Seattle's Attempt to Unionize On-Demand Economy Dealt First Blow

Insights
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Not two weeks ago, we discussed several active court cases seeking to challenge the City of Seattle's first-of-its-kind ordinance aimed at unionizing ride-sharing drivers, pointing out that the battle was about to reach a critical point. We're happy to report that a federal court struck a blow against the ordinance yesterday and blocked it from proceeding for the time being. While this is just the first step in what is sure to be a long and complex fight, and it is only temporary in nature, it is incredibly positive news and a step in the right direction.

By way of quick reminder, recall the ordinance seeks to require ride-hailing apps to provide driver contact information to aid approved drivers' associations – such as the newly formed App-Based Drivers Association (affiliated with Teamsters Local 117) – in contacting the drivers to determine if they want to unionize. In January 2017, the Teamsters made formal requests for the ride-sharing companies to provide it with drivers' names, license numbers, telephone numbers, emails, and addresses; the deadline to provide this information was mid-April.

This prompted litigation. One such case, filed by the U.S. Chamber of Commerce on behalf of members such as Lyft and Uber, argues the ordinance violates federal anti-trust law because Seattle's ordinance permits independent contractors to collectively join together to fix prices and terms of service, reducing competition. The Chamber also alleges the ordinance is preempted by the National Labor Relations Act (NLRA) and violates several other state and federal laws, and argues that this ordinance has the potential to cripple the for-hire driver industry and the on-demand economy as a whole.

Yesterday, a federal judge granted the U.S. Chamber of Commerce's request for a preliminary injunction to prohibit the mandatory driver information disclosure portion of the Ordinance. In reaching this determination, the court found that forcing ride-sharing companies to disclose contact information for "their most active and productive drivers" would likely "cause competitive injury that cannot be repaired." The court found it even more important that "the disclosure requirement is the first step in a process that threatens the business model" on which these companies depend. The court also acknowledged that the "anticompetitive potential of all price-fixing agreements is likely to arise and may justify facial invalidation of the Ordinance" and that "the potential impact on an important transportation option for thousands of Seattle residents and visitors cannot be ignored." Finally, in imposing the injunction, the court also decided that it would cause little harm other than delaying implementation of the ordinance, and that "the public will be well-served by maintaining delaying implementation of the ordinance, and that "the public will be well-served by maintaining the status quo," while the courts can carefully consider if "the City's well-meaning Ordinance can survive the scrutiny our laws require."

The ruling is a blow to union organization efforts, making it harder to contact actual drivers and subsequently serve as representatives for the collection of drivers operating across different ride-sharing platforms, collectively bargaining over wages and other working terms. However, the fight is far from over. As the court acknowledged, the injunction is only a preliminary measure to allow the court time to consider the legal challenges to the Ordinance, which includes determining "whether existing state [anti-trust] law covers, or was intended to cover, the sort of regulation the City attempts through the Ordinance" and the complex federal pre-emption issues.

The case remains one to watch. Any ultimate decision by the federal trial court is likely to be appealed, so we're a long way from getting a final answer on this question.

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