



Opening Statement

COMMITTEE ON EDUCATION & LABOR

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The Hon. Robert C. "Bobby" Scott • Chairman

Opening Statement of Chair Suzanne Bonamici (OR-01)

Subcommittee on Civil Rights & Human Services Hearing

The Future of Work: Protecting Workers' Civil Rights in the Digital Age

2175 Rayburn House Office Building

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Technology and automation have become entrenched in nearly every aspect of our society and culture. The intentions behind the use of technology may be noble, but our efforts to both assess and address the effects on our workforce have been inadequate. In recent years, employers have harnessed new digital tools—like recruiting and hiring algorithms, computer-analyzed video interviews, and real-time tracking of their workers—to cut the cost of hiring and managing workers.

This is our third hearing in our Future of Work series. Today we will examine how the technologies that employers use for hiring and management may, intentionally or not, facilitate discrimination and undermine workers' civil rights. We will discuss how Congress, federal agencies, and the business community can strengthen workplace protections to make sure workers are not left vulnerable to discriminatory practices. And, to prevent discriminatory hiring, firing, and monitoring practices, we will investigate whether new technologies are designed to account for implicit and explicit bias and are used transparently.

Proponents of new technologies assert that digital tools eliminate bias and discrimination by attempting to remove humans from the processes. But technology is not developed or used in a vacuum. A growing body of evidence suggests that, left unchecked, digital tools can absorb and replicate systemic biases that are ingrained in the environment in which they are designed.

For example, hiring algorithms often rely on correlations to make predictions about the capabilities of job candidates. Yet these tools can mistake correlation for causation and subsequently perpetuate harmful disparities. In 2017, an algorithm built by Amazon to hire engineers was scrapped after it was found to favor men over women by penalizing graduates of women's colleges. Because men hold the majority of engineering positions, the algorithm had presumed that being male was a key characteristic of successful engineers. In reality, being male does not cause one to be a successful engineer.

New technologies that surveil and monitor workers can also exacerbate bias in the workplace. These tools may force workers to share their location, activities, and even private biometric information—sometimes without workers' knowledge or consent. The technologies also allow employers to access private information that could be used to discriminate against workers. For instance, through certain workplace wellness programs, an employer could learn of a disability, health condition, or genetic condition that is otherwise protected by anti-discrimination law. Too often employers and technology vendors are not transparent about the design and use of digital tools, posing challenges for workers seeking redress for workplace discrimination.

Simply put, without transparent and responsible design, digital tools can further perpetuate and even exacerbate long-held biases that have led to workplace disparities, particularly for workers of color, women, individuals with

disabilities, and older workers. Moreover, digital tools that are opaque in their design and operation cannot be held accountable.

As traditional employment relationships shift dramatically in our modern economy, workers' antidiscrimination protections are also in jeopardy. As this Committee has established, new technologies have fundamentally restructured the workplace through the rise of "gig" and "platform" work. These platforms have provided workers with new opportunities, but many employers have also used new technologies to deny workers basic protections.

For example, app-based companies frequently misclassify their employees as "independent contractors," depriving them of protections and benefits such as minimum wage and overtime pay. Worker misclassification is not unique to app-based companies. Some app-based companies directly hire their employees, as we learned from a business leader in our first Future of Work hearing.

Workers misclassified as independent contractors are also excluded from the majority of federal workplace antidiscrimination laws, including protections under Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Age Discrimination in Employment Act. These gaps leave workers classified as independent contractors—whether misclassified or not—with few options to challenge workplace discrimination.

We have the responsibility on this Committee to work with federal agencies and the business community to strengthen workplace protections in the face of changing technology. And this should include the right to be free from workplace discrimination and the right to be hired based qualifications rather than age, identity, or zip code.

We must compel employers and technology vendors to be transparent and accountable for new workplace technologies. We must invest in our key defenses against employment discrimination, and empower the Equal Employment Opportunity Commission to address emerging forms of digital discrimination. And we must identify and close the gaps in our nation's laws that leave workers vulnerable to misclassification, discrimination, and harassment on the job.

I request unanimous consent to enter a letter from The Leadership Conference on Civil and Human Rights and Upturn and a recent report on hiring algorithms, equity, and bias from Upturn into the record.

I look forward to our discussion today, and I now yield to the Ranking Member, Mr. Comer, for an opening statement.