Room to Run: Regulatory Responses to Dynamic Changes in the Organization of Work

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Thank you for having me. I just returned from a trip to Greece, and so, with your indulgence, I would like to kick off the discussion of this very new topic with a very old story.

In 490 B.C., a greatly outnumbered Greek army turned back a huge Persian invasion. This was very big news at the time. According to the legendary story, the news of the Greek victory was entrusted to Pheidippides, a professional message runner who had recently completed several other amazing runs in service to the war effort. Pheidippides ran from the battlefield all the way to Athens, a distance of about 25 miles. Poor Pheidippides died from the extraordinary exertion of his final run, but the news he dramatically delivered with his dying breath was that the Athenians had just won the Battle of Marathon.

Today, things wouldn't be quite so romantic. A bystander in Marathon would have tweeted the news in 140 snarky characters.

The world we live in is almost incomprehensibly different than the world Pheidippides experienced. Of course, people still laugh and cry and fall in love in much the same way as they always have. Many of the biggest differences between the world of 2015 A.D. and 490 B.C. are the result of well over two millennia of intervening technological innovation.

Useful inventions become technology. Technology can eventually re-order markets and even whole societies over time. This process has been happening for a very long time and it is likely to continue long after we are all gone.

The changes wrought by innovation are often disruptive. When markets reach an inflection point, the beneficiaries of the status quo regularly predict that the latest change will lead to ruin. The original Luddites smashed textile machines in England. Today, their modern incarnations frequently run off to the government in an effort to staunch the flow of progress through stifling regulation.

Over the long-term, these efforts to defend the older order almost always fail. When something can be improved, it inevitably will be. While progress normally wins out eventually, the defenders of the status quo can certainly muck up the works in the near-term.

[1] The views expressed in these remarks are my own and do not necessarily reflect the views of the Federal Trade Commission or any other Commissioner. I would like to acknowledge my attorney advisor, James Frost, for his important contribution to this speech.

So when I look at some of the dynamic changes being created in the organization of work, changes facilitated by new technology, I tend to take a very long view. I know there will be winners and losers created by these developments, because past innovations often triggered some disruptions and there is no good reason to think this time will be any different. I know that the claims of ruin put forward by those with an economic interest in the status quo are likely to be overblown for the very same reason.

I also recognize that many other seemingly important innovations have ultimately fallen short of their lofty expectations. Not every apparent advancement will turn out to be as momentous as the light bulb, even if it might seem very important to all of us at the moment.

Finally, I understand that, in practice, innovations rarely provide us with nothing but a simple, unalloyed good. The cell phone may have rendered Pheidippides' job laughably obsolete, but it also gave us texting drivers. For that matter, cars and planes gave us extraordinary freedom of movement, but they also gave us smog, traffic jams and the middle seat in coach.

Yet, it is important to remember that while we may all hate the middle seat in coach, few of us would prefer to take a covered wagon on our next business trip across the country. Even when one can identify a downside associated with a particular innovation, this does not necessarily render the whole innovation suspect or socially undesirable.

That said, sometimes the problems created by innovation can be much more significant. Those of us who favor economic progress need not flinch from that issue. Indeed, progress fundamentally *requires* the possibility of failure and mistakes. A perfectly risk-free world would be completely static. Progress occurs when society recognizes and adapts to failures and mistakes. Sometimes this means that when real, concrete harms swing clearly into view, a regulatory response may be necessary. For example, cars brought us drunk driving and a new need for laws against it. However, note that drunk driving laws are narrowly tailored to address a known, identified harm. They do not ban driving generally, or create a complex regulatory framework that effectively makes car ownership or usage economically impossible for most people.

This same example helps to illustrate another important point: it is very difficult to accurately predict and prevent harms ahead of time. I am fairly confident that had our old friend Pheidippides suddenly encountered a modern car, he probably wouldn't have immediately realized that one of the most appropriate regulatory responses to this innovation would be to pass a drunk driving law.

As I have said many times before, regulators need to recognize the limits of their knowledge. We are no better predictors of the future than anyone else and we can be spectacularly wrong about the ways markets are going to develop over time. We should all remember the AOL - Time Warner merger and everyone's great concern about market power in dial-up internet access whenever we are feeling confident about our ability to predict the future.

So adopting a posture of regulatory humility is a general principle of good government. This general principle is particularly applicable when regulators encounter dynamic, rapidly changing markets that have the potential to introduce transformative benefits into society.

The new ways of organizing work using modern technology represent exactly this sort of nascent, dynamic trend in the economy.

Of course, there have always been ways to make a living that do not require a job in a larger organization. Lawyers and doctors have long had the option of working independently. Ubiquitous high-speed internet access, cloud-based services and spectacularly powerful cell phones are now spreading that same privilege out into additional segments of society.

It is easy to imagine how some people may benefit from working independently. People caring for small children or aging relatives can now find work that matches their sometimes sporadic and unpredictable availability. Others can take on additional work in addition to their regular, full-time jobs to help cover unexpected expenses or just provide additional spending money. People can vary the amount of work they do to better balance their need for income with the other demands on their time.

The so-called "sharing economy" can also unlock additional value in assets like automobiles or spare bedrooms that are underutilized today. Companies with uneven demand for their goods and services may be able to more flexibly increase or reduce their staffing needs and pass the savings along to consumers through lower prices. These technology platforms may also lower barriers into the workforce for people who are struggling to obtain a more traditional job.

Although we are still in the early days, research into the actual impact of these new work models seems to support the contention that these services can provide meaningful social benefits. For example, Alan Krueger has done some interesting work looking at Uber drivers. His work suggests, among other things, that Uber drivers may be making more money per hour than traditional cab drivers and chauffeurs and that large numbers of Uber drivers are particularly drawn to the flexible nature of the work.[2] He also found that most Uber drivers already had a full time job at the time they started driving with Uber.[3] I look forward to hearing more from Alan about his findings.

Other research suggests that people who work independently have high levels of satisfaction with their work situation. MBOPartners, a firm that assists independent workers, recently conducted a survey of independent workers and found that over 80% are either satisfied or highly satisfied with their work situation.[4] This suggests, perhaps not surprisingly, that the people most attracted to this kind of work are the ones most likely to pursue it.

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[2] Jonathan V. Hall & Alan B. Krueger, *An Analysis of the Labor Market for Uber's Driver-Partners in the United States*, (2015) *available at* http://arks.princeton.edu/ark:/88435/dsp010z708z67d.
[3] *Id*.
[4] *2014 State of Independence in America Report* (2014), *available at* http://info.mbopartners.com/rs/mbo/images/2014-MBO_Partners_State_of_Independence_Report.pdf.

For a regulator, the potential benefits of these changes are a key signal to proceed carefully. If people are broadly benefitting from changes in the economy, we should be particularly cautious about taking actions that may abridge or eliminate them. As regulators, it is also not our job to pick winners and losers in the economy. In the absence of identified, concrete harm, we do not need to be closely regulating private economic activity.

So let me suggest that the better course here is caution. We can simply wait and see what develops in this area. If real harms actually do arise, that is the appropriate time for action. At that point, we will know a lot more than we know now and we can narrowly tailor whatever regulation might be required to address that clear, identifiable harm. For now, we should let the market do one of the things it truly excels at: sorting out the innovations that are ultimately useful and beneficial to society.