Thumbtack

Digital Marketplaces and the Future of Work

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Executive Summary

Digital technology has opened new paths for millions of Americans to find work. Although there is much confusion in the terms used to describe the different platforms that obscures important differences between them, they all share the basic feature that they are connecting people to facilitate commercial exchange. Because technology has allowed a disintermediation between the people doing the work and the people receiving the benefit of the service, we should expect to see more services being performed. Direct exchange between individuals - facilitated by digital platforms - is likely to become a more common form of commercial interaction in coming years. As a result, the people doing the work are going to be more empowered but less protected by the benefits offered by a traditional workplace.

Thumbtack is a six-year-old marketplace used by more than 150,000 active small businesses to find new customers and help them accomplish projects that are central to their lives. For the small businesses who use our platform, the issues that are currently being scrutinized by policymakers - how businesses attract and maintain a high quality workforce at a low cost with maximum flexibility - are nothing new.

There is a litany of benefits available to individuals who are traditionally employed that are not available to the legions of contingent workers in the United States. Policymakers should consider actions that extend these benefits, where feasible, to the millions of American entrepreneurs and sole proprietors who don’t fall under the umbrella of traditional employment. Doing so in a smart way will also benefit the small business owners who are today employers or who aspire to be employers down the road. If they don’t, judges, juries and private litigants will impose outdated solutions that will ultimately harm consumers and workers.

Introduction

Thank you for the opportunity to testify this morning. I am testifying on behalf of Thumbtack, a San Francisco-based technology company that matches consumers with small business service professionals to help them accomplish projects that are central to their lives. We are honored to be a part of this discussion here today on behalf of growing technology companies and the small businesses we serve.

Thumbtack's network of more than 150,000 active professionals each quarter helps customers get started with more than 5 million projects each year. We are proud to say that we will be putting more than a billion dollars into the pockets of these professionals this year, and multiples of that in the years to come. Our professionals are active across all 50 states and here in the District of Columbia, and they offer services across more than 1,000 categories, from dog walking to bathroom remodeling. About half of the service professionals on Thumbtack have been in business for themselves for five or more years, and similar numbers report that they have one or more employees. Two-thirds say that the business they run on Thumbtack is their primary form of income.

Our most active categories are personal training, lawn care, moving, house cleaning, DJs, catering, and photography. And though we are headquartered in San Francisco, it is only our 11th biggest market - our biggest markets are New York, Los Angeles, Dallas, Atlanta, and Chicago. We operate only in the United States for now.

The Sharing Economy - or Whatever You Want to Call It

Thumbtack represents a new class of business that simply wasn't possible to imagine a decade ago. The internet has revolutionized human interaction at an unprecedented clip. The first revolution came in how we shared information - the original use for networked computers was the exchange of information in military and later civilian functions. In the late 1990s came a wave of innovators - from Amazon to eBay - who changed the way we shopped for goods online. In the early 2000s, social networks revolutionized human interaction. And today the coming revolution is in the way we connect with one another to provide the services important to our daily lives. This latest revolution is in many ways a combination of the commercial interaction, information sharing, and social interaction of the first three waves, and is enabled by each.

Smartphone technology, currently used by about 64 percent of Americans, means that users have a constant connection to buy groceries, hail a ride, plan a vacation, or schedule a housecleaner while they are relaxing on the beach or out walking the dog. Some of these services like Uber or Postmates use a dispatch model that sends a relatively commodified ride or a meal at the push of a button. Other services like Airbnb or Thumbtack use a marketplace model, that allows the consumer to pick and choose from a network of options best suited for their needs.

The common thread among all of these platforms is direct exchange between individuals that wasn't possible without technology enabling the transaction. Although previous generations hired service providers to complete projects for them, the search costs for finding a skilled professional were high, and for the professionals identifying and soliciting new work was a challenge that typically involved placing an ad in the Yellow Pages and hoping that the phone would ring.

Because technology has lowered the transaction costs of finding a driver, hiring a lawn care expert, or delivering the groceries, we should expect these direct exchanges between individuals to become a more common form of commercial interaction in coming years. Digital service platforms will save labor for future generations the way household appliances like the dishwasher and clothes dryer did for previous generations. And the people doing the work, who will not be reliant on a single source of income, will become more empowered working for themselves but less protected by the benefits offered by a traditional workplace.[1]

A quick note on terminology - because these services are essentially connecting people to other people, they have attracted a variety of ever-changing terms to describe them. One popular term - the “sharing economy” - is particularly inapt due to the fact that the one feature each of these services has in common is that money is being exchanged for a service. There is no actual “sharing” in the sense of which we learned about in preschool. The gig-economy, 1099-economy, collaborative consumption, peer-to-peer, on-demand… these terms confuse the issue of what is actually happening with the changes we are seeing in how people are turning their time and effort into money.

Being precise in how we talk about these issues is important because the differences in the business models raise different sets of policy considerations. To take two prominent examples, Uber and Airbnb have both figured out how to take underutilized resources, private cars and private dwellings, and create productive assets out of them by enabling people to “share” them with others for a fee. But saying they are both part of the same sector totally obscures the radically different policy issues raised by both. Airbnb doesn’t have the labor issues that Uber does, and Uber doesn’t have the zoning and other issues that Airbnb does.

It is important to note here that, generally, when it comes to issues of labor laws and the relationship of a worker to an employer, the marketplace services discussed above have not run into the same kinds of problems as the dispatch services discussed above. True marketplaces like Thumbtack generally tend to be places where buyers and sellers are matched together to work out agreeable terms of exchange. The relationship between a dispatcher and a labor provider is more ambiguous, especially when the

[1] This is true at least insofar as those occupations are not yet automated by ever increasingly intelligent computer systems. For one theory on professions most likely to become automated in coming years, see The Future of Employment: How Susceptible Are Jobs to Computerisation.

dispatcher is largely responsible for setting prices and dictating the type of work which is to be provided.

Regardless of the model, the Bureau of Labor Statistics uses the term “contingent worker” to describe workers “who do not expect their jobs to last or who reported that their jobs are temporary.” This term doesn’t capture everything about Thumbtack pros, but for purposes of thinking about the future of work, this is the most useful term.

What We Don’t Know Hurts Us

The growth in this form of earning income brings with it a problem of measurement. Looking strictly at traditional measures of self-employment show that the percent of workers who are self-employed, according to the Bureau of Labor Statistics, has declined over the last ten years. Other metrics, such as the number of workers holding multiple jobs and the number of workers working part time, haven’t seen the type of increase you might expect from some of the breathless coverage of the “gig economy” in recent months.

Government statistics do not provide much insight into the contingent workforce. As outlined in a letter from the Government Accountability Office to Senators Murray and Gillibrand from April of this year, the Bureau of Labor Statistics has periodically conducted a supplemental study of individuals without “standard work arrangements.” However, the BLS has not had funds to conduct this survey since 2005. Although the Appropriations Committee in both the Senate and the House have recommended the BLS conduct this study again, they have not provided additional resources to make sure this happens.

Because of the lack of information, GAO writes that “The size of the contingent workforce can range from less than 5 percent to more than a third of the total employed labor force, depending on widely-varying definitions of contingent work.”

Several private organizations have attempted to count what the government has not seen. An analyst from the Bay Area Council got access to IRS tax records and documented a steady increase in the number of Form 1099s filed with the agency since the end of the last recession, as compared to relatively flat growth in Form W-2. Intuit commissioned a report that estimates 25-30 percent of the American workforce are contingent workers, and that contingent workers will be up to 40 percent of the labor force by 2020. A study by the Freelancers Union and UpWork estimates the current numbers as being slightly larger at 34 percent today and growing.

Clearly this is an area where we need better information before legislating.

Nothing New Under the Sun

As we discuss the future of work, it is important to reflect on what aspects of the future look similar to the past. The “gig economy” is the topic of the day, but many aspects of it will look very similar to small business owners. The small business owners who use Thumbtack to find new work don’t think of themselves as “1099” workers, but for years they have lived with the same flexibility and uncertainty that comes with it.

These small business owners confront the changing workforce both as individuals looking for new clients and in many cases as employers.

1099 contractors - called so because of the form they have to fill out to report their income to the IRS - have long been used by businesses large and small. The BLS in a 1999 report called out that “the age of "just in time" production has given rise to "just in time" workers — employees whom a business can hire on a moment's notice to fill a moment's need." A quick internet search on worker classification issues turns up Congressional hearings on the issue from as far back as 20 years ago, before the smartphone was even a practical concept.

According to Scott Shane, a professor at Case Western Reserve University, spending by sole proprietors on contractors nearly doubled between 2003 and 2011. Professor Shane also writes that this "probably reflects the disproportionate rise in benefits costs and the increasing need for flexibility in changing work force size."

These rising costs and the associated complexity of bringing on full-time workers can keep a growing small business from hiring their first worker at all - we frequently hear from the small businesses on Thumbtack that hiring employees is a daunting task with many pitfalls and unknown penalties for making a mistake in the byzantine process. Only 36 percent of the respondents to our 2015 Small Business Friendliness Survey reported that hiring employees was either "somewhat" or "very easy." The simplicity of bringing on a 1099 contractor where possible is in many cases preferable to the complexity and cost of a W-2 worker.

The fact that a new era of technology companies that rely on labor inputs are again drawing policymakers' attention to the issue should be celebrated and seen as an opportunity to revisit worker classification rules, and more fundamentally as a chance to rethink why we as a society have created two classes of workers and what that means for the future of work.

Benefits

Full-time employment in America has traditionally been associated with a package of non-wage benefits that either employers have opted in to as a way of attracting and retaining high-quality workers, or that the government has mandated or encouraged as a way of ensuring workers are protected from misfortune in the labor market or to help prepare for retirement.

The table below offers a non-comprehensive overview of the traditional benefits that can be associated with full-time work in America.

Benefit	**How has the government encouraged?**	**Received by Contractors?**
Medical Insurance	Tax preferred	Generally no
Social Security	Taxed	Yes
Pension/Retirement Savings	Tax preferred	Generally no
Worker's Compensation	Mandated depending on state	Sometimes
Unemployment Insurance	Taxed	No
Paid Parental/Sick Leave	Voluntary, mandated by certain states	Generally no
Paid Vacation or Holidays	Voluntary	Generally no
FMLA Leave	Mandated	No
Overtime	Mandated	No
Minimum Wage	Mandated	No
Fringe benefits (parking, child care, Flexible Spending Accounts, etc)	Voluntary, Tax preferred	Generally no
Disability Insurance	Taxed; mandated by certain states	Yes
Sick leave	Mandated by certain states	Generally no

These benefits are either entirely voluntary, mandated by the government, incentivized through a tax benefit provided to employers, or run through fully socialized programs that collect an additional tax on an employee's wage that is credited by the government to be delivered to the employee should a qualifying event such as disability or job loss occur.

When it comes to both voluntary and tax preferred benefits, small businesses offer benefits at rates much lower than their larger competitors, due to the expense and legal and operational compliance costs. In our annual survey of small businesses, 48 percent of respondents said that getting health insurance was either somewhat or very difficult.

According to data from the BLS, employees at private firms with fewer than 50 employees had access to retirement and medical benefits, and paid sick days, vacation, and holidays at rates significantly lower than employees at larger private firms. The difference is even greater at firms with more than 500 employees.

Percent of Firms Where Employees had access to...					
	Retirement Benefits	Medical Benefits	Paid Sick Leave	Paid Vacation	Paid Holidays
Firms with fewer than 50 employees	46	53	49	65	66
Firms with 100 or more employees	84	84	72	86	86
Source: BLS					

Making a broader package of benefits available to contingent workers is a laudable goal. It would help the workers by providing a flexible safety net that could travel with them between jobs. It could help employers, including the 5 million small employers in the United States, by taking the onus off of them to provide a competitive package of non-wage benefits, ultimately making compensation packages and legal compliance simpler. Detaching benefits from employers was one of the motivations behind the Affordable Care Act, and there is evidence that decoupling these benefits is effective in enabling people to work for themselves.

These changes are not without roadblocks, unfortunately.

First, it is clear that some of these benefits are easier to provide to contingent workers than others. For example, Congress acted in 1974 to create tax-preferred savings vehicles for individuals who wished to save for retirement that offered similar benefits to the employer-sponsored deferred compensation packages of their day (though with different contribution rules and limits). Congress has also already created tax-preferred savings vehicles like Health Savings Accounts or provided the child-care credit that are available to the self-employed as alternatives to employer-provided benefits like Flexible Spending Accounts.

A relatively simple, though potentially costly, change could be to create similarly tax-preferred savings vehicles designed to be used for spells of unemployment or periods of voluntary leave by contingent workers. A more burdensome route might be to require 1099 workers or the self-employed to pay FUTA (Federal Unemployment Tax Act) taxes the way they are currently required to pay FICA taxes (Federal Insurance Contributions Act, more commonly known as Payroll taxes). Expanding these taxes could be a relatively simple, though perhaps not desirable, action.

Second, providing paid vacation or maternity or paternity leave to workers who don't have a steady employer is a lot more complicated - who will pay for the work that isn't being done? When a professional photographer goes on maternity leave or when a plumber takes his family on a vacation, they aren't getting paid time off - if they aren't doing the work, there is no one there to pay them.

Workers' Compensation insurance, which was traditionally a bargain that freed employers of the legal liability from workplace accidents in exchange for creating insurance pools that benefited injured workers, is also a complicated issue with rules and rates that vary from state to state. In the case of independent contractors and the self-employed, who can be eligible to file claims depending on the circumstance, mandating an insurance fee for Workers' Compensation would raise costs that don't currently exist. Many private companies offer workplace injury insurance for both independent contractors and the companies that employ them, and, while private incentives clearly currently exist for the purchase of such policies, Congress could examine ways to encourage its adoption.

For independent workers, more flexible, tax-preferred savings accounts could help them to save earnings for these life events, but there are probably other alternatives worth exploring by the Committee.

How to Respond to the Future

Regardless of why we are talking about these issues or who they affect, they are important issues that will have long run implications for the security of American workers and the innovative landscape in the decades to come. Stifling innovation or preventing small businesses from bringing on new employees because of government rules that don't match the times would be a regrettable policy error.

Current litigation asks jurors to decide into which of two outdated categories a new model of worker fits. The legislative process has created two classes of workers named after tax forms - W-2 and 1099 - and has provided courts very little guidance on how changing circumstances should be accounted for given this limited choice. There is very clearly at least a third class of worker - some have labelled them "dependent contractors" - for which current law is a bad fit. And if legislators don't act, courts and juries will.

To the extent possible, detaching benefits from specific employers and encouraging savings for contingent workers are goals policymakers should keep in mind when examining these issues.

Although many regulatory issues facing small businesses in America are at the state and local level, there are also many benefits that are mandated or created at the federal level, where Congress reigns supreme. And if policymakers don’t act, the courts will - to the great detriment of worker flexibility, economic growth, and innovation.

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