



**New York State Senate
Committee on Internet and Technology
Public Hearing, Examination of the Gig Economy
October 16, 2019**

Chair Savino and members of the committee, thank you for calling this hearing and for the opportunity to testify. My name is Julie Samuels and I'm the Executive Director of Tech:NYC, a nonprofit coalition with the mission of supporting the technology industry in New York through increased engagement between our more than 750 member companies, New York government, and the community at large. Tech:NYC works to foster a dynamic, diverse, and creative ecosystem, ensuring New York is the best place to start and grow a technology company, and that New Yorkers benefit from the resulting innovation.

Over the last decade there has been a fundamental shift in the way many New Yorkers work and earn a living. Today, many New Yorkers are working as freelancers and choosing independent work arrangements instead of employment with a single company. In New York City alone, 34 percent of the workforce is freelancing and nationally, 35 percent of the workforce is freelancing. The increase in independent work arrangements results from a confluence of factors—public policy developments, cultural changes, economic trends, and technological innovation. Yes, technology and on-demand platforms are a major factor, but they are far from the entire picture. And while many inherently associate the rise of on-demand work with transportation and delivery services—services that so many New Yorkers rely upon—the shift towards on-demand and independent work is occurring across industries, and it is occurring for workers of all skill and education levels.

Independent work can provide New Yorkers with a range of benefits, particularly the ability to work on their own schedule, for as many or as few hours as they desire. While many freelance on a full-time basis, many others freelance part-time, picking up work whenever they are looking to make a little extra money. Importantly, freelancing provides income-earning opportunities for

people who may not be able to work for a traditional employer, due to an array of circumstances.

Beyond the benefits freelancing and on-demand platforms provide to workers, they also provide significant benefits to New York consumers and businesses. Small businesses are able to retain workers with the right skills—be it in visual design, software development, and more—to grow and thrive. Consumers are able to access a wide array of goods and services at affordable prices and convenience through on-demand platforms. Throughout New York State, residents rely upon on-demand platforms to go about their daily lives. Whether you are a New Yorker with limited mobility looking for grocery delivery, a senior looking for a ride to the doctor, a frustrated homeowner in search of an electrician, or an aspiring filmmaker looking for an editor, on-demand platforms are an important tool.

However, we are not here today because of all the benefits independent work and on-demand platforms provide. We are here today because despite the many benefits of independent work, there are also real challenges: namely, independent workers lack certain benefits provided to full-time employees. We are here today because the status quo is not working and it is time to chart a new way forward for New York.

Earlier this year, Chair Savino introduced the Dependent Worker Act, legislation that would create a new worker classification in New York State labor law. While we agree with the need to extend workers more benefits and support further public discussions, Tech:NYC opposes the Dependent Worker Act in its current form. The legislation puts forth an overly broad and imprecise definition for dependent worker, and it would likely apply to a wide-array of unintended arrangements; for instance, the requirements would seemingly apply to any company facilitating payments. Further, even if the definition were refined, certain provisions of the legislation fail to account for modern technology solutions, creating unnecessary compliance burdens. Moreover, the legislation does not extend many benefits—like health care and unemployment insurance—to all independent workers.

As we all know, a different framework for addressing the issues of independent work was recently advanced in California. This legislation, AB5, has been put forward as a way to ensure independent workers are reclassified as employees. Some observers have hailed this legislation

as a victory. We disagree. The problems with AB5 are numerous and the benefits are uncertain. With AB5, workers could lose out on the flexibility provided by independent work and many companies will potentially need to rework services, services which consumers and businesses have come to rely upon. At the end of the day, the legislation fails to account for real distinctions in the workforce and modern technology, and it represents an attempt to regulate the workforce into looking like it did a half-century ago.

For these reasons we would oppose efforts by New York lawmakers to mirror AB5. New York can and should do better than AB5—for workers, for consumers, and for businesses. While California has acted first, regulating is not a race and New York has a unique opportunity to be at the forefront of the modernizing economy while giving workers benefits.

Instead of codifying an employment test into state law for a select group of workers and eliminating worker independence, we could focus on providing all independent workers with benefits. In order to do so, New York State could establish a comprehensive system of portable benefits. Such a system would allow workers to take benefits with them from job to job, while maintaining their freedom. Programs like Social Security, the Affordable Care Act, and New York's Black Car Fund are examples of already existing portable benefits, and there are a number of benefits companies and nonprofits already offering benefits packages to freelancers. New York has an opportunity to use its resources to extend benefits to all independent workers, and we support programs like insurance exchanges and benefits pools that enable efficient and effective delivery of portable benefits to workers. In addition to supporting portable benefits, New York could explore mechanisms for ensuring independent workers have a voice and say in their future.

Establishing new benefits systems and extending protections will not be easy, and it will require sustained conversations between government, labor, and industry. However, we are confident that when all stakeholders come together, New York will be able to develop a truly modern framework, one that benefits all workers and provides all stakeholders the benefits of independent work arrangements. Tech:NYC is eager to be a part of these conversations and we look forward to helping New York State chart a path forward for a 21st Century economy.

