



Insight

Tech Policy and the 2020 Election, Part 5: The Sharing Economy

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Executive Summary

- President Donald Trump and Democratic presidential candidate Joe Biden differ over whether the service providers on sharing economy platforms should be either independent contractors or employees.
- Beyond the question of labor law, the overall regulatory environment also impacts the ability of innovative and entrepreneurial opportunities, such as sharing economy apps, to emerge and thrive.
- Many of the regulatory issues faced by sharing economy platforms occur at a state and local level, but there are still federal policies that impact this sector of the economy, and a hands-off regulatory approach will allow more innovation in this sector.

Introduction

Sharing economy platforms such as Uber and Airbnb have grown rapidly over the last decade. By 2016, 72 percent of adults in a [Pew Research Center survey](#) said they had used at least one such service, while the variety and use of such platforms continue to grow. These services also have provided many with new ways to earn income. According to a [McKinsey study](#), there were approximately 162 million people providing services on such platforms in the United States and Europe. The same research found many providers have a variety of reasons for choosing and preferring this service arrangement over traditional employee arrangements

This rapid growth and disruption has also led to friction between policymakers and innovators. While most of these regulatory disputes occur on a state and local level, there are times when federal policy clearly impacts these innovative and entrepreneurial opportunities. In this fourth installment of an ongoing series on the 2020 presidential election and the future of technology and innovation policy, this analysis examines how policy approaches proposed by President Donald Trump and Democratic presidential candidate Joe Biden would impact the sharing economy.

Independent Contractor Classifications

The classification of individuals who provide services via these platforms as either employees or independent contractors has become subject to proposed regulation on both a state and a federal level. Notably, California's Assembly Bill 5 (AB5), which reclassifies the relationship between platforms and their service providers to be an employee-employer relationship, led ridesharing companies Uber and Lyft to [consider ceasing service in the state](#). While such policies may be meant to improve workers' income and guarantee benefits, they often take away the flexibility that draws workers to these platforms. Early on, [American Action Forum research](#) indicated that AB5 could impact 13 million workers and \$1.6 trillion in economic output. Those effects naturally go far beyond tech platform-associated businesses given the ubiquity of the independent contractor model, but impacts

in the tech industry are striking since these are often young and rapidly growing businesses.

On a federal level, the Protecting the Right to Organize (PRO) Act would redefine “independent contractor” in a much narrower form that would eliminate many current arrangements in the sharing economy and effectively implement something like AB5 at a federal level. Additionally, it would eliminate the right-to-work policies in many states and likely lead to expansive unionization of these reclassified employees. Whether on a state or federal level, these labor reforms would limit worker choices and flexibility and have [significant economic costs](#).

The two presidential candidates differ in their beliefs about whether such reforms are necessary. President Trump has stated that he would [likely veto](#) the PRO Act. But beyond that, the Trump Administration’s Department of Labor and National Labor Relations Board have [issued decisions](#) indicating that they see sharing economy service providers as independent contractors and not employees. A Biden Administration would likely have a dramatically different approach. The Democratic candidate [has tweeted](#) his support for California’s AB5 and implied that the current flexible, independent-contractor based approach is undermining “basic human rights.”

Improving Worker Benefits Without Stifling Innovation

When it comes to improving the available benefits and employment conditions of drivers or other platform service providers, there are better solutions than reclassifying them as employees. In some cases concerns about the interpretation of actions in relation to their service providers can disincentivize sharing economy platforms from providing certain benefits or improvements, because to do so might risk such actions being interpreted to reclassify the providers as employees. Further, reclassification does not reflect the desires of the many service providers on these platforms who [value the flexibility](#) of this new type of employment. Any compromises that might change the existing relationship should seek to retain this flexibility and recognize the diverse benefits that individual operators might find best suit their needs. Some may seek more traditional benefits like health insurance while others who participate in the sharing economy as a secondary job or for other benefits might prefer different options. Rather than presume the only solution to improved benefits for gig economy workers is a dramatic reclassification, the winner of the 2020 presidential election should consider compromises and additional frameworks that could provide more flexibility to those in the sharing economy and beyond.

Encouraging Entrepreneurialism

In many cases, sharing economy platforms have emerged to serve consumer needs, but exist either in a regulatory gray area or even in blatant defiance of current regulations. Rather than waiting for approvals or regulation, these innovators often launched their products and services and allowed regulatory authorities to catch up. In many cases this approach has resulted in a “pacing benefit,” since technology and consumers’ acceptance of it may move at a faster pace than regulation that can stifle such innovation, rather than a “pacing problem,” where technology would be unable to develop without needed regulation. On a state and local level, however, this approach has often resulted in friction between disruptive innovators and existing regulated business and regulators who sought to stop these unapproved services.

Policy decisions for the sharing economy are often made on a local level, but the federal regulatory environment can have an impact, as well. For example, the internet flourished in part because of a [policy framework during the Clinton Administration](#) that stated its intention to avoid unnecessary government interference in emerging electronic commerce and to encourage self-regulation. The Trump administration has generally supported a continued light-touch approach around many emerging technologies [such as autonomous vehicles](#), focusing on

the potential benefits of these innovations. Additionally, the current administration has sought a broadly deregulatory approach such as a “1 in, 2 out” approach to administrative rule-making to lower the overall regulatory burden. As American Action Forum’s [Dan Bosch and Dan Goldbeck](#) noted a Biden administration would likely seek to roll back some of the Trump Administration’s broader deregulatory efforts.

When faced with questions about new apps and the sharing economy, the next administration should take a hands-off approach that looks to use existing laws to solve problems and even remove barriers that might prevent development, as this approach is likely to create further beneficial opportunities. Rather than seeking parity in a marketplace by regulating new entrants, such as scooters or home sharing, in the same way as traditional market participants, [policymakers should](#) use this disruption to reexamine if these regulations were ever needed and deregulate to allow more innovation from traditional players as well. The next administration should consider what message additional regulations may [send to future innovators and entrepreneurs](#), including sharing economy platforms, as well as reexamine the existing regulations in disrupted industries. Avoiding overly restrictive AB5-style laws and encouraging further job/gig creation seems especially crucial as the country grapples with [the COVID-19 recession](#).

Conclusion

The next administration’s approach to the sharing economy will affect the strength and even viability of businesses built on this model, but this policy area is not isolated: Other issues such as [data privacy and Section 230](#) also impact the future of these platforms. While much of the debate over the sharing economy occurs at a state or local level, federal labor policy as well as the overall regulatory environment can impact its future and the future of innovation and entrepreneurship.