILLUSTRATIONS: ANIMISHA

NOT JUST MONEY, IT IS ALSO THE FOMO EFFECT

At a philosophical level, we realise that a moonlighting employee is not only driven by the money they can earn on the side, but also by the hunger to indulge in some professional challenge that is closer to heart, and more interesting. No one has ever heard of a person who is moonlighting for a gig that is more boring than the one they are engaging in during the day! This realisation drives the management to focus on choosing the right challenges and assignments for the right people and keeping an eye on flagging enthusiasm and dipping productivity at work.

At Zoho, we encourage exploring opportunities of cross-department and product team collaboration that enable the individual to grow professionally as well as personally. Our employee contract mentions that the employee should not engage directly or indirectly in any other trade, business or occupation without obtaining the management's prior approval. We continue to affirm this policy across the organisation, globally.

We believe that an open and transparent culture eradicates ambiguity and we run on trust. We do not chase metrics or intrusive measures to police our workforce. However, this trust is a foundation of our relationship, and if broken, we do take the required action.

Every Friday, we have an open house with our CEO. During those sessions, some of the employees have asked the CEO to share his thoughts regarding moonlighting, and he has clarified that if one is

RAJENDRAN DANDAPANI, DIRECTOR OF TECHNOLOGY AND PRESIDENT, ZOHO SCHOOLS OF LEARNING



working with another business or trade, they should obtain the consent of the team lead and management to avoid any complications or conflict of interest. This is just one example of our efforts towards maintaining the bottom-up and open communication we promote across the organization, including within each team at Zoho. In addition, employees are apprised about company-specific updates through platforms like Zoho Connect and Channels/Groups on Zoho Cliq.

Apart from that, we have a clear clause in our contract about parallel employment. The advent of hybrid, remote and gig work operating models has changed the workspace landscape entirely. This has also given strength to the hustle culture, which makes individuals feel like they are not "doing enough" if they don't have more than one job, a side gig, or if they don't have multiple sources of income. Additionally, moonlighting as a concept has always been there across industries. Initially, it was used to make ends meet. Now, while this might be the case for some, it is also the effect of "Fear-Of-Missing-Out (FOMO)" for the rest.

From an organizational point of view, if we consider an employee who has access to or is privy to confidential IP or sensitive data and information and if he/she they work with an outside peer in the same domain, we are at risk, and it would be unethical for it to continue or for them to even start this side-hustle.

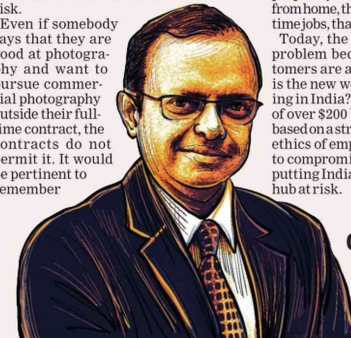
As told to Bharani V

THE REPUTATION OF \$200-BILLION IT INDUSTRY AT RISK

The definition of the word 'moonlighting' is, doing a commercial job after office hours, without the permission of your employer. It is certainly not a question of simply having an opinion. One can do multiple jobs and charge as per the time they spend on each job, but if you sign a full-time commercial contract with a company, you certainly cannot do other work.

Recently, a large IT company found some of its employees moonlighting for a competitor and terminated their contracts. This was clearly a criminal act (on the employees' part) as it put customer data and clients at risk. Such activities put the employer's contract with their client at risk.

Even if somebody says that they are good at photography and want to pursue commercial photography outside their full-time contract, the contracts do not permit it. It would be pertinent to remember



GANESH NATARAJAN, FORMER CEO AND VICE CHAIRMAN OF ZENSAR TECHNOLOGIES

that this is different from gig working. In the West, it is common for people to have a full-time job and use a share of their spare time for another job, but this will not apply for full-time engagements in any part of the world. Participating in gig work is a conscious choice and should not be confused with moonlighting.

I am a full-time employee of a company and there is no way I can do any work without permission for commercial gains. Companies can, of course, evolve and allow more part-time work options. But IT companies are still paying people to show up on campuses and work. Now, if people say that because they are working from home, they can take up multiple full-time jobs, that is unethical and immoral.

Today, the Indian IT industry has a problem because even overseas customers are asking the question – what is the new work culture that is emerging in India? We have built an industry of over \$200 billion in annual revenue based on a strong work commitment and ethics of employees and cannot afford to compromise. This laxity of ethics is putting India's reputation as a services hub at risk.

As told to Sai Ishwar