Crowdsourcing: Libertarian Panacea or Regulatory Nightmare?

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Abstract: Crowding is arguably the largest paradigm shift in the labor market since the industrial revolution. Existing in a largely unregulated market, the emerging industry is changing the traditional employee-employer relationship. In this staffing model, no longer is the employee and employer in a one-to-one relationship, the new paradigm is often characterized by a one-to-many relationship with some relationships measured in minutes versus years. The industry enables organizations to scale up and down quickly, while providing access to a diverse, inexpensive workforce. For the crowd worker, it means the freedom to set their own hours while deciding for whom and when they work. However, this freedom comes with a cost, typically the wages are long, there is no social safety net, no traditional employer benefits, and no job security. Therefore, the industry is under a great deal of scrutiny by governmental agencies and the justice system. This paper examines both sides of the question when asking is Crowdsourcing: Libertarian Panacea or Regulatory Nightmare?

Keywords: Part-time workers, Contingent workers, Employment law, Ethics, Labor markets, Work environment

The proliferation of technologies such as broadband Internet, mobile connectivity, global positioning systems (GPS), cloud computing, and low cost mobile computing has created an entirely new business model known as crowdsourcing. Crowdsourcing activities typically involve one of three areas, labor, rewards, or securities (Epstein, 2015). This paper considers the pros and cons in the argument for and against regulation in crowdsourcing of labor.

The days of employees spending their entire career at one company and retiring with lifetime pensions are becoming obsolete. Necessity and personal choice often require individuals to change jobs several times during their career and entrepreneurship has become more common (Kneese, Rosenblat, & Boyd, 2014). The flexibility offered in the work environment has resulted in many individuals relying on self-managed careers, multiple careers, and relationships with several employers (Fredette, Marom, Steiner, & Witts, 2012).

Crowdsourcing is transforming the traditional labor market and is arguably the biggest paradigm shift in staffing since the industrial revolution. It has been defined as the outsourcing of a job task that has been traditionally performed by an employee of the organization to a large pool of individuals in an open call environment. Simply put, the workplace desk was replaced by the cubical, which is being replaced by an electrical connection, Internet access, and a laptop (Felstiner, 2011).

While the traditional employment model provides for a one-to-one relationship between one individual and one employer,
the crowdsourcing model is based on a one-to-many relationship between one individual and many organizations with the duration of some relationships measured in minutes (Felstiner, 2011). The explosion in crowdsourced labor has resulted in a new industry and is redefining the traditional employee-employer relationship. However, this business and labor model has sparked some controversy. Many supporters view crowdsourcing of labor as the ultimate in free market transactions, which is currently unencumbered by regulation. However, the critics view the model as eroding the social safety net in the United States. It is not known what, if any government regulations are required to protect crowd workers and consumers of these services. In essence, the question facing the model becomes is crowdsourcing of labor a free market panacea that is best unregulated or is it in need of regulation?

**Background**

Crowdsourcing labor is becoming fairly common in retail delivery and consumer transportation companies, (e.g., Uber and Lyft; Isaac, 2014). However, other business tasks are also assigned to this labor pool. Amazon’s Mechanical Turk (AMT) site has arguably all but cornered the market for non-transportation related crowdsourcing activity, which involves short duration and “unskilled” tasks (Felstiner, 2011). Crowdsourcing tasks are typically classified into four categories including micro tasks, macro tasks, simple projects, and complex projects.

Micro tasks are high volume, low compensation, and low prestige activities. These tasks might include assigning products to categories, tagging photographs with pertinent details, and copying detail from websites (Felstiner, 2011). These tasks are commonly found on AMT.

Macro tasks require slightly more time and skill than micro tasks. Examples of these types of tasks would include writing short product descriptions, writing product reviews, providing survey feedback, and compiling lists from various sources (Felstiner, 2011). Similar to micro tasks, macro tasks can be commonly found on AMT.

Simple projects involve more time and more skills. Examples include building simple websites, writing a specific piece of code, or building a database. Simple projects are not well suited for AMT and are more appropriate for a crowdsourcing platform specializing in these types of activities (Felstiner, 2011).

Complex projects are the rarest tasks found in crowdsourcing. These involve the most time and skill. Complex projects are typically one of kind efforts that may involve activities such as designing a patentable item or writing a significant business report. Some sites allow the parties involved to negotiate the rate of the project (Felstiner, 2011).

In addition to generalized crowdsourcing sites such as AMT, other specialized sites exist. LiveOps is a crowdsourcing site for virtual call center applications, while oDesk and Elance provide a platform for outsourcing professional activities such as engineering, writing, and web development (Felstiner, 2011). Still other sites such as Uber and Lyft provide transportation network services (TNS; Isaac, 2014). All of these companies provide web services and function as digital matchmakers serving to connect requesters and workers, after which the website
collects a service fee which is typically between 20% - 27% (Isaac, 2014).

After having expressed interest and indicating they have the necessary skills to complete the task, crowdsworkers arrive one at a time, while the requesters (i.e., the employer) make immediate hiring decisions (Assadi, Hsu, & Jabbari, 2015). The pool of crowdsworkers is constantly changing as workers typically seek opportunities on multiple online platforms. While the crowdsourcing industry does fairly well matching homogenous tasks and workers, the future challenge is to match heterogeneous tasks and workers (Assadi et al., 2015).

Crowdsourcing Represents the True Unregulated Free Market Economy

For many, crowdsourcing represents a true free market economy and anti-regulation environment (Isaac, 2014). This relatively new marketplace is rapidly maturing and largely unregulated in part due to the challenges this ever-changing labor pool represents. Simply put, there is no physical work location and the transaction, excluding transportation, is performed and paid for in a computing cloud (Felstiner, 2011). The industry avoids regulation by operating in a legal void where crowdsworkers are considered independent contractors and TNS companies are considered technology companies, not transportation services companies (Isaac, 2014).

Point

Firms are drawn to the crowdsourcing labor model for the convenience, efficiency, the availability of inexpensive labor, and to avoid costly regulations (Felstiner, 2011). As an example, the taxi industry is highly regulated in major cities such as New York, Chicago, and Boston. These cities operate under strictly enforced medallion systems, which limit the number of taxis that are available and sets pricing. In many respects, the medallion systems limit the competition by creating regulatory barriers for entering the marketplace therefore creating monopolies (Isaac, 2014; Rogers, 2015). Companies, such as Uber, operate outside of these regulations because the company is considered a technology company and therefore operates outside of the taxi monopolies (Isaac, 2014). Uber’s use of GPS technology also improved customer service by effectively creating a car for hire model enabling consumers to wait inside and monitor the location of the vehicle coming to pick them up (Rogers, 2015).

However, Uber’s goal is not to simply force revision to industry regulations, which effectively created a monopoly. Uber’s key competitive advantage is the ability to offer consumers lower pricing than traditionally available in the taxi industry and served as the basis for the extensive regulations (Rogers, 2015). In fact, one of reason many businesses explore crowdsourcing labor is the flexibility to change the size of its workforce quickly with very cost effective labor (Felstiner, 2011).

In some cases, the lower prices have actually expanded markets such as stock images (e.g., photographs and graphic images). Previously, high-end firms selling stock images would have lost many small business clients. Many of these lost clients lacked the budget and would not have engaged the high-end firms (Felstiner, 2011). However, the crowdsource suppliers such as iStockphoto offered professional
appearing images at significantly discounted prices. Therefore, a smaller boutique consulting firm, The Williard Group, has been able to purchase images from a crowdsourcing supplier for use with its proprietary material.

Additionally, crowdsourcing supporters often refer to workers as micro-entrepreneurs (Isaac, 2014). The workers experience relatively few barriers to enter the marketplace outside of acquiring a device to access the Internet, access to a broadband connection, and the cost of acquisition (Felstiner, 2011; Kingsley, Gray, & Suri, 2014). Furthermore, the micro-entrepreneurs enjoy great flexibility and are in full control over how, when, and where they work. For many, the decision to be a crowdsourcing micro-entrepreneur is a lifestyle choice (Kneese et al., 2014). The flexibility the workers enjoy provides many with childcare solutions and enables them to make extra money during their spare time. Given the control the crowdworkers have, some people like the career choice (Kneese et al., 2014).

Furthermore, at the completion of the task(s), most crowdsourcing platforms offer requesters an opportunity to rate their satisfaction with the completed service. Consequently, the marketplace is truly competitive as the micro-entrepreneurs typically rely on their individual ratings to gain future work and are hired or not, based on their individual ratings (Kneese et al., 2014). Similar to many enterprises relying on crowdsourcing labor, Uber enables consumers to rate the drivers and those with ratings below 4.6 stars are no longer eligible to receive work. However, in a somewhat unique twist Uber allows the drivers to rate the consumers as well thus attempting to ensure that both the worker and requestor behave appropriately (Isaac, 2014).

Poetz and Schreier (2012) argued that consumer user communities have only recently been recognized as a potential source of innovative product ideas. Creativity or innovation crowdsourcing provides businesses quick and easy access to large pools of consumers to collect needs, innovative ideas by surveys or by interviews with marketing personnel. Crowds have proven effective enough at solving innovation problems that a number of crowdsourcing platforms have emerged that specialize in this area (Colombo, Buganza, Klanner, & Roiser, 2013). In fact, in a recent blind study, consumer product executives rated crowdsourced product ideas appreciably higher in uniqueness and consumer benefit than those originated by marketing professionals (Poetz & Schreier, 2012). These findings were counter to traditionally accepted new product development processes. In fact, sometimes the most innovative ideas originate from international collaboration (Chua, Roth, & Lemoine, 2015). Therefore, under certain conditions, creative crowdsourcing would be an unconventional option that could supplement a business’s new product development process (Poetz & Schreier, 2012).

*Counterpoint*

While regulations often did limit competition and set rates, most were reciprocal in nature. Simply put, in exchange for regulations limiting the competitive nature of the marketplace, the business owners had to comply with safety, insurance, service requirements, and not discriminate against drivers or customers (Rogers, 2015). While Uber does provide
commercial insurance, it is only effective when the driver is transporting a customer. Consequently, when a crowdsourced Uber driver is not actually transporting a customer, the vehicle may be uninsured or underinsured (Rogers, 2015), as was the case when an Uber driver struck and killed a six-year old girl in San Francisco (Gutierrez, 2014). Additionally, the crowdsourced TNS company does not conduct background checks on its drivers or require safety inspections on the vehicles (Rogers, 2015).

While crowdworkers may have expanded certain markets such as stock images, in other cases it simply took market share from traditional providers. Arguably, Uber did not increase the number of taxi rides annually, rather it simply commandeered the marketplace due to lower, more competitive pricing. As an example, since Uber is not limited to a number of available cars, it simply floods the marketplace during peak times capturing the market based on price and service. Which raises the possibility that Uber is in fact unfairly competing by not playing by the same rules as the traditional model companies (Rogers, 2015). Furthermore, while crowdsourcing supporters often refer to workers as micro-entrepreneurs, the worker often has no real control over the price, as is the case with Uber (Isaac, 2014).

Another concern about pricing is that arguable, crowdsourcing is a glaring example of “race to the bottom” outsourcing. Simply put, the business is outsourcing to the lowest point in the cost structure with little to no emphasis on teamwork, innovation, inventiveness, or the workers ability to make a living (Felstiner, 2011). While very little data exists regarding the demographics and motivating factors behind decisions to enter the crowdsourcing labor pool, Ipeirotis (2010) found that approximately 47% of AMT workers surveyed self-identified as living in the United States, 34% resided in India, and 19% in other countries. As the result of Indians comprising a significant percentage of the AMT labor pool, the company can provide payment to crowdworkers in India in Rupees. Interestingly, approximately 77% of Indian AMT workers surveyed reported having a bachelors degree or higher, while approximately 55% of American AMT workers had a bachelors degree or higher (Ipeirotis, 2010). The end result is that American AMT workers compete directly with highly educated India workers for many of the same tasks.

Additionally, the feedback in the rating system is often one sided. The requester has access to the full data on the worker, while the crowdworker often knows very little about the employer. Crowdworkers can experience issues with deception as some tasks involve writing falsified product or service reviews. Often the crowd worker has no idea what the end use of his or her effort will be. While the crowd worker can opt to return the task(s) he or she perceives to be morally questionable, it will be reported as an uncompleted job (Felstiner, 2011; Horton, 2010). Furthermore, businesses’ can reject work and withhold payment without surrendering the right to use the work produced (Felstiner, 2011; Horton, 2010; Silberman, Irani, & Ross, 2010). Given the anonymity of the employer, it is easy to imagine a situation where an unsuspecting crowdworker accepts a package delivery task and unwittingly becomes an accomplice in a terrorist plot or a software developer unknowingly writes computer hacking code.
Crowdsourcing of Labor Requires Regulation

Arguably, the success of crowdsourcing is somewhat dependent on the decline in worker protections through legislation adversely impacting labor unions and failure to adjust the minimum wage laws (Isaac, 2014). In essence, many crowdsource requesters operate in a legal void, which offers the business protection from traditional employer obligations and industry guidelines while shifting costs and potentially risks to the worker (Isaac, 2014). Consequently, online labor is truly a commodity where human workers are viewed as robots and completely interchangeable. Bederson and Quinn (2011) observed that this environment has resulted in some referring to online crowdworker tasks as a “remote person call” (p. 1).

Point

Crowdsourcing strengthens the control of the requesters while providing carte blanche to restructure the traditional employer-employee relationship. In this sense, the worker has very limited, if any ability to negotiate (Isaac, 2014; Kingsley et al., 2014). In a world where employers and employees often times negotiate wages after a face-to-face interview, in a crowdsourcing model the requestor will frequently set the compensation before meeting the crowdworker (Kingsley et al., 2014). In this sense, AMT, Uber, and many other crowdsourcing platforms operate in a monopsony environment where all of the power resides with the requester. Specific support for AMT operating in a monopsony environment can be observed in the organization’s website (Kingsley et al, 2014).

As the result of the power imbalance favoring the requesters, the unions representing taxi drivers are reporting decreased wages of between 30% and 50% (Isaac, 2014). Consequently, many crowdworkers are employed by global organizations with billions of dollars in revenue or governmental agencies for pennies per task while bearing the costs of providing the service (e.g., equipment maintenance, gasoline, computer, Internet connectivity, etc.), an unstable work environment (e.g., no benefits, safeguards, or negotiating clout), and assuming personal liability for the service (e.g., cost of tickets associated with permits, accidents, not getting paid due to perceived quality issues; Isaac, 2014; Kingsley et al., 2014).

Participants in the crowdsourcing labor pool tend to receive very low compensation and are generally paid in a piecework manner (Horton, 2010; Kingsley et al., 2014; Kneese et al., 2014). In many respects, the crowdsourcing labor environment is similar to the unregulated labor setting, which spawned Taylor’s scientific management theory where workers are paid piecemeal based on productivity (Silberman, et al., 2010; Witzel & Warner, 2015). This labor market receives no benefits, including sick or vacation time, and has no job security (Felstiner, 2011). The low wages paid to crowdworkers have resulted in some comparing the industry to sweatshops (Horton, 2010). Rubinstein (2006) indicated that classifying workers as independent contractors is key to the crowdsourcing model in that contractors are excluded from workers compensation laws, the Fair Standards Labor Act, Internal Revenue Code (e.g., Social Security and Medicare taxes), the National Labor Relations Act, the Civil Rights Act of 1964 and others (as cited in
Isaac, 2014). Furthermore, while some desirable crowdsourced work is available much is low-prestige, pays minimum wage or less, and wage rates are subject to change. As an example, Uber sets the fare pricing which will directly affect the employees’ income. Therefore, Uber can effectively reduce a driver’s income with little or no advance notice (Kneese et al., 2014).

Furthermore, the move to crowdsourcing labor is allegedly fueling a trend to replace full-time employees with part-time workers. Once again, reducing costs by avoiding the payment of various required worker benefits. Sherman and Kang (2015) reported that although the number of Americans working part time due to the inability to find a full time position decreased in 2014, the number has steadily increased during the recession and last well into the recovery before the 2014 dip. Moreover, Macunovich (2012) noted that the lack of part time bridge jobs is forcing older males to move directly into retirement from their career job.

**Counterpoint**

A key distinction between independent contractors and temporary labor is that temp agencies do not provide the capital assets and operating expense items utilized to provide the product or service, whereas contractors do (Expanding joint employer status, 2014). Additionally, contractors are not protected by workers’ compensation laws, the Fair Standards Labor Act, Internal Revenue Code (e.g., Social Security and Medicare taxes), the National Labor Relations Act, the Civil Rights Act of 1964 and others (Isaac, 2014), the fact is that many crowdworkers participate on a part time basis. Ipeirotis (2010) found that approximately only 12% of AMT crowdsourced micro-entrepreneurs reported working 20 hours or more per week. However, it is worth noting that 33% of Uber drivers reported having no other source of income and working at least 35 hours per week (Hall & Krueger, 2015). Therefore, the vast majority of AMT and Uber workers would not be eligible for many of the benefits. Furthermore, although the vast majority of crowdworkers work less than 20 hours per week, the increased use of part time workers began prior to the introduction of crowdsourcing (Sherman, & Kang, 2015). Additionally, crowdsourcing provides organizations such as Uber a low fixed cost business model (Isaac, 2014).

Although TNS companies such as Uber and Lyft are thorny issues for unions representing taxi workers, the fact is the demise of organized labor began well before these organizations existed. Arguably, it began in the 1980s with the Reagan Administration’s stand on the air traffic controllers’ strike. Furthermore, many states continue to pass anti-union legislation including right-to-work laws, and anti-union laws (Kneese et al., 2014).

Furthermore, crowdsourcing labor is beneficial for the global economy by providing crowdworkers in poorer countries access to employers in wealthier countries. Of perhaps more importance, crowdworkers in poorer countries are not exposed to often-dangerous local working conditions and work in roles with relatively little adverse impact to the environment. Additionally, crowdsourcing job opportunities are not dependent on local governmental infrastructure that helps develop entrepreneurs (Horton, 2010). More importantly, as non-TNS crowdworkers come from many different countries, regulations on labor is at best difficult.
Moreover, crowdsourcing supporters often point to crowdworkers as having made a lifestyle choice, which enables the individual to control how, when and where they work while providing an opportunity to make extra money (Kneese et al., 2014). Interestingly, Horton (2010) found that surveyed crowdworkers perceived that the probability they will be treated fairly by their online employer is as good or better than is available in the traditional workplace. As the result of the study involving 200 participants who were AMT crowdworkers, the researcher concluded that widespread exploitation of individual labor in the crowdsourcing industry is a misrepresentation of the situation (Horton, 2010).

**Conclusion**

Simply put, the original question proposed was should crowdsourcing industry be regulated? Unfortunately, the answer is not a simple yes or no. Neither extreme is prudent. In reality, the answer resides somewhere in the middle. The rapidly emerging industry is not compatible with the current regulatory models (Cannon & Chung, 2015). On one hand, the industry is providing innovative products, improved services, challenging traditional business models, and providing opportunities for additional income for individuals (Cannon & Chung, 2015; Chua et al., 2015; Colombo et al., 2013; Felstiner, 2011; Isaac, 2014; Kneese et al., 2014; Poetz & Schreier, 2012). On the other hand, although a recent study indicates that widespread exploitation of crowdworkers does not exist, there are very real issues that need to be addressed including public safety and insurance issues (Cannon & Chung, 2015; Gutierrez, 2014; Horton, 2010).

Given the incompatibility of the current regulator models, it is up to leading crowdsourcing organizations and government regulators to work together to address perceptions that the industry exploits the workforce and fails to protect the general public all in the name of corporate profits (Cannon & Chung, 2015). Government and the industry must develop co-regulation framework that addresses current marketplace voids without overburdening the industry. Simply put, the actors must seek a mutually acceptable middle ground (Cannon & Chung, 2015). Failure to act quickly will in all likelihood result in the decision being removed from their control, as the judicial branch will become more involved. Recently, the California state court in San Francisco ruled that Berwick, an Uber driver, was an employee, not an independent contractor, and awarded $4,152. Uber is appealing because if the ruling spreads, it could threaten the organization’s business model, which would not be good for the industry or the consumers (Whitehouse, 2015). Currently, the class-action lawsuit is scheduled to begin June 20, 2016 (Weber, 2015).

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**References**


