



Uber Disrupts Organized Labor and a Union may get More Dues Paying Members

By F. Vincent Vernuccio

Note: This is an edited version of an essay that was originally published by The Huffington Post.

While disrupting the car-for-hire industry with its ridesharing technologies, Uber created a new level of job flexibility and choice for drivers, allowing them to set their own hours and be their own bosses. In a similar way, Uber is now disrupting the standard union model.

In early May, Uber announced it had reached a deal with the International Association of Machinists and Aerospace Workers to form the Independent Drivers Guild for the 35,000 Uber drivers in New York City.

What makes the guild interesting is that though it is organized by a large labor union, it won't look much like a typical union. The New York Times reported that the guild "would establish a forum for regular dialogue and afford [workers] some limited benefits and protections — but that would stop short of unionization."

The five-year agreement would allow members regular meetings with management, an appeals process for discipline and access to several benefits programs such as insurance and legal services.

Even though guild members will meet with Uber, they will not be able to force the company to bargain over contracts as a traditional union would. Further, no Uber driver will be required to pay dues to the guild, as would be the case in a traditional New York union. Uber drivers could still work directly with the company and would not need to go through the guild if they wanted to negotiate with management or appeal a grievance on their own.

The guild and Uber will team up to lobby for a level playing field on sales taxes. New York state law charges a 9 percent sales tax on Uber rides but there is only a 50-cent surcharge on taxicabs.

Uber Chief Advisor David Plouffe said rides with Uber and taxis should be taxed at the same rate. "This would not only mean more money for drivers, it would also free up resources for a new benefits fund administered by the guild and used to cover benefits such as paid time off or parental leave, for example," he said in a press release.

While the deal is not perfect, it shows the beginning of a model that could bring unionization into the 21st century. It also signals that at least a few unions are taking seriously the new on-demand, independent contractor economy, which is likely to continue growing.

Start with the good: Almost all of the agreement between Uber and the machinists union is voluntary. The agreement does not force drivers to be represented by the union, nor does it compel the company to bargain, as is standard operating procedure with traditional unions. Instead, the agreement models a "members-only agreement" in which a union in a workplace only represents the workers who choose to become members of the union.

As a result, Uber will work with the union but is not legally required to do so. Rather, the two will work together because it is in both of their own interests to do so. To the extent that the guild helps make Uber a more attractive job opportunity, it will help the company gain better contractors, provide better services and best its competition.

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Summary

An agreement between Uber and an industrial union could usher in a new model for unions.

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A new kind of union may be forming.

Natalie Foster, a co-founder of Peers.org, a company that provides portable health and life insurance and retirement options for workers in the sharing economy, highlighted in a piece for CNN.com the benefits and flexibility the guild would provide Uber drivers. She said the arrangement has the “potential to be a critical step toward a 21st century safety net for American workers’ real lives today, because it could very well lead to a workable model to provide portable benefits to gig economy workers.”

A benefit of the deal for the union is that it gets the potential of dues-paying members (it is not charging fees for membership as of the announcement) and only has to provide services to workers who are members.

Not all unions are willing to adapt to the sharing economy and embrace the voluntary approach of the guild. Bhairavi Desai, the executive director of the New York Taxi Workers Alliance, told Reuters the deal was a “historic betrayal” of drivers since the machinists union gave up the type of mandatory association experienced by traditional unions. The Taxi Workers Alliance filed a class action lawsuit in federal court in New York on June 2, seeking to reclassify Uber drivers as employees as opposed to independent contractors.

But now for the bad in the deal: It could open the door for compulsory funding of the union through a newly created union-controlled benefits fund. If Uber and the guild successfully lobby to reduce the sales tax on Uber rides, the union could fight to use part of the savings to fund itself through a mandated union benefits fund, rather than allow drivers to keep the extra earnings or choose to contribute.

Clearly the playing field should be level and taxis should not be given special tax benefits in comparison to Uber or any other private-hire vehicles, so the arbitrary sales tax on Uber rides should be eliminated. But any savings should benefit drivers, and they should decide if they’d like to use that extra income to pay into the guild’s benefits fund.

Further, the new innovative guild could be no more than a stalking horse for a traditional union.

Jim Conigliaro Jr., the general counsel for District 15 of the machinists union, has clearly stated that if Uber drivers are redefined as employees, he would try to organize them into a traditional union.

Nevertheless, the agreement to provide optional benefits for drivers suggests the potential start of a positive transition for the labor movement. It shows that unions no longer need to compel employers and employees into accepting forced representation and paying forced dues in order to support themselves. If it is successful, this deal would demonstrate that unions do not need to use legislative and regulatory action to reclassify independent contractors and small business owners into a one-size-fits-all category they can then organize for the purpose of collecting dues.

If there are no ulterior motives to force unwanted representation on Uber drivers, and the plan is simply to provide a service that drivers can accept or reject, except for the possibility that drivers will be forced to contribute to a union-controlled benefits fund, the agreement should be applauded.

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