



Uber CEO Calls For Third Worker Classification

Insights

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In an op-ed appearing in today's N.Y. Times, Uber CEO Dara Khosrowshahi echoes what we have been saying on this blog for quite some time – that it is time for federal and state lawmakers to tear down the existing regulatory structure forcing companies to select one of two binary choices for their workers, labeling them as either employees or contractors. He advocates for a “third way,” which would permit workers to retain the flexibility they crave while being eligible for benefits provided by the hiring entities they work with.

Khosrowshahi notes that our current employment system is outdated and unfair. “It forces every worker to choose between being an employee with more benefits but less flexibility, or an independent contractor with more flexibility but almost no safety net,” he says. (To us, this sounds a lot like the words used by California state court judge Vince Chhabria way back in 2015 when, presiding over an early piece of misclassification against Lyft, he noted that the test for classifying workers would force judicial decisionmakers to feel like they have been “handed a square peg and asked to choose between two round holes.”)

Option 1: Enjoy Flexibility, But Have No Safety Net

Khosrowshahi first points out that two out of three Uber drivers have indicated they would stop driving if they were unable to enjoy the flexibility they currently have as independent contractors. They like having the “total freedom to choose when and how they drive, so they can fit their work around their life, not the other way around.” But this freedom comes “with a serious drawback” – workers are often on their own when they are unable to work, ineligible for paid time off or other benefits.

Option 2: Be Eligible For Benefits, But Have Little Flexibility

He next points out how traditional employment situations have advantages such as social safety nets and benefits structures – but they aren’t for everybody. “Anyone who’s been fired after having to miss a shift, or who’s been forced to choose between school and work,” he says, understands and appreciates the flexibility that comes with independent contractor work.

Option 3? There Has To Be A Better Way

Khosrowshahi’s main point – there should be a third way, shaped by new laws creating a hybrid classification. The hallmarks of this third path:

- **Company-Provided Benefits:** He proposes that gig economy companies be required to establish benefits funds to give workers money that they can use for the benefits they want, like health insurance or paid time off. This would allow for a portable benefits system allowing workers to build up benefits as they switch between gigs at different entities.
- **Job-Related Injury Coverage:** Because delivery jobs in cars and on bikes come with risk of injury, Khosrowshahi says gig companies should also be required to provide medical and disability coverage for on-the-job injuries.
- **Discrimination Protection:** He also advocates for new workplace discrimination laws that would prohibit gig economy companies from denying independent contractors work privileges opportunities based on race, religion, gender, sexual orientation, or any other protected characteristic.

Khosrowshahi also explains other steps Uber is willing to take to create a better environment for its workers, hoping others will follow suit (open and transparent communication with workers about earnings and the realities of work, strengthening worker rights and voices through employee surveys and acting on their concerns, etc.).

“This is the time for Uber to come together with government to raise the standard of work for all. The opportunity is now, and the responsibility is ours. The world has changed, and we must change with it,” he concludes. The entire op-ed is well worth your read.

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