

In the Matter of Your Therapy Source, LLC; David Segal and Michelle Miller
FTC File No. 171-0134

While we commend the Commission for filing charges against Your Therapy Source, LLC, et al, we write to express concern that the terms of the proposed settlement do not go far enough to discourage anti-competitive practices that undermine the fair treatment of workers in the freelance or “gig” economy.

The Commission’s complaint alleges several violations of existing law under Section 5 of the Federal Trade Commission Act, yet the proposed consent decree does little more than reaffirm that the respondents ought not again engage in behavior that has been illegal for decades. The settlement entails no monetary penalties -- failing even to compel disgorgement of profits the respondents accumulated under their illegal, collusive, wage-suppression scheme. Other actors in the growing gig economy, small and large, will take this as a signal that those who conspire to suppress the wages of contractors will get a free pass -- if they even get caught. This settlement is thus unlikely to be dissuasive of similar actions by other gig economy actors, and could -- by affirming the likely lack of meaningful sanction for such violations of the law -- actually lead to more brazen wage-suppressive behavior by other similarly situated firms.

The limited legal protections afforded independent workers make them especially vulnerable to employer collusion and monopsony power. Businesses have created a growing subclass of these workers, outside the administrative reach of many agencies established to ensure workplace fairness, safety and stability.

Moreover, the isolated nature of their work means gig workers have little consistent contact with supervisors or with peers, placing them at a stark informational disadvantage. This means it is nearly impossible for workers to track patterns of potentially illegal behavior, making it less unlikely that such matters will be brought to the attention of bodies with enforcement authority. Even when malfeasance is identified, the use of mandatory arbitration clauses places limits on workers’ ability to collectively seek redress for wrongdoing.

These conditions make it all the more urgent for agencies with authority over this sector to enforce penalties that ensure workers are appropriately compensated for the value of their labor and treated equitably in the market. We thus urge the Commission to reconsider this proposed settlement and work to revise it so that it does right by the workers impacted by the instant case -- and also sends a strong signal about the Commission’s intent to engage in meaningful enforcement in the gig economy sector moving forward.

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