

The Sharing Economy – A Worker’s Perspective: Address to the *Asper Review of International Business and Trade Law*

April 23, 2018 – Winnipeg, Manitoba, Canada

PAUL MOIST*

SPEECH NOTES

“C CPA-MB [Canadian Centre for Policy Alternatives – Manitoba Office] is a non-profit organization dedicated to progressive research and engagement on a range of public policy issues. We appreciate very much your invitation to participate in this important conference.

This past year we participated in the Uber debate that hit our community. At City Hall, the Manitoba legislature, and in the media, we spoke through both a workers’ and a public interest lens.

Uber and other similar entities are at the center of discussions about the so-called sharing economy. As many commentators have observed, the term sharing economy is a misnomer when a for-profit firm stands between consumers and suppliers. This is hardly ‘sharing.’ It is in fact consumers paying for access to another’s goods and, or, services.

But before getting to Uber, I offer a couple of initial observations...

Number 1 – Language Matters... In recent decades, free market proponents have used soft language to mask policy thrusts that have significantly impacted workers and communities. Some examples: ‘Free Trade’ – how could this be bad? It’s free! ‘**Right-to-work**’ – it sounds good – everyone deserves a job, don’t they?

* Paul Moist is a former national president of the Canadian Union of Public Employees (CUPE), Canada’s largest trade union, having served from 2003 to 2015. Moist also served as co-chair of Manitoba Premier Gary Doer’s Economic Advisory Council and vice-chair of the Manitoba Public Insurance Corporation.

And now, the ‘**Sharing Economy**’ – peer-to-peer sharing in an online marketplace. A more democratized marketplace with more choices for citizens. What could be better than this?

‘Free Trade’ has seen Canada lose hundreds of thousands of good paying manufacturing jobs; the sector has been cut from 20 per cent to under 10 per cent of the country’s jobs. Also well-established is the link between free trade and growing income inequality.¹

‘Right-to-work’ laws, principally in the US, have driven down union density rates, resulting in an erosion of American middle-class incomes and the attendant political fallout we witness daily.

My message? Look behind the labels and search for facts.

Number 2... And this is a final, overarching comment: **Adopt a *critical perspective*** when considering new endeavors, such as the ‘sharing economy’.

CCPA-MB views all such debates through both a workers’ lens and from the perspective of poor and marginalized citizens. One person’s convenience or option should not come at the expense of another’s well-being. And we must always recognize the difference between private interests and public interests.

Finally, I urge you to consider one of Izzy’s axioms, as outlined in Peter C Newman’s biography of Israel H Asper: ‘Never forget, the system is based on greed.’²

Now, back to Uber.

The phenomenal growth of Uber has been shrouded in controversy. Uber itself argues that it is an app designer – a go-between, if you will, between consumers and independent service providers.

Uber drivers as such, within the business model, are not employees. This is hotly contested legal terrain across the globe. Uber also seeks to avoid the regulatory framework, within which the taxi industry operates.

Launched in 2009, Uber attracted \$18 billion in equity from Silicon Valley venture capitalists and Saudi Arabia’s sovereign-wealth fund. Its growth has

¹ Ronald Labonte & Arne Ruckert, “Canada should reject trade deal” (2 September 2016), *Winnipeg Free Press*, online: <winnipegfreepress.com/opinion/analysis/canada-should-reject-trade-deal-368132101.html>.

² Peter C Newman, *Izzy* (New York: Harper Collins, 2008) at 220.

been phenomenal. Today the company is valued at over \$70 billion, operating in some 600 cities worldwide, with over 30 million monthly users.

Many Uber drivers start out believing that they are independent operators. They quickly learn that they cannot book their own rides, cannot accept tips, cannot drive unless dispatched by Uber, and can be dismissed without recourse, by Uber.

In London, a UK Employment Tribunal has ruled that Uber drivers are workers, not independent contractors, but the company has appealed this decision.

In Denmark, Uber was told they must comply with industry regulations, they simply opted to leave the country.

Here in Winnipeg, Uber succeeded in avoiding requirements that the taxi industry must comply with, including mandatory safety shields and criminal record checks.

Many Uber drivers are challenging the Uber model before the courts and labour tribunals. One Australian driver summed up his experiences as follows:

Once the bills start coming you really feel it. You sit down and see how little you made and realise Uber is exploiting you. There is not even enough money to put into your superannuation and you have to pay your taxes.

In my opinion after doing this for so long now I'm realizing it's a scam.³

CCPA-MB, throughout last year's local debate, did not defend the current taxi industry. In Winnipeg, it is a hard system to defend with its track record of poor service; hundreds of employed drivers earn less than minimum wage.

Having said this, we called for civic hearings to consider the entire spectrum of public transportation systems. This included carpooling and Indigenous ride-sharing organizations. Unfortunately, the City has not acted on this suggestion.

We seem pretty far removed from the public policy sentiments enunciated eight decades ago, in an *Ottawa Journal* article from 1936, which said:

No one has any right to expect a taxi ride... at a price that does not permit of decent wages and working conditions for those engaged in providing it.⁴

I don't offer this comment for nostalgic purposes. Inherent in it is acceptance of the need for a living wage for workers. In our current era of rising

³ Emily McPherson, "Uber drivers working for less than minimum wage" (13 October 2017), *9News*, online: <9news.com.au/national/2017/10/12/14/24/uber-drivers-working-for-less-than-the-minimum-wage>.

⁴ Jonathon Kay, "Uber v. Taxi" (24 September 2015), *The Walrus*, online: <thewalrus.ca/uber-v-taxi/>.

inequality and a shrinking middle class, it seems to me that, across the globe, the debate on how to halt rising inequality is now front and center.

Rising inequality weakens democracy, and as a community, we ought to discuss the ‘sharing economy’ within these critical contexts.

Like other large technology firms, Uber avoids tax, and this is accomplished through Uber’s creation of Dutch subsidiaries, linked to its global headquarters in Bermuda. Again, much of the developed world is trying to figure out how to stop such global tax-avoidant business models.

At both micro and macro levels, Uber fails the most basic test of fairness when one considers its treatment of workers and society as a whole through its massive scale tax avoidance. As a poster-child for the sharing economy, Uber ought to give pause to those who want to sell the merits of the ‘gig’ economy corporate model.

But as you may know, Uber has hit rough waters. It has lost billions in the past two years, and its problems, as the *Globe Report on Business* points out, are in fact structural:

Uber isn’t in trouble because it’s a bad company; it’s in trouble because it’s in a bad business. Uber can only be profitable if it succeeds in recreating the very monopolies – licensed taxi services in every city – it is trying to destroy.⁵

Dressing up Uber and the sharing economy as a ‘win-win’ for workers looking for some additional income and consumers looking for more choice masks some hard truths.

And alongside Uber, Airbnb is also cited by some as a great success in terms of growing the sharing economy. As Tom Slee, one of our speakers later today had written, Airbnb is today hardly about ‘peer-to-peer’ transactions for using spare bedrooms.

Slee cited the fact that the vast majority of Airbnb’s business is composed of ‘entire home’ rentals. In San Francisco, renters are being moved out as landlords pursue more profitable Airbnb rentals.

New York Magazine has argued that:

... the sharing economy succeeds because of a depressed labour market.⁶

They speak of a:

⁵ Eric Reguly, “Is Uber heading for the App junkyard?”, *Globe Report on Business Magazine* (25 October 2017).

⁶ Kevin Rose, “The Sharing Economy Isn’t About Trust, It’s About Desperation” (24 April 2016), *New York Magazine*, online: <nymag.com/daily/intelligencer/2014/04/sharing-economy-is-about-desperation.html>.

... damaged economy and harmful public policy that has forced millions of people to look to odd jobs for sustenance.⁷

The Huffington Post put the growth of sharing economy work into the historical context, stating that such employment is only a new face for contractual work, and that temporary employment cannot provide the necessary safeguards for modern living.⁸

If the so-called ‘sharing economy’ enables global corporations such as Uber to by-pass regulations and laws designed to protect workers and consumers, it is a step backwards for society as a whole – a step we should not take, in my view.

The question is not whether the public ought to have choices – of course we should. The question is how we ought to measure change and progress, recognizing that not all change represents societal progress. Changes that push people into the margins and increase inequality are not progressive.

The gig and sharing economies are being driven by tech giants, and as citizens, we ought to review their conduct with our eyes wide open.

The world’s five largest global technology companies (i.e. Amazon, Apple, Facebook, Microsoft, and Google’s parent – Alphabet) have a combined market capitalization of US \$3.5 trillion.

They all operate on a global scale, acquiring massive amounts of data that is collected from individuals without remuneration. They analyze this data and sell it to, oftentimes unknown, private interests, who in turn use it to influence our purchasing power, voting, elections, and more.

They operate largely without regulation and exist within a 20th century tax structure that cannot capture their value, nor compel them to contribute taxes to society as a whole. They have argued at times that they are ‘too big to regulate,’ and that it would cost them too much to comply with data protection laws. I would argue that their size implies that they must be regulated as a matter of public interest.

Billionaire philanthropist George Soros recently called Facebook and Google a ‘...menace to society’ and ‘obstacles to innovation.’⁹

⁷ *Ibid.*

⁸ Steven Hill, “How the Sharing Economy Screws American Workers,” (20 January 2016), *The Huffington Post*, online: <www.huffingtonpost.com/steven-hill/sharing-economy-american-workers_b_9018724.html>.⁹ Eric Reguly, “How Amazon challenges antitrust orthodoxy”, *The Globe and Mail* (26 January 2016), online: <theglobeandmail.com/report-on-business/rob-commentary/how-amazon-challenges-anti-trust-orthodoxy/article37748601/>.

⁹ Eric Reguly, “How Amazon challenges antitrust orthodoxy”, *The Globe and Mail* (26 January 2016), online: <theglobeandmail.com/report-on-business/rob-commentary/how-amazon-challenges-anti-trust-orthodoxy/article37748601/>.

The Bank of Canada has cited concerns on the increased potential for monopolistic behavior on their part. The Bank said:

Combatting the problem may require modernizing anti-trust and competition laws, and policies including more legal clarity around issues such as data privacy, information security and consumer rights.¹⁰

The Guardian’s Will Hutton calls the Big Five, ‘the most awesome concentration of corporate power in the history of capitalism.’¹¹

But the giant tech companies, like Uber, are experts at spin. Google’s mission statement consists of three words: ‘Don’t be evil.’

Mark Zuckerberg defines his company’s purpose as ‘giving people the power to share and make the world more open and connected.’¹² This spin contrasts sharply with Facebook’s recent controversy surrounding Cambridge Analytica.

How wonderful! This sounds just as good as ‘free trade’ or ‘right-to-work.’ Remember Israel Asper’s axiom? ‘Never forget the system is based on greed.’

You have been equipped by your legal training to respect the rule of law, and the need for regulations at the local, national, and international levels. You have been educated to recognize that when something seems too good to be true, it probably is.

The sharing economy should prompt you to consider labour laws and privacy laws. Above all, you should ask yourself what legal questions arise when public interest considerations form part of our assessment of the sharing economy.

¹⁰ Barrie McKenna, “Bank of Canada’s Wilkins calls for intervention to prevent tech giants from stifling competition” (9 February 2018), *Globe Investor*, online: <globeinvestor.com/servlet/ArticleNews/story/GAM/20180209/RBCDBOCWILKINSFINA>.

¹¹ Will Hutton, “As corporate goliaths grow ever larger, Britain looks increasingly exposed” (10 December 2017), *The Guardian*, online: <theguardian.com/commentisfree/2017/dec/10/corporate-goliaths-grow-ever-larger-britain-increasingly-exposed>.

¹² Jonathan Freedland, “The people owned the web, tech giants stole it. This is how we take it back” (23 March 2018), *The Guardian*, online: <theguardian.com/commentisfree/2018/mar/23/people-owned-web-tech-giants-facebook-cambridge-analytica>.

Workers in the sharing economy are increasingly in precarious, uncertain and low-paid situations. Not by choice, but by the power being exerted downward on the labour market as a whole.

Workers need and deserve regulatory frameworks and laws that protect them and enable them to earn a decent living; such ought to help them become full and productive participants in society. Society as a whole also needs regulatory and legal protections, which serve the public – not private interests.”