

Out of stock for hourly workers?

The Washington Times, Final Edition, PART A; COMMENTARY; Pg. A17

Friday, February 25, 2000

By Richard Miniter

The surging stock market has turned stock-option-owning secretaries at Microsoft and truck drivers at UPS into millionaires. Hoping to follow in their footsteps, thousands of hourly workers - everyone from machinists to nurses - are accepting stock options. Now the U.S. government wants to force them off the gravy train - a bureaucratic move that could have huge consequences for economic growth.

The U.S. Labor Department recently issued a controversial advisory opinion that would make it harder for companies to offer stock options to hourly employees -though corporations would still be able to issue huge stock options to executives and managers.

The government makes a distinction between "hourly employees," line workers who are paid by the hour and therefore eligible for overtime pay, and "professional employees," supervisors who are paid a flat salary and are not eligible for overtime pay. Under longstanding federal law, hourly workers laboring more than 40 hours per week are entitled to overtime pay, or "time-and-a-half."

Under the proposed new government rules, companies that offer stock options to hourly workers would first have to recalculate their base pay. Ordinarily, if an employee earns \$6 an hour, his overtime rate would be \$9 per hour. Now the Labor Department wants companies to add in the estimated value of employee stock options before calculating overtime rates.

Say the company projects that the options are worth \$4 per hour. The \$6 base pay would be recalculated to \$10 per hour (though the worker is still being paid \$6 per hour). However, when the worker works overtime, he must be paid \$15 per hour - not \$9.

Labor Department bureaucrats think the new rule will mean large raises for hourly workers.

They're wrong. For employers currently offering stock options, the higher cost of overtime will lead many of them to cut back on the use of hourly workers - in effect, shrinking their employees' pay. For start-ups and other businesses that are considering offering options to their hourly workers, the new federal rules will make it more complicated (estimating the net present value of stock options of not yet public companies can be very difficult) and more costly (who wants to pay \$15 an hour overtime instead of \$9?). That means new businesses probably won't offer options to the guys on the shop floor - leaving them out of the greatest bull market in American history. Some benefit.

The new rules will also hurt entrepreneurs who are creating many of America's new jobs and world-beating products. Why? Many cash-strapped small businesses can't afford big hourly salaries but make up the difference with options that potentially could make employees quite rich. (These options have turned many entry-level workers into millionaires at companies like Intel

and America Online.) Without options, it is harder to lure skilled hourly workers away from secure jobs at established companies. That means many new businesses will not be able to hire the skilled employees they need to get started - killing the American dream for some entrepreneurs and workers.

Nationwide, more than half of the companies surveyed by Arthur Andersen reported that they offered stock options, while another one-third were considering granting options to hourly employees. Ironically, the Washington area, which is home to more than 3,000 technology companies, will be among the hardest hit. Thousands of high-tech workers and hundreds of entrepreneurs will be worse off.

"Why does the Labor Department want to punish our success?" wonders one Fairfax-based Web page designer.

It's a good question. "It's an election year," explains one Republican staff member on a congressional subcommittee overseeing the Labor Department, "and the administration is trying to help their friends in the labor movement."

Economist Richard Nadler calls hourly employees with stock options "worker-capitalists" - and their specter haunts the aging union leadership. Unions fear workers who own stock options because those workers begin to think like investors. They become too interested in the long-run profitability of a company. They question seniority rules that reward old-time trade unionists but harm productivity. They begin to favor outsourcing from overseas suppliers, which costs the union some jobs but makes the business more competitive. So the options must be stopped before the unions lose control of their membership.

Congress has promised hearings to determine whether the unions and the Labor Department should be allowed to effectively outlaw stock options for those on the low-rungs of the economic ladder. For the sake of fairness and prosperity, let's hope that Congress will summon the courage to say: "Options for all."

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