

BARRIERS TO GROWTH IN THE “SHARING ECONOMY”

Thought Brief by Denise Cheng

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its associations have sprouted up everywhere. Media pundits, academics, regulators, and idealistic members of the public struggle with what “sharing” means. Some wish for it to mean organic peer-to-peer support—a manifestation of human goodness and the radical impact of cooperation. More often, however, “sharing economy” is a popular label for peer-to-peer marketplaces that enable people to monetize skills and assets they already have.

Is this the future of work? To some, the possibility is a terrifying one. For its cheerleaders, the peer economy represents greater independence and a blossoming of entrepreneurship. Both perspectives have merits, and this brief is a deeper dive beyond the information reflected in mainstream media. The brief will provide an overview of the marketplace structure, benefits, and drawbacks to participation, and how the peer economy will contribute to normalizing an independent workforce. Although there are many stakeholders in the peer economy—politicians, companies, funders, labor advocates, foundations, and the public—this brief focuses on the roles of government and platforms.

HOW DO PEER ECONOMY PLATFORMS WORK?

- Online peer-to-peer platforms are often mislabeled as the sharing economy. The sharing economy is a relatively new term that—loosely speaking—refers to any activity that requires

INTRODUCTION

In recent years, the term “sharing economy” and

coordinated networks. Popularly speaking, the sharing economy includes the peer economy, but the two terms are not necessarily synonymous. The peer economy—an array of online peer-to-peer marketplaces—has several distinguishing features:

- While companies own and build the platform on which transactions take place, the monetary exchange is largely between a provider and a customer. Just as farmers' markets or crafts fairs are peer-to-peer even though vendors pay a booth fee, peer economy platforms have a transaction fee.
- Peer economy platforms have no claim to any technological feat except systematizing trust (a relative term) through rating systems. Rating systems have three components: information symmetry, incentivization, and transparency.
- By enforcing a non-anonymity policy and requiring profiles for both parties in a transaction—providers and consumers—these platforms establish an information symmetry where buyers and sellers each know just as much about the other party. Ratings from prior transactions are entirely visible.
- Ratings are tied to users' accounts, so each party has as much incentive to have a good transactional experience as the other. If one side or the other has grievances, this manifests in negative ratings, which puts off prospective clients or vendors from doing business with the offending party. Rating systems generally run on a five-point scale and allow users to leave comments (often publicly visible). The ratings matter more for some platforms (Airbnb, for example, where people want to see that a space has been found comfortable, or Lyft, where a driver who has less than five stars may be banned from picking up passengers) and less for others (Etsy, where anything from customer service to subjective taste affect sellers' ratings).



Platform companies skim transaction fees from providers' revenue.¹

- Users are not anonymous, and each user must link a verified financial account to his or her profile. Providers and consumers always know with whom they are transacting. In practice, this varies between platforms. Amazon Mechanical Turk, which offers microtasks, or low-level "human intelligence tasks" that cannot yet be completed by a machine, allows user handles and screen names. Elance-oDesk, a platform for professionalized services, does not have the same culture of anonymity or reputation-building around screen names.
- Unlike similar peer-to-peer marketplaces such as Craigslist, peer economy platforms manage financial transactions between the provider and consumer. This management ensures a fixed price, whereas cash transactions with the tag "OBO" ("or best offer") are commonly at the tail end of a Craigslist post.
- Providers are legally categorized as independent contractors in relation to peer-to-peer companies. They are independent service providers who use the tools and software to set up a

business. As Uber describes itself, it is a “lead generation software”.² While this is technically the framework, it is not necessarily how providers perceive themselves, nor how customers perceive the service. Rather, providers feel that they are building a reliable brand with a company in which they are the end of the supply chain, and customers ultimately feel that they are transacting with a service in which providers’ own resources happen to be the inventory. Customers feel that they are hailing rides from Uber, buying products on Etsy, and ordering 3D models from Shapeways.

- Many peer-to-peer products are within reach of middle-income individuals. People who list their cars on Getaround, a car rental platform, may also take advantage of the owner/lesser discount to drive other cars listed on the platform (for example, an owner who rents out a sedan may still want to borrow a pickup truck). Airbnb hosts also book with other Airbnb hosts when they travel. Etsy sellers may buy from other sellers whom they admire.

HOW DO PLATFORMS SERVE VENDORS AND PROVIDERS?

At the outset of the peer economy, companies touted their platforms as a way to earn money from underutilized personal property. These could include camping equipment and power supplies (GearCommons), a parked car (Getaround), or extra space (Barnacle—renting out extra trunk space—or Roost—renting out your private space as a storage facility). Both the marketing challenge and company growth plan hinged on people realizing their abundance.

Many peer economy platforms are asset-based. When the primary purpose of a transaction is access to an asset, the value of skills is deemphasized. In a typical workplace, employees must continually educate themselves and incorporate new skills to

remain relevant. Employees who have a master’s degree receive higher pay than their counterparts with bachelor’s degrees. Computer scientists must constantly brush up on new programming languages to stay effective at their jobs. In the peer economy, however, people do not necessarily need to acquire new skills to participate. In the early days of peer economy platforms, it mattered less for early adopters to apply skills like marketing savvy because there was more demand (consumers) than supply for services (providers).

Peer-to-peer income can act as secondary income to buoy earners’ financial circumstance. Supplementary income could be applied to regular payments like bills, rent, mortgages, or college debt. It might be extra pocket money, spent on novelty items or travel, or be deposited straight into a savings or retirement account. Some providers might spend the money on amenities that increase the value of their peer-to-peer service. Or it may simply be assurance that, should a person lose his or her primary income, that person already has a dependable alternative for income generation.

For peer economy providers, one of the most valued aspects of their participation is flexibility: providers choose when to work. On passive income generation platforms such as Airbnb or Getaround, providers can take their rentals off the market and then relist them whenever they want. On Etsy, shops might be on vacation. As independent workers, shop owners can also choose when they want to list new jewelry pieces, how long their breaks will be between woodworking sessions, or whether to schedule their sewing around other personal priorities like family care, leisure activities, errands, or volunteering. On active income generation platforms such as Lyft or Uber, drivers can sign on and off the driving apps at will. This enables drivers to hold off a shift if demand is slow, and it also enables enterprising drivers to participate on both driving apps at the same time. Drivers toggle between the two apps, picking up whichever passenger request they receive first; they turn the other app off until the ride is completed and they once again need new passengers.

Elance-oDesk and a few other peer economy platforms share similarities to telecommuting. Elance-oDesk workers typically perform professional assignments in which submissions are digital. They work using their own equipment, and thus they might work out of their homes, a coworking space, or a coffee shop. Being able to work from home can be an advantage for those who take care of children or older family members; 97 percent of Etsy sellers work out of their homes.³ On more passive income platforms like Airbnb, where the service is a physical location, hosts who live on site can simultaneously earn income while taking care of other household needs, and they do not have to be present during the entirety of guest stays.

The peer economy can reintegrate people into the economy who have been defined out of a traditional workplace:

Retirees: For various reasons, especially accelerated since the 1980s and into the Great Recession, many people were pressured to leave the workforce. Companies both incentivized and forced employees to retire early.

Elderly: People are living longer than ever before, and this feat of modern medicine also puts strains on personal and national finances. As they age, the elderly are not only physically defined out of the traditional workplace—an office—but their skills may no longer be relevant to the contemporary workplace.

Disabled: Even fewer workplaces are appropriate for those with physical and mental disabilities, especially without a workplace advocate such as an understanding boss. Income generation opportunities for those with disabilities are slimmer, and peer-to-peer marketplaces can represent an alternative to a traditional workplace, coworkers, and schedule.

Caretakers: A common saying is that when we are young, our parents take care of us, but when they are old, we take care of our parents. In both those situations, someone must take time out of traditional work and reapportion that time for caretaking. This is where the economic workforce traditionally loses

women. Google is consistently ranked as the best company for workplace culture, and compared to other similarly sized companies and industry counterparts, it offers relatively generous parent leave benefits. Yet even Google had to better those benefits to keep from losing new mothers at twice their average employee loss rate.⁴ The type of work that caretakers have to do leaves them with only fragments of time sprinkled throughout the day. A consecutively unscheduled eight hours is a rarity, so the flexibility of peer-to-peer marketplaces is an appealing fit.

Platforms can be divided into two categories: active income generation and passive income generation. The consumer-side service that active-income platforms provide is labor-based. For example, Lyft and Uber drivers must be actively driving to earn income. Taskers must be on site to complete a task. KitchenSurfing chefs must prep ingredients before arriving at a diner's home and assemble the meal while on site.

Passive income generation platforms include Udemy and Getaround. Udemy is a peer-to-peer learning platform where providers create video course packages and receive a commission every time a Udemy user enrolls for that course. Getaround functions similarly to Zipcar, which places a fleet of rental vehicles around a city. While Zipcar owns its fleet, Getaround built its fleet by incentivizing owners to rent out their personal cars. In both these situations, there is minimal upkeep for the income generated. A course offering on Udemy will continue to generate income for as long as there are interested students. Getaround rentals are automated, and owners need only communicate effectively with renters and check their vehicles as often as they see fit.

Passive income generation decreases opportunity cost because providers can spend their time on other things while their goods accrue income. The opportunity cost is lower, but passive income generation often relies on an investment that pays for itself. Active income generation means a 1:1 trade for

labor to pay. For as long as a person is not working, that person will not receive pay. For as long as a person is working, that person must pass up other opportunities. However, active income generation can be more lucrative than passive income generation, especially if the provider can set his or her own fee (e.g., through Airbnb and Etsy, which are somewhere between passive and active income generation).

Since income generation on peer-to-peer marketplaces can generally accommodate a variety of personal needs—location, work hours, strenuousness, etc.—they can also be outlets for creativity or networks for interpersonal relationships. On platforms such as Etsy, KitchenSurfing, or Shapeways, providers sell products that issue from their imagination. Some of these platforms have corresponding, locally based communities. Etsy organizes regional teams of sellers, and Shapeways hosts meetups where designers and digital fabricators can share tips or play with Shapeways' newest printing materials. Lyft facilitates a driver group on Facebook and regularly brings together its community for parties. In these examples, companies facilitate social activities and community gatherings. However, companies that create official avenues for communication also nurture communities with initiative. Lyft drivers in the Bay Area, for example, use an app called Voxxxer—which works like a walkie-talkie—to find out who else is on the road and whether anyone wants to take a break for dinner.⁵

Some platforms in the peer economy mirror existing employment industries: housekeeping, delivery services, car services, personal tasks and concierge services, and others. The existence of these online counterparts enables traditional workers to choose the same kind of work in their role as providers. Being a provider means greater flexibility and, in some cases, the same amount of pay even after platform fees and taxes have been calculated. For example, Uber and Lyft are two popular transportation network companies (TNCs), a designation by the California Public Utilities Commission to denote peer-to-peer private car services.⁶ An airport shuttle driver who works evening and night shifts becomes a TNC driver so that he can

schedule his own hours. With the flexibility of a peer economy platform, he chooses to drive earlier shifts so that he can spend time where he finds the most meaning: with his family.

BARRIERS TO PROVIDER PARTICIPATION AND MARKETPLACE GROWTH

Although the next section focuses mainly on barriers from the providers' perspective, their barriers affect how far each platform can grow. If providers feel that they are taking too much risk to justify participation, then current and potential providers will lose faith in companies' value proposition: Have a skill? Have an asset? Monetize it!

REGULATORY BARRIERS

The independent contractor status arguably offers no protection for workers, especially compared to the legal benefits accorded to employees. A common tactic to protect independent contractors is to argue that they have been misclassified and that the work they perform falls under the same level of control over an employee. For employees, companies have to pay Social Security tax, payroll tax, provide worker's compensation in case someone is hurt on the job, and guarantee a safe working environment under the Occupational Safety and Hazards Act, and are barred from discriminatory practices under the Fair Labor Standards Act. Employees can also take unpaid leave in a family emergency. Independent contractors, however, only have one protection: they must be able to execute contract work as they choose. If this is not the case, then they may have been misclassified. This misclassification is determined by two tests: the Common Law of Agency and the Economic Realities test. Although employment should be determined by a hybrid of both tests, it is typically determined in U.S. courts by the Common Law. The Common Law measures employment by 20 factors, including who owns the equipment, scheduling, and how much oversight the company has over the way an independent contractor executes the work.⁷

Besides the lack of legal leverage, there are additional disincentives for independent contracting: Independent contractors pay 15 percent business tax on overall income (a combination of self-employment tax and Social Security tax), and whatever is left after business expense is taxed again at the federal and local income tax rates. All legal liability and certifications also fall to the independent contractor, which may be cost prohibitive. For example, some licenses and permits are very costly. Cottage industry regulations embody the extensiveness of this cost. Not only must small food manufacturers register with local government, but they must also produce their food in commercially sanctioned kitchens. Access to these kitchens can be very expensive. While this is done for consumer safety, a known problem is that in some cases, small food manufacturers' personal kitchens are cleaner than commercially sanctioned kitchens.

Peer-to-peer marketplaces can be divided into two types: skills-based platforms and asset-based platforms. Asset-based platforms enable people to monetize physical assets they already have. This may be extra space, a private vehicle, and more. Some asset-based platforms have fixed locations. The most well known platform to contend with this issue is Airbnb. Hosts rent out their extra space to guests, but their homes are not in commercially zoned areas. Regardless of how the landlord feels, this puts hosts who are renters at risk of immediate eviction. This issue may also affect platforms such as EatWith and Feastly, in which home cooks host dinner guests in their homes with per plate pricing. These homes are not in commercially zoned areas for food production.

By default, independent contractors are sole proprietors. This means they are personally liable for all business risks. Those who do not want to take on such risk can file for incorporation. Independents will typically file as one of three types of business entities: a Limited Liability Corporation (LLC), a partnership, or an S Corporation (S-Corp). Without going into the details, these three entity types mitigate liability to the business entity rather than the private citizen and can also divide revenue taxable for business from

revenue taxable for personal income. However, the requirements and upkeep around these entities is higher than for a sole proprietor.

Although providers are crucial to companies' service, they have no representation within companies. It is only through the provider-company relationship that powerful peer economy brands have emerged, yet providers do not ultimately own any part of the brands. Providers may not have taken on the same entrepreneurial risk or operational overhead for the platform, but they are crucial to peer-to-peer services' vitality. The lack of ownership means that they do not have a voice when it comes to company policies, which also include how providers are treated.

FINANCIAL BARRIERS

The sociability aspect of peer economy platforms is a marketing point: Everyday people just like you perform tasks and services, and this peer-to-peer commerce creates human connection. However, between price consciousness and a multitude of options for the same service, the service's human-centered proposition is secondary to consumers. Because the barrier to entry for these services is relatively low, this commodification leads to depressed wages. The opposite of commodification is specializing, and the ability to distinguish and offer a branded service is why freelancers can traditionally demand a higher wage. However, options are not greatly distinguished from each other on peer-to-peer platforms, and the branding is not personal. Commodification impacts wage integrity when pricing is already subject to demand.

What constitutes a fair wage? Peer-to-peer marketplaces draw their liquid assets and labor from a global pool. Hosts list their personal property for rental; car owners list their personal vehicles or drive those personal vehicles for private car services. However, when it comes to skills-based platforms, the disadvantage of colocation is abundantly clear. Platforms such as Elance-oDesk and various microtasking platforms draw their workforce from around the world, where there are different standards

of living and political conditions around work. While a \$20-per-day wage for microtasking may be unreasonable in the U.S., it can be abundantly livable in another geopolitical context. The concept of a fair wage is not universal, and it has implications for worker solidarity and collective rights.

Since independent contractors are responsible for their own benefits, they may not actually earn enough to cover health care costs or establish savings plans. Furthermore, it is common practice for companies to establish a 60-day window for payment for independents. It is also not unusual for independents to experience wage theft, in which clients do not pay for the services rendered. Independent must file a claim with a small claims court in order to force the client's hand in such cases. Depending on the size of the claim, the financial cost, time cost, and risk may outweigh the financial value of the claim. This is an increasingly urgent problem for providers on microtask platforms.

The previous section stressed the barriers to entry from a licensing and business entity standpoint. However, startup cost is also a consideration, and it is invisible to some providers but not to others. For example, when someone rents out extra space, that person must make sure the space is clean, provide fresh linens, and offer other amenities. For someone who already has extra sheets, extra space, and an acceptable mattress, this is not a conscientious calculation. For someone who has extra space but no mattress, or a mattress but no fresh linens, these are major startup considerations. While there is less risk associated with peer-to-peer marketplaces than if an entrepreneur were to strike out individually, the lack of income to cushion any upfront costs can be a disincentive to participate.

Financial literacy is crucial to assess investment and return in the peer economy. Peer economy platforms are attractive to consumers because they offer a similarly priced alternative to services that have traditionally been delivered by established companies. This puts providers in competition against incumbent companies, and yet providers do not often account

for the economies of scale on which incumbents rely. Incumbents have a semi-reliable market share, and so they tend to manufacture in bulk. The cost to manufacture each product line is relatively low. Companies that do not make their own product can still leverage mass manufacturing to reduce the cost of every component in a final product. This competitive advantage has implications for product-based providers. Companies can price however they want as long as they stay just above manufacturing costs. Meanwhile, peer economy providers do not benefit from economies of scale because they each compete individually as independent contractors. While the price tag seems reasonable to consumers and providers, it may be because providers are not taking their true operating costs into account (including the cost of materials and—as mentioned previously—non-billable hours).

In a sense, those who want to participate on asset-based platforms are engaging in built-in revenue generation. The income from the asset will potentially equal or surpass the value of the asset. From this perspective, asset acquisition is a sure thing, and an installment plan for an asset such as a car is tidy and sensible. However, financing for assets varies. Between the flood of foreclosures in 2008, the Great Recession, and predatory loans, a significant number of Americans have bad credit or no credit history. These groups are considered high risk, so their applications to buy assets may be denied. If approved, the monthly installment payments can be quite high because of the high-risk stigma. Meanwhile, someone who has good credit and may not necessarily need the income can buy some of these assets at a much lower monthly rate.

For example, Getaround operates very much like ZipCar, with a fleet of rental vehicles across a given city. The difference between ZipCar and Getaround is that Getaround's fleet is liquid; each vehicle is owned by a private individual who lists it on Getaround's platform. In the last two years, the company has partnered with San Francisco car dealerships at the end of each year.⁸ These car dealerships have an overflow of inventory, and there are Getaround users

who would like to own a car. Getaround brokers a deal between the car dealership and its users: Users pay a 0 percent down payment but must lease their cars on Getaround for 75 percent of the time.⁹ Car dealerships understand that this agreement has a built-in revenue system. On average, Getaround owners earn \$500 per month after Getaround takes its commission. This average monthly earning would more than cover a reasonable monthly plan, but for individuals with poor credit, the monthly rate could be higher than it would be for an individual with good credit because of the assessed risk level.¹⁰ In other words, the strength of Getaround's dataset and a binding contract do not mitigate an individual's credit history.

Whether or not providers can live on income cobbled together across peer-to-peer platforms is currently unclear. Some providers have figured out how to earn their full-income from a singular platform. Some providers use multiple platforms and may also have a livable patchwork income. Other providers may use peer economy platforms but also hold part-time or full-time jobs, or juggle freelancing gigs. The return on being a provider may actually have a long-term impact; if the return is not high enough, then these platforms may not be recession-proof.

EXPERTISE BARRIERS

What should be obvious about the independent contractor status is that anyone who is not an employee but works independently is a small business owner. The cultural perception and experience of a traditional workforce is largely one that shields employees from entrepreneurial and liability risks, seasonal business cycles, and the true cost of business operations. Whether by choice or lack thereof, the change from being an employee to being an independent contractor can be a terrifying jump, and one that most people take neither lightly nor willingly. The inherent risk in being an independent contractor may also encourage more informal economic activity, in which workers take the risk of receiving payments under the table in the hope

that they will not experience wage theft or abusive working conditions.

On top of the actual service provided, independent contractors must oversee all aspects of running a business, including administrative duties such as recordkeeping, customer service, writing, and negotiating contracts. These are non-billable hours.

Independent contractors are responsible for finding their own work. The feast-or-famine cycle is a common freelancing experience across the independent worker spectrum. Depending on the platform, some providers also share the urgency to hustle for gigs.

Many freelancers do not know how much to charge for their services, especially if their service is an abundant commodity. The amount that freelancers feel that they can charge may not be able to cover all of the costs of operating as an independent. The amount they charge must also take into account the cost of non-billable hours. Providers may not actually be accounting for these non-billable hours, which leads to underpricing.¹¹

Providers on these peer platforms are often referred to as "microentrepreneurs," but that term is misleading. "Microenterprise" has been typically defined as any small business that employs more than two but less than five employees. However, it has been used in peer economy rhetoric to indicate that providers are making a conscientious, enterprising decision. The barriers to entrepreneurship are significantly lowered in peer economy microenterprises because, unlike traditional entrepreneurial ventures, it is much easier to get started and much easier to close up shop when providers decide to end their involvement.¹² However, entrepreneurship happens when individuals believe that the return on the risk is reasonable enough to justify the cost. Although the peer economy proposition is that it is easy to bring in income from assets and skills that providers already possess, it still requires considerable time and cognitive labor to run these microenterprises. If the return is

minimal, then providers cannot reasonably be called microentrepreneurs, as they will likely abandon the platforms as soon as they find more favorable income generation opportunities. On platforms where there is more ability to distinguish a service and to set and justify the price (e.g., Etsy), providers can more reasonably be called microentrepreneurs.

When entrepreneurs start a business, they expect a return on investment. They also tend to think through an exit strategy. This could be success in building a profitable company, selling a small business to another company, or closing the small business entirely. However, their commitment to a company is not indefinite. Entrepreneurs and small business owners understand that they cannot bleed income forever, but they choose to take that upfront loss because they believe that some day their business will more than make up for it. This should map onto microentrepreneurs. However, it does not map onto peer economy providers. If peer economy providers feel that their participation on peer economy platforms is out of desperation and at a near loss, then they are hardly using these platforms for entrepreneurial purposes.

WHICH PLATFORMS AND POLICIES NEED TO CHANGE?

PLATFORM CHANGES

Every technology company tracks specific data about its users and even plots some of the aggregate data points to build out predictive models about its service. This data is usually kept in-house or selectively distributed to the public. However, providers do not necessarily have access to their own raw data, which means they do not have free license to mine their data or long-term access to documentation. Some platforms visualize data for their providers to varying degrees; Etsy may have a very granular analysis while Getaround does not. Mining data is useful because it helps providers understand patterns and make predictive analyses across different factors such

as pricing, location, or time period. Not all providers know how to mine their data without the aid of third-party software, but they should nonetheless own that personal data, and the signature of personal data ownership is the ability to export it.

Moreover, as independent contractors, providers should have some ability to negotiate more considerate terms of service (ToS). The ToS are tantamount to a work contract between a client and an independent contractor, yet there may be a gross imbalance of power between a company and its providers in setting those terms. Providers need to have the right to periodic collective input and updates to the ToS.

Aside from a few companies such as Etsy, many peer-to-peer platforms are not clear about their providers' role as independents. This has led to much confusion on the part of independents as to whether they are employees. It has also meant that providers do not take measures to protect themselves from risk, such as becoming knowledgeable of local ordinances when hosting on Airbnb or driving for a TNC. Ways to achieve clear communication include newsletters, blog posts with business tips, or provider support forums.

Further complicating matters, each platform segments its markets by location. In some of these locations, different regulations apply to businesses (e.g., consumer safety and commercial zoning) and consumers (e.g., local taxes). While platforms' terms of service indicate that providers are responsible for working within local regulations, they carefully omit that language from much of their public-facing product, whether in marketing communication, provider dashboards, or app interfaces. Companies should integrate applicable local business and consumer information into provider tools and materials. Bureaucratic language and legalese can be difficult to parse, but many resources exist to explain ordinances in human language. Other regulations are easier to automate. For example, automating the collection of local taxes is not particularly challenging from a software programming perspective.

LEGAL AND REGULATORY CHANGES

ToS as catch-all agreements are troubling for peer economy providers. The ToS mirror a concept in franchising called the “contract of adhesion,” which is a boilerplate contract. Of the two parties, the stronger party prepares the agreement and the weaker party (franchisee) signs it; thus franchisees do not realistically have a say in the terms of engagement with a franchisor.¹³

Franchising is an apt comparison to the peer economy because franchisees buy the rights and pay commission to use a company’s brand and template to start a small, individually owned business. In exchange, the company is expected to provide marketing support and training materials. Peer economy companies take commission and allow providers to use their platform and brand while also offering basic support. The contract of adhesion is a general negotiation agreement, and it exists because companies cannot realistically negotiate every individual contract. This becomes a problem if the contract is “unconscionable” or “adhesory,” synonymous terms that indicate a gross inequality of bargaining power that pressures the weaker party into the contract. Currently, all peer economy platform users click in agreement to the platform’s ToS (known as click-wrap ToS). ToS have mostly held up in court, except where they have been deemed unconscionable and therefore unenforceable.

ToS are often a one-time agreement when signing up as a user of the site. Both providers and consumers agree to the terms when they sign up as users, not when they diverge into specific roles. In business partnerships, parties are usually allowed to negotiate the terms of a contract or at least review it to determine whether it is conscionable. There is no room for this in click-wrap ToS. The lack of negotiating power is risky for all independent contractors, and there needs to be regulation to open ToS up for periodic collective negotiation.

As noted above, all users should own their data, and providers especially have a financial and legal stake in the matter. Most platforms make all quality ratings publicly visible, but for those that do not, there are ways to anonymize customers’ feedback and ratings.

Consumer safety is a good idea, but some regulations around consumer safety no longer make sense, and vendors are inconsistently inspected for quality. The peer economy has “disrupted” traditional industries because regulations around them need reconfiguration. The aforementioned cottage industry regulation is a good example of a law that needs reconsideration. The sooner that reconfiguration happens, the sooner compliance and business evolution will happen.

Not only is competition good for consumers, it is also good for workers. When multiple companies exist in one industry, consumers can count on good pricing and workers have more professional mobility. However, these regulatory updates are happening too slowly in incumbent industries such as taxicab services. Taxi regulations are modern-day relics, and yet taxi systems have an established infrastructure—the only infrastructure that could rival TNCs if they can catch up in technology. However, the taxi industry is embroiled in regulatory battles and, in the meantime, losing its vitality. Forcing outdated groups to get a facelift could give workers a real choice as to where they work and therefore give them bargaining power.

The contrast between being an employee and being an independent contractor is stark. For all intents and purposes, being an independent contractor is akin to being a small business without all of the tools and support that a traditional small business owner might have. People who want to earn income independently do not necessarily have the ambition to run a small business, and that should be okay. Already, one-in-three American workers are independent contractors—variously called freelancers, precariats, microentrepreneurs, contingent workers, permalancers, temps, and more. The financial software company Intuit projects that by the end of the decade, 40 percent of Americans will be independent

contractors.¹⁴ More liberal estimates claim that independents already make up 35–40 percent of the workforce.

The current reality is that most people do not become independent contractors because they want to, but because they need to. On a regulatory level, there has to be some consideration for a status between that of an employee (where workers are protected from most risk) and that of an independent (where workers bear the entire risk). The lack of protection for independents is equal to a lack of legal leverage. Their only legal leverage is the ability to do work as they deem fit; if the execution of their work is micromanaged by their clients, then they are simply misclassified employees. To lessen workers' need to rely on a tactic that reverts them to employee status, protections and rights must also be built into the independent contractor status.

In the meantime, there must be a way to ease income penalties for providers, especially those who are attempting not to run a business but simply to make ends meet or save for a rainy day. For example, providers could be exempt from business tax up to a certain level of revenue. Then, once the provider's revenue exceeded the value of the asset or materials used to provide the service, it could be taxed at standard independent contracting rates. While rough, the general principle of this idea could be explored.

Traditionally, hourly wages quantify the 1:1 relationship of labor for pay. Since labor is a combination of time, presence, and physical function, there is a high opportunity cost associated with it. Labor does not always generate ongoing income when a person stops laboring. On platforms like TaskRabbit, Homejoy, and TNCs that require full commitment, a minimum hourly compensation should be instituted, and providers should have the opportunity to take that hourly compensation or work on commission with the hope that they will make more than the hourly baseline. This baseline would prevent a race to the bottom and also keep companies that fix the price of services from cutting their providers' rates.

OTHER CONSIDERATIONS

There are many, many barriers to participation, but one could be addressed by establishing an alternative system to stand in for credit history. This would be meant to aid people who want to participate but for whom the cost of equipment is prohibitive. KivaZip is one example of an alternative credit system where a colocated trustee and members of a community will vouch for a small business entrepreneur in need of a loan. As of yet, it is unclear who is best suited for this role: local governments, platforms, or a third party.

The rise of the peer economy represents an opportunity for non-marketplace companies to expand providers' toolkit. Sherpa aggregates a provider's personal data from various driving platforms and produces interactive analytics. (Companies still choose what data providers will receive, but what they give is enough for Sherpa to process correlations.) Breeze is a company that rents out its vehicles to providers who have no cars but want to earn some income from driving platforms. Airbnb hosts who want to set their own rules on top of Airbnb's ToS can add special instructions under the "house rules" for their residence. To strengthen the legal validity of these house rules, hosts can use a contract generation app called Shake to create a contract that is specific to their residence.

CONCLUSION

The peer economy workforce has not yet hit its saturation point. When it does, services on some platforms may become even more commodified, which would affect the earning potential of providers. If income penalties were eased, more people might engage on some level, but taken together, the suggested changes would more likely affect providers who want to transition into a higher level of participation. Yet while income potential might decrease for some platforms, providers would still gain more worker leverage. Data transparency would help long-term providers work strategically with their data and further encourage peer-to-peer

companies to honor fair work policies such as those that determine how providers get removed from a platform.

As the workforce becomes increasingly independent, the freelance market will also hit a saturation point at which it becomes more difficult for professionals to sell themselves based on their unique expertise.¹

¹⁵ Those who do not have the accreditations and social networks will continue to be at a disadvantage. Either way, freelancers will need more options for income. Already, globalization has cultivated a sense of workflow modularity. Companies currently hire independent contractors for myriad reasons, not least of which is the expendability of that workforce. With platforms like Elance-oDesk enabling even greater micro-dissection of the workflow, independents may have no choice but to cobble together a piecemeal income.

Those with professional skills may elect to participate on passive income generation platforms, as this helps them save time that can be reapportioned to other work. For those with a hybrid of assets and skills (suitable for KitchenSurfing, Etsy, and the like), what are now alternative career ladders will be normalized. And those who offer mostly asset-based services will be heavier users on peer-to-peer platforms.

Providers at all levels will be able to make wiser business decisions. While business management tools already exist for big companies and enterprising small businesses, tools tailored to providers, such as Sherpa, Shake, and others, will be more affordable options. Data ownership as a right would also increase providers' sense of independent control.

Meanwhile, casual users for whom participation generates supplemental income—not piecemeal income—could become more aware of their relationship to peer economy companies. If companies are clearer as to their obligations and the various regional and local regulations that apply

to providers, there will be far less ambiguity. Even though casual users may have a steadier source of income, perhaps as employees, their participation in peer economy platforms could go far in alleviating living costs, providing pocket money, or contributing to savings accounts.¹⁶

The greatest impact, however, will be seen in the independent workforce, which will have breezed past 40 percent and will continue to grow. Participation on peer-to-peer platforms is part of a greater trend in which the independent rather than the employee is the new workforce normal. Responses to this paradigm shift will have to rely on more than arguments about worker misclassification. Despite the risks of piecemeal income and skills devaluation, establishing more legal rights for independent contractors would mitigate their precarious position. This would be a win not only for peer economy providers but for all independent contractors regardless of income level, opportunity cost, and professional standing.

¹ According to a study commissioned by Freelancers Union and Elance-oDesk/Upwork, 34% of the American workforce is engaging in independent income generation. Another study by the U.S. Government Accountability Office suggests 40%.

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