

Today, thirty-nine different companies and policy experts from a wide swath of the political spectrum [signed a letter](#) urging lawmakers to create a “portable benefits” platform that will enable sharing economy companies to continue innovating while simultaneously providing desirable social safety net benefits to workers. This is well timed, as there is a growing consensus among lawmakers ([such as Senator Warner](#)) that “something must be done” to provide benefits to workers in the so-called “gig economy.”

In total, the thirty-nine signatories to the letter are pushing for changes to existing law based on a set of principles holding that benefits should be:

1. Independent;
2. Flexible and pro-rated;
3. Portable;
4. Universal; and
5. Supportive of innovation

In a nutshell, this would effectively mean that there is some form of benefits available to gig economy workers that follows them around and is accessible regardless of who employs them (or, ostensibly, whether they are employed at all).

Looking past the text of the letter, this would likely entail a package of changes to existing law that would allow individual workers to utilize some form of privately created platform for managing the benefits that are normally obtained in a traditional employee-employer relationship. Such benefits would include, for instance, workers’ compensation, unemployment, disability, professional development, and retirement. A chief advantage of a portable benefits platform is that—much as in an [underlying justification](#) of the ACA—workers would no longer be tied to particular companies in order to enjoy these traditionally employer-based benefits.

Although platform-based work facilitated by smartphone apps is cutting edge, there is historical precedent for this approach to the provision of benefits. Unions have long relied upon [multi-employer plans](#) for providing benefits, and the healthcare industry developed portable [health savings accounts](#) as a means to free individuals from employer-bound health insurance plans. And the industry has been seeking fully private solutions to these sorts of problems for some time. For instance, Uber [recently partnered](#) with Stride Health to provide health insurance benefits to verified drivers.

There will, of course, be some necessary legislative changes in order to make these portable benefits platforms a reality. First, there probably needs to be a provision in the tax code that allows for workers’ contributions to their own plans to receive the same tax-favored treatment that traditional employer-based benefits receive (or, even better, the political give-away would need to be removed from employer-based benefits). Additionally, companies would need to be able to make optional matching contributions with a similar tax treatment. And lurking in the background of all of this is the specter of a large number of employer obligations. Thus, a necessary *quid pro quo* to get sharing economy companies to

pay into these platforms will be some form of safe harbor shielding them from further obligations.

This is a win for both companies and workers. The truth is that our labor market is very fractured—[labor force participation rates are at a low](#), and those who are working [remain chronically underemployed](#). Coupled with this reality, the technology that enables work is becoming ever more flexible and, as shown by their expressed preferences, individuals are [clearly interested](#) in the gig economy as a means of easily obtaining work as needed. A portable benefits platform could provide the sort of support to make flexible work a viable alternative to employee status.

And for many employers—sharing economy and non-sharing economy alike—removing antiquated legal strictures from the employment relationship promises a number of increased efficiencies. Particularly in the context of sharing economy companies, this will include the ability to exert some form of control over platform workers without being sucked into an onerous employer-employee relationship.

For instance, Instacart [recently moved](#) a number of its platform workers to part-time employee status. Although the decision was very likely multi-faceted, a big part of it had to be Instacart's desire to give training and guidance to the shoppers who provided services to the platform's consumers (for instance, instructing them on the best sequence in which to pick groceries in order to ensure maximum freshness). However, to provide any modest degree of oversight would likely mean that Instacart would move from empowering contractors to directing employees, and thereby run into a thicket of labor laws.

Yet why should this particular employee classification be necessary? Platform-based work is a revolutionary way to defeat the [traditional transaction costs](#) that justified large, centrally-organized firms. Companies like Uber and Instacart enable what otherwise would have been fallow resources—spare labor, unused cars, and the like—to be fitted to consumer demand.

Moreover, forcing rigid employee classifications upon sharing economy workers will only reintroduce inefficiency into the worker-company relationship. Instead of allowing workers to sign on just for the amount of work they are willing to do, and allowing consumers just to purchase the amount of work they desire, an employee classification essentially requires companies to purchase labor in blocks of hours. At scale, this necessarily introduces allocation and pricing errors into the system. If a smart safe harbor is included in any legislative push for a portable benefits platform, companies could have much more flexibility in directing platform workers.

I am excited to see this development emerging from the industry and from policy makers, and I look forward to the response of our lawmakers (although, this being election season, I don't expect too much from that response — at least not yet). There is understandably a lot of concern about the welfare of workers in the new economy. But it's important not to lose the innovative new ways of working, producing, and consuming that the modern digital economy affords by resorting to ill-fitted legal regimes from the past.

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