Joint Statement of Commissioner Noah Joshua Phillips and Acting Chairwoman Rebecca Kelly Slaughter

In the Matter of Amazon Flex
Commission File No. 1923123
February 2, 2021

The internet-enabled gig economy is substantial and continues to grow. According to one study, U.S. families earning income from the internet-enabled gig economy rose from under 2% of the sample in 2013 to 4.5% by early 2018, with more than 5 million U.S. households earning some income from this type of work by 2018.[1] Another study estimates worldwide transaction volume of $204 billion in 2018, which will more than double to $455 billion by 2023.[2]

Consumer demand for the services offered by the gig economy surely contributes to this growth. But it would not be possible without the contributions of drivers, shoppers, designers, and other gig workers, whether seeking supplemental income or relying on one gig or a patchwork of gigs to get by.

The impact of the internet-enabled gig economy on workers is a matter of robust debate in Congress, state legislatures, popular referenda, academia, and elsewhere. The two authors of this joint statement may not agree on every aspect of this debate, including whether this novel business model is, on net, beneficial for consumers and workers.

Where we do agree—and what this case reflects—is that the platforms that facilitate this gig economy must treat their workers fairly and non-deceptively, just as they must consumers, and that the Federal Trade Commission should work to ensure that they do. That is why this case resolving our investigation into Amazon.com, Inc. and its subsidiary Amazon Logistics, Inc.'s (collectively, "Amazon") treatment of delivery drivers is so important.

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[1] *See* Diana Farrell, Fiona Greig & Amar Hamoudi, *The Online Platform Economy in 2018: Drivers, Workers, Sellers and Lessors*, JPMorgan Chase & Co. Institute (2018) at 23, https://www.jpmorganchase.com/content/dam/jpmc/jpmorgan-chase-and-co/institute/pdf/institute-ope-2018.pdf. Particularly because of high turnover, with many workers spending only a few months participating, estimates of the gig economy are difficult and inconsistent. Another study estimated that there were 1.6 million American workers in the internet-enabled gig economy in 2017, or 1% of the entire workforce, still a substantial number. *See* U.S. Bureau of Labor Statistics, *Electronically mediated work: new questions in the Contingent Worker Supplement*, U.S. Dep't of Labor (Sept. 2018), https://www.bls.gov/opub/mlr/2018/article/electronically-mediated-work-new-questions-in-the-contingent-worker-supplement.htm.

[2] *See* Mastercard & Kaiser Associates, *The Global Gig Economy: Capitalizing on a ~$500 Billion Opportunity* (May 2019) at 2, https://newsroom.mastercard.com/wp-content/uploads/2019/05/Gig-Economy-White-Paper-May-2019.pdf. Another study estimated that spending on gig platforms was increasing 43% year-on-year in 2018. *See* Uber, *Working Together: Priorities to enhance the quality and security of independent work in the United States* (Aug. 10, 2020) at 5, https://ubernewsroomapi.10upcdn.com/wp-content/uploads/2020/08/Working-Together-Priorities.pdf ("Uber Report") (citing Staffing Industry Analysts, The Gig Economy and Human Cloud Landscape (2019)). By way of example, the number of Uber drivers in the U.S. has grown from 160,000 in 2014 to 1 million in 2020. *See* Jonathan V. Hall & Alan B. Krueger, *An Analysis of the Labor Market for Uber's Driver-Partners in the United States* at 1 (Princeton U. Indus. Relations Section, Working Paper No. 587, Jan. 2015), https://dataspace.princeton.edu/bitstream/88435/dsp010z708z67d/5/587.pdf; Uber Report.

The conduct alleged in the complaint is outrageous. According to the complaint, Amazon recruited delivery drivers (and, possibly, attracted customers) by promising that drivers would collect all the tips awarded them by Amazon customers. At a certain point, it decided to divert thirty percent of those tips from drivers to the company to subsidize the amounts it had committed to paying its drivers. The complaint alleges that Amazon then went to great lengths to ensure that no one would figure out what it was doing, by changing the way it presented earnings to drivers and drafting misleading answers for service representatives to give to drivers upset at being short-changed.

Our settlement with Amazon ensures that these drivers will get back every dollar that was promised, every dollar that a customer chose to give as a tip for their service. That is a good result for an enforcement action under the FTC Act, the law we apply today. But we believe that, given the importance of candor and fairness to workers in the gig economy, our current authorities could be improved. Congress can give us direct penalty authority to deter deception aimed at workers in the internet-enabled gig economy and rulemaking authority under the Administrative Procedure Act to address systemic and unfair practices that harm those workers.

Clear rules and the threat of substantial civil penalties can deter wrongdoing. The authors of this statement do not always agree on the proper scope of rulemaking and penalty authority, but we do agree here. Authorizing the FTC to assess penalties to deter similar lawbreaking will help gig workers and make labor markets more efficient. The internet-enabled gig economy is new, innovative, and growing. We believe that the modest reforms we propose here can help gig workers have a fairer shake at getting their benefit of the bargain from that growth, too.