

The legal dangers of a side hustle

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Everybody seems to have a side-hustle

From cupcake bakers to Instagram influencers and tech start-ups, everybody seems to have a side-hustle these days and rightly so. The job security our parents had years ago has vanished into thin air and seems to have been accelerated by Covid-19. Inspired by YouTube stars and social media millionaires, so many of us are working our “normal” 9 to 5 and then spending every free moment we can find, building our own little empires.

With enough traction, a side-business emerges with the hopes of converting this into a “dream job”, but without proper legal advice, you may find yourself in a nightmare!

Although the entrepreneurial spirit should be encouraged, each new business venture carries formidable legal risk. From drafting website T’s & C’s to preparing privacy policies to ensure legal compliance, many of the same rules and legislation that apply to large corporates, also apply to your “business on the side”.

It is especially important to be mindful of the [Consumer Protection Act](#) and the Protection of Personal Information Act (POPIA) when transacting with members of the public, whether through your own website, an online marketplace, or even over WhatsApp. As you would have seen from the flurry of POPIA notices recently, all businesses are scrambling to ensure legal compliance.

Establishing a company is a relatively quick and easy process when guided by an experienced professional but will provide you with legal protection and limited liability, so your personal assets won’t be on the line should your “side hustle” ultimately be unsuccessful.

If you’re entering into a start-up with your “bestie”, it’s always a good idea to have accurately drafted legal agreements in place to protect you should the relationship sour or if there are arguments later on around roles and responsibilities. No-one ever likes to think about the negatives, but setting up sound structures and contracts up front will leave little room for argument down the line.

Technology start-ups need to be particularly concerned about confidentiality and non-disclosure agreements (NDA), to provide some protection for your ideas and software, and all service providers should consider engaging with an attorney to draft an appropriate and legally enforceable service level agreement (SLA) which clearly sets out what services will and will not be included, and the associated fees and costs.

The storage and processing of personal data are heavily regulated by legislation, and govern even the manner in which your newsletter subscription lists are managed. Bloggers and vloggers need to be especially concerned that they have adequate policies in place to protect both them and their subscribers.

The regulatory environment can be a minefield to navigate and start-ups and side-hustles are not exempt from the far-reaching effects of the Competition Act. Even fairly commonplace “collaborations” may inadvertently fall foul of the law, with devastating results and massive fines for non-compliance.

Competitions are a great way to gain new followers and advertise your business, but it is incredibly important to ensure that you have watertight terms and conditions in place and that you have also considered the standard terms of the social media platforms on which your competition will be run, which all have strict requirements for competitions.

Although there will be some cost involved in engaging with an attorney, many of the policies and contracts drafted for you will be in place for a number of years, so any expense should be considered in light of the investment in your business and the protection of your livelihood going forward.

Starting up a business is an exciting and challenging time, but with the right policies, procedures and contracts in place, it need not turn into a headache, or a heartache. An experienced attorney should be an MVP (most valuable player) in your team that you're building to support and grow your business.

Read more about our [Corporate Mergers & Acquisitions practice area](#).

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