

REPORT OF THE BERKELEY RESEARCH GROUP (BRG)

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ANALYSIS OF DRIVER JOB LOSSES IF GIG ECONOMY COMPANIES MUST RE-CLASSIFY DRIVERS AS EMPLOYEES RATHER THAN INDEPENDENT CONTRACTORS

Assembly Bill 5 (AB 5), which was enacted in September 2019, establishes a legal test that its author claims will require reclassification of app-based rideshare and food delivery drivers as employees rather than independent contractors. The available evidence shows that most drivers prefer the unique flexibility provided by the network platforms, evidenced by the fact that the latest available data indicate the following:

- **According to the U. S. Bureau of Labor Statistics, “79 percent of independent contractors preferred their arrangement over a traditional job.”¹**
- **Over 1 million Californians logged on to the platforms to earn income totaling over \$6 billion.**
- **Approximately 80% of all drivers work less than 20 hours per week, and most of them work less than 10 hours per week.²**
- **Approximately 70% of all drivers work less than 20 weeks per year, and most of them work less than 5 weeks per year.**

Our analysis finds that the success or failure of the network platform companies depends on two key factors: (1) the continued willingness of consumers to pay the cost of the services offered by the drivers, rather than use alternative modes of transportation (including use of the consumers’ own vehicles), and (2) the continued willingness of hundreds of thousands of Californians to provide such services through an app, mostly on a part-time basis, in exchange for the amounts customers are willing to pay for these services. Reclassification of app-based drivers

¹ Bureau of Labor Statistics, “Contingent and Alternative Employment Arrangements – May 2017,” News Release date June 7, 2018.

² The average work hours per driver is 5.3 hours per week (which includes all zero hour weeks for all active drivers during the most recent year for which data are available).

as employees will significantly and negatively affect both of these prerequisites for the companies' survival, for three important reasons.

First, the employment model will significantly increase the companies' operating costs, most of which will have to be passed on to customers in the form of higher prices charged for transportation services. An increase in the prices charged customers will materially reduce the demand for services offered by the drivers, thereby reducing both the companies' revenues and the drivers' income.

Second, the employment model will unavoidably require the network platform companies to eliminate the flexibility that drivers find so attractive about working as independent contractors. The companies will have no choice but to discontinue this flexibility in order to control their operating costs and assure compliance with the many legal requirements that apply to employees (e.g., wages and hours, meal and rest breaks, etc.). The evidence makes clear that the loss of flexibility will bring about a massive reduction in the number of drivers willing to provide app-based transportation services and needed by the network platform companies.

Third, the interaction of these two consequences (higher consumer prices and reduction in the supply of drivers) will produce a downward spiral in demand for app-based transportation services, further threatening the companies' viability and the drivers' income-earning opportunities. As the number of drivers declines, the responsiveness of drivers to consumer demand for drivers also declines, thereby leading to increased consumer wait-times for pick-up or delivery and making the services less convenient and less reliable, which will further reduce consumer demand. With lower demand, the network platform companies will be under even greater pressure to raise consumer prices so as to cover their fixed costs, attract willing employee drivers, and improve the customer experience. The higher prices, in turn, will further reduce consumer demand, potentially threatening the viability of these businesses.

CONCLUSION

Given (1) the economic realities of the network platform companies' markets, (2) published research and data regarding the industry, and (3) the results of our in-depth research and economic modeling, we conclude that requiring drivers to be classified as employees, rather than independent contractors, will:

- **Significantly threaten the viability of the companies**
- **Significantly reduce the income-earning opportunities of the drivers** that currently depend on these companies for their economic well-being;
- **Reduce the number of app-based drivers that the companies will need to satisfy consumer demand by 80-90 percent**, resulting in the immediate elimination of work opportunities for hundreds of thousands of individuals currently working as independent contractor drivers.

Based on the latest available data prior to the COVID-19 pandemic, requiring drivers to become full-time employees will reduce the number of needed drivers **from more than 1,000,000 to less than 100,000**. While we do not have estimates of the total number of drivers currently accessing these platforms in a COVID-19 environment, the conclusion resulting from our economic analysis applies at all levels of demand: **the employment model will reduce the number of drivers by 80-90%.**

THE AUTHORS OF THIS REPORT

David Lewin, PhD, Managing Director

David Lewin is the Neil H. Jacoby professor emeritus of management, human resources, and organizational behavior at the UCLA Anderson School of Management. He has provided consulting advice and expert testimony in numerous labor and employment matters involving age, gender, race, and religious discrimination, wrongful termination, executive compensation, employee compensation, performance management, constructive discharge, wages and hour, and independent contractor versus employee status. In these areas, Dr. Lewin has often designed and analyzed data obtained from survey questionnaires, interview protocols, and observational studies. He has also consulted widely on human resource management issues and practices with companies in the U.S. and abroad.

Dr. Lewin has published 25 books and more than 150 scholarly and professional journal articles on numerous aspects of human resource management and employment relations. He is a Fellow and recent member of the Board of Directors of the National Academy of Human Resources and served as faculty director of the UCLA Anderson School's Advanced Program in Human Resource Management. Formerly on the faculty of the Columbia University Graduate School of Business, Dr. Lewin joined the UCLA Anderson School in 1990.

William (“Bill”) Hamm, Managing Director

Bill Hamm is an economics consultant with high-level experience in both business and government. Prior to entering the private sector, Dr. Hamm headed the non-partisan Legislative Analyst's Office in California where he earned a nationwide reputation for objectivity, expertise, and credibility on public policy issues ranging from taxation to healthcare. He also spent eight years in the Executive Office of the President in Washington, D.C., where he headed a division of the Office of Management and Budget responsible for analyzing the programs and budgets of the Department of Labor, the Department of Housing and Urban Development, the Veterans Administration and other federal agencies.

Dr. Hamm holds a BA from Dartmouth College and a PhD in economics from the University of Michigan. He is a member of the American Economic Association and the American Law and Economics Association; a fellow of the National Academy for Public Administration; and a director of the Grameen Foundation, an international not-for-profit organization that develops innovative, sustainable solutions to fight global poverty and hunger.

Mia Kim, Senior Associate

Mia Kim has conducted numerous analyses of and studies on matters in the fields of labor and employment, class actions, commercial damages and securities. Ms. Kim holds a BS in industrial engineering and an MA in economics from Seoul National University and completed PhD coursework at the Sol Price School of Public Policy at the University of Southern California.

How the report was conducted:

Before accepting this engagement, we requested and were granted (1) access to confidential and proprietary economic data maintained by several of the largest rideshare and delivery platform companies, and (2) the independence and control necessary to ensure that our findings and conclusions are the result of objective analysis. We based our analysis on well-established economic principles and on our understanding of the state’s tax programs. We also reviewed surveys of app-based rideshare and food delivery drivers conducted by third parties, and interviewed drivers and managers at several app-based rideshare and delivery network companies in order to assess the findings from these surveys.

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