

## Google Benefits or Google's Benefit?

### I. INTRODUCTION

GOOGLE CURRENTLY DOMINATES THE ONLINE SEARCH MARKET in the United States, having grown in a short period of time from a small start-up company with a garage as its executive headquarters to "a vast and powerful multimillion-dollar Internet search engine with three *billion* Web addresses."<sup>1</sup> The company continues to see its revenues and its profits soar. With continuing growth and about eleven acquisitions in the past twelve months, Google's revenues are growing at twice the rate of internet ad businesses overall and nine times faster than sales at Yahoo.<sup>2</sup> Whatever else accounts for such success, employee satisfaction and productivity play an important contributing role.

In 2007, Google was ranked first among the "100 Best Companies to Work For" by *Fortune* magazine.<sup>3</sup> While many factors contribute to such a ranking, there appears to be little question that a significant contributing factor is the broad array of benefits and amenities Google provides to its employees,<sup>4</sup> reflecting the fact that "top-notch benefits play a major role in setting superior employers apart from the rest."<sup>5</sup>

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1. Todd Raphael, *At Google the Proof Is in the People*, WORKFORCE MGMT., Mar. 2003, at 50.

2. Jon Brodtkin, *What Google Bought in the Past 12 Months*, NETWORK WORLD, June 4, 2007, at 6; Robert Hof, *Google: Still Going Gangbusters*, BUS. WK. ONLINE, Apr. 20, 2007, [http://www.businessweek.com/technology/content/apr2007/tc20070420\\_545044\\_page\\_2.htm](http://www.businessweek.com/technology/content/apr2007/tc20070420_545044_page_2.htm). Google's stock hit a new high of \$527.42 on June 26, 2007. Karen Talley, *Google Hit: At \$527.42, A New High*, WALL ST. J., June 26, 2007, at C6. Having said that, second quarter 2007 profits did not climb as high as analysts expected, causing a decline in the company's stock value. Kevin J. Delaney, *Google Pays Price for Spending to Spur Growth; Earnings Increase 28%, Short of Expectations, as Staffing Costs Rise*, WALL ST. J., July 20, 2007, at A3; Gabrielle Coppola, *Analysts React to Google's Earnings*, WALL ST. J. ONLINE, July 20, 2007, <http://online.wsj.com/article/SB11849227651273059.html>.

3. Robert Levering & Milton Moskowitz, *In Good Company*, FORTUNE, Jan. 22, 2007, at 94.

4. Leah Carlson Shepherd, *Fortune Hails "100 Best Companies to Work For," EMP. BENEFIT NEWS*, Apr. 1, 2007, at 1; *Perk Place: The Benefits Offered by Google and Others May Be Grand, but They're All Business*, KNOWLEDGE@WHARTON, Mar. 21, 2007, <http://knowledge.wharton.upenn.edu/article.cfm?articleid=1690> [hereinafter *Perk Place*].

5. Shepherd, *supra* note 4.

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As the first section of this Essay acknowledges, there is no question that Google provides its employees with an array of benefits that are generous by any standard and that appear to be unmatched by its competitors. The question this Essay raises is whether more is always better: Is it really the case that the level of perks provided by Google to its employees is something we want other employers to emulate? Or are there potential downsides to the approach Google takes to employee benefits that should cause us to think more carefully about such an approach?

### II. EMPLOYEE BENEFITS AT GOOGLE

Google cannot be accused of being stingy with its employees when it comes to employee benefits. Like most new companies, it provides employees with a 401(k) plan rather than a defined benefit pension plan.<sup>6</sup> Google allows employees to contribute up to 60 percent of their eligible compensation to the plan and makes a matching contribution of up to \$2,200 per year.<sup>7</sup> It also maintains stock-based compensation plans, under which all employees receive stock or stock options.<sup>8</sup>

In a world where the cost of medical care is continuously rising, causing employers to scale back on benefits, Google pays virtually all of the costs of medical care coverage for its employees, offering employees several plans from which to choose.<sup>9</sup> It also provides standard life and disability insurance, as well as dental and vision care benefits,<sup>10</sup> and generous maternity and paternity leave benefits.<sup>11</sup>

While some of Google's standard benefits are generous, the company really stands out in the benefits it terms "Beyond the Basics" and "Way Beyond the Basics."<sup>12</sup> Benefits the company categorizes as "Beyond the Basics" include family-

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6. Google Jobs: Benefits, <http://www.google.com/support/jobs/bin/static.py?page=benefits.html&benefits=us> (last visited Sept. 7, 2007). As I and others have discussed elsewhere, there has been a dramatic shift over the last several decades in how employers provide retirement benefits to their employees. See Susan J. Stabile, *Is It Time to Admit the Failure of an Employer-Based Pension System?*, 11 LEWIS & CLARK L. REV. 305, 307-08 (2007) [hereinafter Stabile, *Time to Admit*]; see, e.g., JOHN H. LANGBEIN, SUSAN J. STABILE & BRUCE A. WOLK, PENSION AND EMPLOYEE BENEFITS LAW 58-62 (4th ed. 2006). The traditional defined benefit plan is a thing of the past, having been replaced by defined contribution plans, most notably 401(k) plans. See Stabile, *Time to Admit*, *supra*, at 308. New companies like Google invariably provide retirement benefits to their employees through a 401(k) plan. See Editorial, *A Worrisome Indication*, PENSIONS & INVS., Apr. 2, 2007, at 10 [hereinafter *Worrisome Indication*].

7. *Worrisome Indication*, *supra* note 6, at 10. There is no waiting period for participation in the 401(k) plan. See Raphael, *supra* note 1, at 51. Although ERISA requires that all employee contributions be immediately vested, the law does not require immediate vesting of employer contributions. Employee Retirement Income Security Act of 1974 § 203, 29 U.S.C. § 1053(a) (2000 & Supp. 2006).

8. Adam Lashinsky, *Search and Enjoy*, FORTUNE, Jan. 22, 2007, at 70, 80; Steve Lohr, *At Google, Cube Culture Has New Rules*, N.Y. TIMES, Dec. 5, 2005, at C8. During its early years, Google paid below-market salaries and generous stock option grants. *Id.* Today, Google pays competitive salaries and provides experienced hires with stock and option grants, and newly graduated MBA students with smaller option grants. *Id.*

9. Thomas G. Donlan, Editorial, *The High Cost of Charity*, BARRON'S, Mar. 12, 2007, at 59.

10. Google Jobs: Benefits, *supra* note 6.

11. *Id.* The company provides twelve weeks of maternity leave at 75 percent pay and two weeks of paid paternity leave. *Id.*

12. *Id.*

friendly options such as on-site childcare, back-up childcare when regularly scheduled care falls through, and up to \$5,000 in adoption assistance.<sup>13</sup> In addition, parents can expense up to \$500 in take-out meals for the first month home with a new baby.<sup>14</sup> Finally, Google encourages education through \$8,000 in tuition reimbursement, promotes employee referrals with a \$2,000 bonus for successful recruitment, and matches employee gifts to non-profit organizations at up to \$3,000 per year.<sup>15</sup>

Google's "Way Beyond the Basics" benefits include providing employees with a choice of eleven themed on-site restaurants from which to receive free gourmet breakfasts, lunches, and dinners, serving dishes such as foie gras egg rolls, Beijing-style braised ribs, and bay scallop ceviche.<sup>16</sup> All Google restaurants support local farming and organic produce, follow seafood guidelines to prevent over fishing, and even recycle cooking grease into biofuel.<sup>17</sup> Between meals, forty-four snack stations serve a wide variety of bottled beverages, espresso machines, and other snack-time treats.<sup>18</sup> To balance the abundance of food, employees can use on-site gyms, swimming pools, spas, and volleyball and basketball courts.<sup>19</sup> Employees even receive free pedometers.<sup>20</sup>

Google offers a veritable laundry list of benefits, and speaking of laundry, it offers employees dry cleaning and a coin-free laundromat.<sup>21</sup> Employees can have their cars washed and oil changed while they work.<sup>22</sup> There are on-site hair salons, massages, language classes, financial planning seminars, and even a concierge to book dinner reservations.<sup>23</sup> For Googlers feeling great at the end of the week, TGIF parties boast live bands and social opportunities.<sup>24</sup> Those feeling under the weather receive free checkups from one of the five on-site doctors.<sup>25</sup> Twice-weekly open meditation hours host Tibetan monks and a team of mind-science researchers to help Googlers unwind.<sup>26</sup> Employees' dogs are welcome at the office<sup>27</sup> and the free commuter shuttles that take employees to and from local train stations are Wi-Fi enabled.<sup>28</sup>

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13. *Id.*

14. Shepherd, *supra* note 4.

15. Google Jobs: Benefits, *supra* note 6.

16. Sara Kehaulani Goo, *At Google, Hours Are Long, but the Consommé Is Free*, WASH. POST, Jan. 24, 2007, at F1.

17. *Id.*

18. *Id.*

19. Lohr, *supra* note 8; James Warren, *At Empire Google: Gourmet Food and Personal Concierge*, CHI. TRIB., Jan. 22, 2007, at 2.

20. Goo, *supra* note 16.

21. Warren, *supra* note 19.

22. *Id.*

23. *Id.*

24. *Id.*

25. *Id.*

26. Oliver Ryan, *Om Work*, FORTUNE, July 23, 2007, at 193-94.

27. Verne Kopytoff, *How Google Woos the Best and Brightest*, S.F. CHRON., Dec. 18, 2005, at A1.

28. Lohr, *supra* note 8.

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Green perks abound as well. Employees who buy hybrid cars receive \$5,000 towards the purchase.<sup>29</sup> In addition, Google Garden introduces employees to fresh home-grown produce from EarthBoxes that use only 20 percent of the water necessary for open air gardens.<sup>30</sup>

Finally, Google offers its employees time. Employees are given 20 percent of their time at the office to pursue their own ideas instead of company projects,<sup>31</sup> although it is not clear how many employees take advantage of this opportunity.<sup>32</sup>

### III. MAKING THE WORLD A BETTER PLACE?

Google provides the level of benefits and amenities it does, not out of altruism, but as a matter of business interest.<sup>33</sup> Google's goal is to "help [employees] work long hours by feeding them gourmet meals on-site and handling other time-consuming personal chores."<sup>34</sup> The more the company is able to take care of "everyday details and stresses,"<sup>35</sup> the more employees can concentrate on their work.

There is no question that the level of perks Google provides its employees creates positive results in terms of increased employee morale, and therefore increased employee performance. Generous benefits play an important role in employee culture.<sup>36</sup> These benefits begin even before the employee starts the first day of work. New employees who sign the employment contract receive presents every week before they arrive and have lunch with managers.<sup>37</sup> Nooglers (the term used to refer to new Googlers) find their new desk decorated with balloons, gifts, and t-shirts.<sup>38</sup> They are designed to "enable[ ] people to be creative about their jobs"<sup>39</sup> and to foster a sense of opportunity, ownership, and loyalty.<sup>40</sup> As one Googler stated, "So they already love us—and why would they ever want to leave?"<sup>41</sup>

Proof of performance is in the numbers. Google's revenues have steadily increased from \$805.9 million in the third quarter of 2004 to \$3.87 billion in the second quarter of 2007.<sup>42</sup> The company's job offer acceptance rate of 90 percent

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29. Warren, *supra* note 19.

30. Suzanne Bohan, *Google Garden Nourishes Environment*, OAKLAND TRIB., May 8, 2007, at 1.

31. Lohr, *supra* note 8.

32. See *infra* notes 67–69 and accompanying text.

33. *Perk Place*, *supra* note 4.

34. *Id.*

35. Olivia Wu, *Now Google's Cooking*, S.F. CHRON., Mar. 1, 2006, at F1.

36. Google Inc., Registration Statement (Form S-1), at v (Apr. 29, 2004), available at <http://www.sec.gov/Archives/edgar/data/1288776/000119312504142742/ds1a.htm>.

37. Rob Willock, *Google Makes the Mind Boggle with its Recruitment Challenges*, PERSONNEL TODAY, Feb. 6, 2007, at 6, available at <http://www.personneltoday.com/Articles/2007/02/07/39139/google-makes-the-mind-boggle-with-its-recruitment-challenges.html>.

38. *Id.*

39. Raphael, *supra* note 1, at 51.

40. Lohr, *supra* note 8.

41. Willock, *supra* note 37.

42. Google Inc., Quarterly Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 (Form 10-Q/A), at 4 (May 10, 2007), available at <http://www.sec.gov/Archives/edgar/data/1288776/0001193125>

and attrition rate of less than 5 percent<sup>43</sup> suggests employees are satisfied with their decisions to join Google. This satisfaction is contagious; Google expects to receive over one million resumes this year.<sup>44</sup>

A big question is whether Google can continue this strategy to sustain employee morale and productivity as the company grows. Google clearly expects that it will. A recent letter to shareholders said, “[e]xpect us to add benefits rather than pare them down over time. We believe it is easy to be penny wise and pound foolish with respect to benefits that can save employees considerable time and improve their health and productivity.”<sup>45</sup>

Nonetheless, the strategy will not be an easy one to continue as the number of employees continues to grow.<sup>46</sup> The cost to Google of its largess is enormous. For example, the company spends \$100,000 per day just to provide meals to its employees.<sup>47</sup> And since different employees value different things, the array of amenities is staggering. One wonders whether Google, over time, will follow the path of other companies trying to cut costs—whether it will feel the need to cut benefits, or the need to start using more independent contractors as a way to avoid paying benefits to certain workers, or both.<sup>48</sup>

The much more interesting and important question<sup>49</sup> is whether what Google is doing for its employees is actually a good thing, rather than the practical question of whether the company can maintain its level of benefits as it grows. My focus here is on the benefits Google characterizes as “Way Beyond the Basics.” Let me frame the question in this way: Are the “integration of work and non-work activi-

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07110490/d10qa.htm; Google Inc., Quarterly Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 (Form 10-Q), at 4 (Nov. 15, 2004), available at <http://www.sec.gov/Archives/edgar/data/1288776/000119312504197540/d10q.htm>.

43. Kevin J. Delaney, *Start-Ups Make Inroads with Google's Work Force*, WALL ST. J., June 28, 2007, at B1. The attrition rate has been reported to be as low as 3 percent. Willock, *supra* note 37; e.g., Lashinsky, *supra* note 8, at 80 (Google reported in January 2007 an attrition rate of 5 percent). Having said that, many large internet companies started with attrition rates of 5 percent, but those rates grew as the size of the company grew. See Delaney, *supra*.

44. Delaney, *supra* note 43. At the beginning of the year, Google anticipated doubling its then size of around 10,000 employees, hiring on average about 200 people per week. Saul Hansell, *So Tell Me a Little About Yourself with Survey, Google's Job Application Goes beyond Grades*, INT'L HERALD TRIB., Jan. 4, 2007, at 9. Even in relation to its anticipated hiring, the number of applicants is enormous.

45. Google Inc., Registration Statement, *supra* note 36, at v.

46. The number of Google employees has grown from under 3,000 to 12,000 since 2003. Delaney, *supra* note 43.

47. Goo, *supra* note 16.

48. For example, Google now uses Business Referral Representatives to perform various tasks related to Google Maps and Google AdWords. Google Business Referral Representative Frequently Asked Questions, <http://www.google.com/services/local-business-referrals/repfaq.html> (last visited Aug. 29, 2007). The workers hired to perform these tasks are hired on an independent contractor basis and therefore do not receive health insurance or other employment benefits. See *id.*

49. I leave aside other issues for purposes of this Essay, such as whether providing employees with so much free food is a good thing: with the abundance of free food, new employees gain the “Google 15” during their first year with the company. Goo, *supra* note 16; Lashinsky, *supra* note 8, at 77. “A lot of people like their M&Ms. But the easy access is actually what's bad for them.” Lashinsky, *supra* note 8, at 72.

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ties” and the “blurring” of personal life and work life that Google seeks in providing such benefits a positive thing? Is it desirable to have an employee say, for example, “Breakfast, lunch and dinner I eat at Google”?<sup>50</sup>

This is an important question to ask for two reasons. The first is that Google prides itself as a company whose aim is to make the world a better place and as a company that does no harm.<sup>51</sup> There is no question that many of its activities are aimed at doing precisely that,<sup>52</sup> but in addition to what the company does externally, it matters whether its internal benefits practices conform to the company's goals, i.e. whether the company is living up to its rhetoric. The second reason is that Google has an impact on other companies, which feel competitive pressure to try to provide the kinds of amenities Google does.<sup>53</sup>

Labor law in the United States historically reflected the policy that time away from work is a positive thing.<sup>54</sup> Unlike the minimum wage provisions of the Fair Labor Standards Act (FLSA),<sup>55</sup> the FLSA's overtime provisions<sup>56</sup> are aimed at hours as well as wages. The aim of the premium pay for overtime requirement is to make it unattractive to employers to force employees to work longer hours and thus to

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50. *Perk Place*, *supra* note 4.

51. Google Inc., Registration Statement, *supra* note 36, at 27–28; Lashinsky, *supra* note 8, at 82; Steven Levy & Brad Stone, *A Very Public Offering*, NEWSWEEK, May 10, 2004, at 40.

52. For example, Google has a number of public service programs, including Google Earth Outreach. What is Google Earth Outreach?. <http://www.google.com/earth/outreach/index.html> (last visited Aug. 29, 2007). The company also recently announced that it was making its educational tier of Google Apps available to nonprofit organizations in the United States. Thomas Claburn, *Google Gives Nonprofits Free Access to Google Apps*, INFORMATIONWEEK, July 13, 2007, <http://www.informationweek.com/shared/printableArticle.jhtml?articleID=201001190>. Google launched a free WiFi network in Mountain View, California, to give back to the community where it is headquartered. Posting of Minnie Ingersoll to Official Google Blog, <http://googleblog.blogspot.com/2006/08/free-citywide-wifi-in-mountain-view.html> (Aug. 16, 2006, 06:00 EST); Google Grants, In-kind Advertising for Non-profit Organizations, <http://www.google.com/grants/index.html> (last visited Aug. 29, 2007) (providing advertising grants to non-profit corporations to raise awareness of the missions of those organizations); Press Release, Google, *Introducing Google Earth Outreach* (June 26, 2007), available at [http://www.google.com/intl/en/press/pressrel/outreach\\_20070625.html](http://www.google.com/intl/en/press/pressrel/outreach_20070625.html) (allowing non-profits to apply for grants to make use of the Google Earth application).

53. Tammy Joyner, *The Perk Pendulum*, ATLANTA J. CONST., Feb. 3, 2007, at 1C. The pressure to follow suit is tremendous. According to *Fortune's* analysis of the “100 Best Companies to Work For,” excellent benefits packages set the superior employers apart from the rest. See Shepherd, *supra* note 4. Nonetheless, other big technology firms are finding it hard to match what Google provides. Although many offer free or discounted meals, the discussion above suggests that Google takes it to another level. See Goo, *supra* note 16. Similarly, as Google pays for virtually all employee health expenses, other large firms like Microsoft have introduced co-pays for some drugs. See Donlan, *supra* note 9.

54. See Fair Labor Standards Act (FLSA) § 7, 29 U.S.C. § 207 (2000); *Overnight Motor Transp. Co. v. Missel*, 316 U.S. 572, 578 (1942) (discussing the power of Congress to promote employee's well-being by “financial pressures”), *superseded by regulation*, 29 C.F.R. § 790.22(b) (1975), as noted in *Laffey v. Nw. Airlines, Inc.*, 567 F.2d 429 (D.C. Cir. 1976).

55. Fair Labor Standards Act (FLSA) § 6, 29 U.S.C. § 206 (2000 & Supp. IV 2006). This section sets the minimum wage rates for employees employed with employers engaged in interstate commerce and agriculture in the United States. *Id.*

56. *Id.* § 207. This section sets the maximum hours for the work week at 40 hours, and requires employers engaged in interstate commerce and agriculture in the United States to compensate employees who work longer than 40 hours at a rate not less than one and one-half times the rate the employee is currently paid. *Id.*

decrease the number of hours worked by employees.<sup>57</sup> “Reduction of hours was a part of the plan from the beginning.”<sup>58</sup> Indeed, one court termed the FLSA’s overtime premium pay requirements a “penalty” for overtime work, rather than a regulation of wages.<sup>59</sup>

It is increasingly difficult for employees to balance work life and family life under the best of circumstances. Increasingly, the current workforce is characterized by what Joan Williams terms the model of “the ideal worker,” that is, one willing to give his all to his job, without any competing demands on his time.<sup>60</sup> In simplest terms, “most mainstream work fails to take into account institutions of intimacy, such as the family.”<sup>61</sup> As a result, total work hours within a family have increased significantly in the last decade.<sup>62</sup> American workers work longer hours and take less vacation time than workers anywhere else in the industrialized world.<sup>63</sup>

To some extent, it might be argued that much of what Google provides to its employees by way of benefits has the potential to increase the amount of time that an employee has not only for work, but for quality time with his or her family. The ability to take care of laundry and similar menial yet necessary tasks while on the job has the potential to allow employees to enjoy more quality family time when they are not at work. Certainly, given the difficulty for most workers in finding

57. See, e.g., *Walling v. Youngerman-Reynolds Hardwood Co.*, 325 U.S. 419, 423–24 (1945).

58. *Missel*, 316 U.S. at 578 (discussing the power of Congress to promote employees’ well-being by “financial pressures”). The Supreme Court in *Missel* was influenced by the presidential message that initiated the FLSA, which spoke of a “general maximum workweek” and of the evils of overwork as well as underpay. *Id.* The fact that Congress chose not to prohibit overtime outright does not make any less certain that the purpose of the Act was to reduce working hours. *Id.*

59. *Barrett v. Nat’l Malleable & Steel Castings Co.*, 68 F. Supp. 410, 417 (W.D. Pa. 1946) (citing *Carleton Screw Prods. Co. v. Fleming*, 126 F.2d 537 (8th Cir. 1942)).

60. JOAN WILLIAMS, *UNBENDING GENDER: WHY FAMILY AND WORK CONFLICT AND WHAT TO DO ABOUT IT* 1 (2000) (describing the “organization of market work around the ideal of a worker who works full time and overtime and takes little or no time off for childbearing or child rearing” as one characteristic of the “domesticity” that remains the entrenched American norm); see also Daniel J.H. Greenwood, *Gendered Workers/Market Equality*, 12 *TEX. J. WOMEN & L.* 323, 334 (2003) (describing “market norm” as denying family obligations and encouraging workers to “attempt to win a competitive advantage in this new arena by limiting those responsibilities—unencumbering themselves and selling their labor at prices reflecting only their individual needs”). As I have discussed elsewhere, women are particularly disadvantaged by the model of the ideal worker. See Susan J. Stabile, *Can Secular Feminists and Catholic Feminists Work Together to Ease the Conflict Between Work and Family*, ST. THOMAS L.J. (forthcoming 2007).

61. Martha Albertson Fineman, *Cracking the Foundational Myths: Independence, Autonomy, and Self-Sufficiency*, 8 *AM. U. J. GENDER SOC. POL’Y & L.* 13, 13 (2000).

62. See JARED BERNSTEIN & KAREN KORNBLOH, *NEW AM. FOUND., RUNNING FASTER TO STAY IN PLACE: THE GROWTH OF FAMILY WORK HOURS AND INCOMES 1* (2005) (finding that from “the period 1979–2000, married-couple families with children increased their work hours by 16 percent, or almost 500 annual hours”).

63. See OECD OBSERVER, *ORG. FOR ECON. CO-OPERATION AND DEV., CLOCKING IN AND CLOCKING OUT: RECENT TRENDS IN WORKING HOURS 2* (2004), available at [http://www.oecd.org/publications/Pol\\_brief](http://www.oecd.org/publications/Pol_brief) (noting that the average American worker works substantially more hours than those in other high-productivity countries because of longer work weeks and shorter vacations); see also Ellen Glanz, *Americans Work Hard, Play Little*, *PEOPLE MGMT.*, Sept. 28, 2006, at 77; Jeffrey Pfeffer, *All Work, No Play? It Doesn’t Pay*, *BUSINESS 2.0*, Aug. 2004, at 50; *Relax! It’s the Law*, *ECONOMIST*, May 21, 2005, at 40.

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quality affordable child care,<sup>64</sup> the provision of on-site child care promotes family goals as well as employer goals.<sup>65</sup> Other benefits Google provides—generous maternity and paternity benefits, adoption support, and educational benefits—are assuredly family friendly.

However, Google's "Way Beyond the Basics" benefits package largely proceeds from the premise that the details of personal life are a distraction from work life and seeks to maximize the hours employees spend at work by taking care of those details for employees.<sup>66</sup> The company's success in maximizing work time comes at the cost of the employees' personal and family life.<sup>67</sup> One critic claims that workaholicism is rampant at Google, reporting that "[n]early everyone is on e-mail 24/7 and most people spend their evening working from home."<sup>68</sup> Another employee observed,

*as [I] thought about [the benefits package at Google, I] realized that most of the "benefits" actually seem to be thinly veiled timesavers to keep you at work . . . if you think about the fact that the employee now probably only takes a half hour lunch break and also stays late working, the company actually realizes far more than an \$8 gain in employee output, not to mention that most people think this is a great "benefit" and google gets a ton of positive press on it. In short, this "benefit" is designed [to] benefit the company, not the employee.<sup>69</sup>*

Rather than allowing employees to spend more quality time with their families, Google's fringe benefits appear to encourage employees both to spend more of their time in the office and to work when they are not in the office. This is detrimental to the worker and his family, as well as to the larger community.<sup>70</sup>

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64. The cost of child care can consume more than 25 percent of the income of a low-wage family, forcing working parents to work longer hours or put their children in inadequate child care. Barbara R. Bergmann, *Thinking About Child Care Policy*, in *THE ECONOMICS OF WORK AND FAMILY* 43, 43 (Jean Kimmel & Emily P. Hoffman eds., W.E. Upjohn Inst. 2002) (also observing that the "high cost of child care is one of the major causes of low living standards, lack of self-support, and social pathology in families with children").

65. *Id.* at 44 (noting that inability to find affordable, quality child care has an adverse effect on "parent's ability to get to work reliably, and to feel secure that while at work their children are well cared for[,] adversely affecting worker productivity and turnover").

66. Google Jobs: Benefits, *supra* note 6. "The goal is to strip away everything that gets in our employees [sic] way." *Id.*

67. See Posting of Danny Sullivan to SearchEngineWatch Blog, <http://blog.searchenginewatch.com/blog/050126-083916> (Jan. 26, 2005, 8:39 EST).

68. Lorenzo DeSantis, *Microsoft Defeats Google in Terms of Working Conditions!*, UNI GLOBAL UNION, July 6, 2007, <http://www.union-network.org/uniibitsn.nsf/2e8743df5ac1602c125701f00464774/5e122b2e106da279c125731000518e18?OpenDocument>. Critics also claim that "Google treats its software developers as 'interchangeable parts', that almost none of them use their 20% time to work on personal projects, that the typical middle manager supervises 100 employees and that salaries and benefits are better at Microsoft." *Id.*

69. Sullivan, *supra* note 67.

70. In his 2000 book *Bowling Alone*, Robert Putnam lamented the decline in social capital, and the increasing disconnect between Americans and their neighbors and communities (as well as their families). See generally ROBERT D. PUTNAM, *BOWLING ALONE: THE COLLAPSE AND REVIVAL OF AMERICAN COMMUNITY* (2000).

It may be that during Google's start-up period, the strategy of keeping employees at work for as long as possible was a defensible one. Arguably, the only way a start-up venture gets off the ground is for everyone to put all of their effort into the venture. So it is understandable that when Google started, the benefits provided in the garage that "served as executive headquarters . . . included free use of a washer and dryer, a shower, and a refrigerator. The young entrepreneurs plugged in a toaster oven [and] installed a cache of candy and snacks."<sup>71</sup> Clearly, the belief was that "orchestrating a business triumph"<sup>72</sup> was going to require that everyone virtually live at headquarters. While there may not be a clear answer to the question of how long a company can maintain this mindset, it is clear that Google has long passed the point when it can claim start-up necessity as a defense.

Does the voluntary nature of the amenities Google provides for its employees address my concern? That is, no one forces employees to eat all of their meals on site or to make use of the other services provided. It is the employee who chooses whether to accept and to what extent to make use of the amenities Google offers. One would expect there to be widespread variation in terms of how employees respond to the provision of such perks. Researchers identify two types of employees—integrators and segmentors.<sup>73</sup> Integrators are those employees for whom work life and home life have little distinction.<sup>74</sup> In contrast, segmentors maintain distinct walls between their work lives and their home lives.<sup>75</sup> If integrators choose to avail themselves of benefits that ultimately keep them on the job longer, why is that a problem?

There are two reasons the voluntary nature of the amenities does not provide a complete answer to my concern about the effect of the amenities on the work-personal life balance. First, it is legitimate to question whether the employer should be feeding the natural tendency of the integrators.<sup>76</sup> Some employees may naturally incline toward a lack of separation between their work and family lives, but that does not mean it is healthy for them to do so. For example, segmentation of work and family life makes employees "less susceptible to stress, depression, and extreme

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The actions of companies like Google allow for even less time for community activities outside of the workplace.

71. Raphael, *supra* note 1, at 50.

72. *Id.*

73. Rather than operating completely at one or the other pole, "individuals enact different boundary management strategies on a continuum . . . from integrating to segmenting." Nancy P. Rothbard et al., *Managing Multiple Roles: Work-Family Policies and Individuals' Desires for Segmentation*, 16 *ORG. SCI.* 243, 243-44 (2005) (observing that "[i]nstances of complete segmentation or integration are rare" both in terms of actual behavior and in terms of desire); *see also* Blake E. Ashforth et al., *All in a Day's Work: Boundaries and Micro Role Transitions*, 25 *ACAD. MGMT. REV.* 472, 473 (2000) (noting that few employees prefer complete integration or segmentation).

74. *Perk Place*, *supra* note 4.

75. *Id.*

76. I make this argument recognizing that some will charge me with paternalism. But the company is not simply being agnostic and letting employees act as they will. It is attempting to encourage a certain type of behavior.

## GOOGLE BENEFITS OR GOOGLE'S BENEFIT?

psychological mood swings . . . [and] may buffer employees against the spillover of negative emotions and experiences from one domain to the other.<sup>77</sup> It has also been suggested that a lack of proper work-life balance “may have the unintended consequence of making [employees] dependent on their jobs for everything—including their sense of personal worth.”<sup>78</sup> Thus, there is a real question whether a company that seeks to make the world a better place should be encouraging behavior that, while perhaps helpful in terms of the company's bottom line, ultimately may not be in the best interest of the employee or her family.<sup>79</sup>

The second, and more important, reason the voluntary nature of the benefits does not address the concern is that even some who would not naturally incline toward the integrator lifestyle may feel pressured to work longer hours and take more work home by Google's culture. One's preferences are, of course, not the only determinants of how one behaves in the workplace. Rather, “organizational culture” is a key to “organizational behavior.”<sup>80</sup> We saw a graphic illustration of this in the collapse of Enron, where employees, encouraged by a “culture of stock ownership,”<sup>81</sup> invested disproportionate amounts of their 401(k) retirement savings in Enron stock, resulting in a loss of approximately \$1.3 billion when the company filed for bankruptcy.<sup>82</sup> Boundary theorists find the same dynamic at play regarding the effect of an integrationist workplace on those inclined toward segmentation; if the “organizational context” makes integration “more accessible to employees” than segmentation, there will be a “mismatch between desire and enactment.”<sup>83</sup>

It is true that there is already some significant blurring of work and personal lives because of the spread of new communications technologies. The widespread availability of laptops, BlackBerries, and cell phones facilitates employees' performance of job-related tasks at home or even while attending their children's sports

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77. Rothbard et al., *supra* note 73, at 245.

78. Press Release, Deloitte & Touche USA LLP, Deloitte & Touche USA LLP Survey Finds Strong Relationship Between Work-Life Balance and Ethical Behavior (Apr. 16, 2007), available at [http://www.deloitte.com/dtt/press\\_release/0,1014,cid%253D153527,%26pv%3DY,00.html](http://www.deloitte.com/dtt/press_release/0,1014,cid%253D153527,%26pv%3DY,00.html).

79. A company acting purely out of self-interest would ignore the long-term adverse effects on employees, happy to get as much out of each employee as possible and then hiring replacement employees as the existing ones “burn-out.” However, that type of behavior would be inconsistent with Google's stated mission. See Levy & Stone, *supra* note 51.

80. See, e.g., Ashforth et al., *supra* note 73, at 484 (discussing the effect of culture on segmentation or integration); David M. Boan, *Cognitive-Behavior Modification and Organizational Culture*, 58 CONSULTING PSYCHOL. J.: PRAC. & RES. 51, 51 (2006) (using the term “organizational culture” to refer to “a set of persistent norms and values” that develops in an institution).

81. SUSAN J. STABILE, 401(K) ANSWER BOOK SPECIAL SUPPLEMENT: LESSONS FROM ENRON 2-3 to 2-4 (2002).

82. See *id.* at 2-2. To give another example, it has been demonstrated that group lateness—a lateness culture—has an effect on individual lateness in employees. See Gary Blau, *Influence of Group Lateness on Individual Lateness: A Cross-Level Examination*, 38 ACAD. MGMT. J. 1483, 1491 (1995).

83. Rothbard et al., *supra* note 73, at 244.

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activities.<sup>84</sup> According to the Bureau of Labor Statistics, almost twenty million Americans perform work at home on a regular basis, not an insignificant amount of which is unpaid.<sup>85</sup> We are clearly too far down the road to change that reality, but that does not mean that we should not at least question employer approaches that encourage employees to spend more and more hours on the job, rather than a more balanced lifestyle.

IV. CONCLUSION

I do not want to be overly critical of Google as an employer. Certainly its standard benefits are generous and many of its other benefits are extremely beneficial to employees (and their families). The company deserves praise for its support of adoption, education, and charitable giving, as well as its generous medical, maternity, and paternity benefits. There is value both in creating a benefits structure that demonstrates to employees that they are valued, and in maintaining efforts designed to foster a sense of community among co-workers. However, fringe benefits designed to take care of employees' "everyday details and stresses"<sup>86</sup> are a double-edged sword.

Let me be clear that I am not advocating a complete separation of work life and personal life in the sense that it is natural and desirable that personal (and spiritual) values be respected in the workplace. In my early days as a lawyer, I remember a colleague who discouraged any discussion of her children in the office because she believed it was inappropriate on-the-job discussion. I know of other people who will not, for example, wear a crucifix to work, believing their religious life should not be visible at the workplace. I view neither of those as models to follow. Instead, my starting point is the much more modest (and, I hope, uncontroversial) claim that there is a real danger when work becomes so dominant that it eclipses personal life. If that claim is accepted, then we must at least question employer actions premised on the "ideal worker" model and actions designed to ensure that employees effectively never leave their job. That is especially the case when the employer in question states its aim as making the world a better place.

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84. See Amelia J. Uelmen, *The Evils of "Elasticity": Reflections on the Rhetoric of Professionalism and the Part-Time Paradox in Large Firm Practice*, 33 FORDHAM URB. L.J. 81, 102 (2005) (stating that remote access to technology allows employees to work away from the office).

85. Press Release, Bureau of Labor Statistics, Work at Home in 2004 (Sept. 22, 2005), available at <http://www.bls.gov/news.release/homey.nr0.htm>. These findings are from a special supplement to the May 2004 Current Population Survey (CPS).

86. Wu, *supra* note 35.