

Emerging Sources of Labor on the Internet: The Case of America Online Volunteers

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INTRODUCTION

In 1995 AOL announced that it would be converting its pricing plan from an hourly rate that ranged from \$3 to \$6 an hour to a flat monthly rate of \$15.95. The increase in member subscription was expected to be significant, and a wave of concern swept through the large remote-staff volunteer population, whose duties included monitoring electronic bulletin boards, hosting chat-rooms, enforcing the Terms of Service agreement (TOS), guiding AOL users through the online community, and even creating content using the AOL's own program, RAINMAN (Remote Automated Information Manager), the text scripting language and the publishing tool that allows remote staffers to update and change content on AOL. Chief among remote-staff volunteer's concerns was the initiative to convert many of the volunteer accounts from overhead accounts, which had access to tools and privileges that made remote-staff volunteers' duties on par with in-house employees, to unbilled or discounted accounts. In a meeting meant to address the emerging concerns of remote-staff volunteers held over electronic chat, Bob Marean, a representative for AOL, confronted over 450 remote-staff volunteers. One of those present described events at the meeting as follows:

[...] we were all upset [...] I am even pointing to myself and saying "Guide Strike". All of a sudden, Guide Strike becomes a reality. As we are talking about it, we become serious. There were ten [guides] [...] I drafted a letter encouraging all guides to strike. Guide USN [the screen name of another guide] was in the row with us. He had already tendered his resignation and he volunteered to send the letter. [...] Nothing happened for a few days. AOL released me from the guide program. I got a letter when I signed on for a shift and I was given seven days to delete my screen name [...]. They never told me why I was fired, just that I was released from the program.¹

Other guides involved in the attempted "strike" were let go as well. Some were told that their behavior during the meeting violated their TOS

1. Unknown author, interview, "Former Guide RRP's Story". Available at <http://www.observers.net/guiderrp.html>; last accessed November 2002.

agreement, while others were never given any reasons. Some were allowed to return but only after mandatory “behavioral training [...] and a three to six month probation”.²

Postindustrialism and the Internet have come together to draw value from cultural labor produced on the Internet; the case of AOL will show that management practices seeking to control the work process have helped define volunteers as workers. This is the central irony of the volunteer’s story. In response to the increase in member numbers and a lone lawsuit filed by ex-volunteer Errol Trobee for back wages, AOL tried to restructure the remote-staff volunteer organization to gain control over it, and by so doing AOL positioned some of its volunteers to see themselves as employees.³ This article draws from the sociological literature that explains the postindustrial shift and situates emergent forms of work within the technologies of postindustrialism. Historically, this article situates the AOL volunteers as part of the hobbyists and volunteers that have traditionally been part of the rise of the information communication technologies, generally, and the Internet specifically.⁴

2. *Ibid.*

3. It is important to note that this paper discusses two lawsuits for back wages against AOL. The first lawsuit filed by Trobee in 1995 is part of what influenced AOL to change its relationship with its volunteers. The second suit was filed by Kelley Hallisey *et al.* in 1999, and is a class-action lawsuit following the changes made by AOL to the volunteer organization.

4. Here, it is worth noting that the primary data reviewed for this piece was gathered in the archives of www.observers.net, an organization founded by a number of ex-volunteers, some of whom are suing AOL for back wages. This fact poses some problems concerning the primary data since the archives cannot be cross-referenced against another source. Potentially, this may bias the data in favor of viewing AOL volunteers as workers. However, since the primary data present in the Observers website is not generated by AOL volunteers or ex-volunteers alone but also contains internal documents leaked to the press, interviews with management, chat logs with management leaked on the Net, and a collection of glossaries that help the user in navigating the AOL communities, it is possible to generate a thorough picture of the volunteer experience at AOL from the point of view of management and as well as volunteers. While it is true that this is a single archive, the fact remains that this is the only public archive that holds records of AOL’s dealings with its volunteers. Because of ongoing litigation, other potential sources remain inaccessible. For example, at AOL’s request, the court documents for an ongoing lawsuit filed by ex-volunteers under the Fair Labor Standards Act remain sealed, and the plaintiffs and defendants in the case are no longer commenting on the case. Complicating matters further is the common practice of many members of Internet communities not to use their real names; this, combined with the gagging order issued by the court, prevents us from knowing the identities of many of the principle players in this story. Where possible, I have supplemented accounts of events or analyses of the story of AOL volunteers with corroborating commentary from media and news sources and an interview I conducted with the lead plaintiff in the class-action lawsuit prior to the court’s order. Unfortunately, these limitations are part and parcel of the study of distributed Internet communities taking shape in recent history. We should note, however, that media coverage of the events concerning AOL volunteers and management’s commentary, also reported on by media sources, strongly support the story of AOL volunteers as it evolves in the archives of www.observers.net, and therefore I remain confident that these sources can generate a complete story of the experience of those volunteers who chose to see themselves as employees.

AOL AND ITS VOLUNTEERS

The “Guide Strike” or “The Row 800 Incident”, discussed above, represents a turning point in the relationship between AOL and its volunteers. Quantum Computer Services, as AOL was known prior to 1989, was founded to provide Internet service to early personal computer users. AOL negotiated exclusive deals with Commodore Corporation, Tandy Corporation, and Apple Computers to provide Internet service for users of the Commodore 64, the Deskmate, and the Apple II respectively. Subsequently, Quantum changed its name to America Online and combined all of its online services under the AOL trademark, expanding its user base to any personal computer user with a modem. When it entered the Internet-service-provider business, AOL had approximately 75,000 users that it had attracted through its partnership with Apple, Tandy, and Commodore. By the early 1990s volunteers were an integral part of AOL’s community and did much work to establish content and help new members. In the early days of AOL, the company never specifically set out to create a volunteer organization but it welcomed the fact that the communities could maintain themselves through the work of volunteers.⁵

The relationship between AOL and its volunteers in the early 1990s had been established under the influence of the early Internet community spirit present in other Internet communities, such as Howard Rheingold’s Whole Earth ’Lectronic Link (WELL)⁶ and the various Usenet groups of hobbyists and information enthusiasts engaging in what has been described by some observers as a gift economy of information exchange.⁷ Volunteers that maintain communities on the Internet have been around since the Internet’s early years; however Netizen’s giving of their time and energy has its true roots in the hacker history that was an essential component of the formation of the Internet. The idea of freely giving up one’s time and knowledge is rooted in the academic, collaborative efforts that shaped the Internet as a project for the United States Defense Department’s Advanced Research Projects Agency (ARPA). Many of the early Internet and software pioneers believed in working for the pleasure of tinkering and for the reputation they derived from coming up with innovative solutions to technical problems. They engaged much of their work with a passionate zeal that has come to be immortalized in Steven

5. Kara Swisher, *AOL.Com: How Steve Case Beat Bill Gates, Nailed the Netheads, and Made Millions in the War for the Web* (New York, 1998).

6. Howard Rheingold, *The Virtual Community*, available at <http://www.rheingold.com/vc/book/>; last accessed November 2002.

7. Richard Barbrook, “The High-Tech Gift Economy”, available at http://www.firstmonday.org/issues/issue3_12/barbrook/index.html; last accessed November 2002.

Levy's "hacker ethic".⁸ Combined with aspects of 1960s communitarian ideology, the Internet became infused with a collaborative ethos where commodification and sale were not the primary concern. William Gates Jr, for example, enraged early Netizens by suggesting that users should pay for his Altair Basic. As will be discussed later, this was not the only force influencing volunteers to contribute their time. By the time AOL started to become an important player on the Internet, the hype surrounding computers and their business potential began to surface. Thus, many volunteers became involved with the Internet to acquire the increasingly valuable computer capital that they hoped would propel them to better lives.⁹

The collaborative ethic that surrounded the early Internet involved both hardware and software. The work of Paul Ceruzzi on the early electronics hobbyists is especially relevant as an example of work on the hardware side of hacking. As the microprocessor made its transition to the personal computer, Ceruzzi suggests, the electronics hobbyist had already set up a support network that "neither the minicomputer companies had or the chip makers could provide".¹⁰ Thus, when personal computer makers began to release their wares, they had a "tech-support" department already waiting for them in the form of electronics magazines aimed at providing technical advice and hardware.

AOL volunteers are direct descendants of the early Internet contributors that played such a significant role in the rise of the Internet and computing. AOL volunteers in many ways represent those early collaborators as they have come to confront the commodification of the Internet. Many AOL volunteers still wax romantic about the early days of the AOL community. According to them, the structure of the AOL community was relatively simple. Those first joiners of AOL were given "charter member accounts" and a reduced service rate for the length of their stay. The initial work that volunteers did for AOL was to help other members learn how to navigate and interact in the community. The volunteer designations included hosts for those hosting online chat-rooms, bulletin board monitors, and guides. Guides were the most experienced

8. In Steven Levy, *Hackers: Heroes of the Computer Revolution* (Garden City, NY, 1984), Levy coins the term "hacker ethic", which he describes as composed of the following six tenets: "(1) Access to computers – and anything that might teach you about the way the world works – should be unlimited and total. Always yield to the Hands-On Imperative. (2) All information should be free. (3) Mistrust Authority – Promote Decentralization. (4) Hackers should be judged by their hacking, not bogus criteria such as degrees, age, race, or position. (5) You can create art and beauty on a computer. (6) Computers can change your life for the better."

9. For more on this history see Janet Abbate, *Inventing the Internet* (Cambridge, MA, 2000), Katie Hafner and Matthew Lyon, *Where Wizards Stay Up Late: The Origins of the Internet* (New York, 1996), and Douglas Thomas, *Hacker Culture* (Minneapolis, MN, 2001).

10. Paul Ceruzzi, "Inventing Personal Computing", in Donald MacKenzie and Judy Wajcman (eds), *The Social Shaping of Technology*, 2nd edn (Buckingham, 1999), p. 71.

volunteers, and were the staffers given access to overhead accounts and the associated tools, employee areas, and the power to enforce the TOS agreement. Members became volunteers by being recommended by other volunteers, the training was informal, and they were not generally organized under any central division within the AOL organization. Volunteers were given two hours credit time for every hour they volunteered and were able to “bank” those hours for future use. Many who became volunteers did so because they had been spending thousands of dollars on monthly service fees, and exchanging work for time on the system was a way to keep the bills down.¹¹ Still others logged on and became volunteers because they believed that AOL would provide them with the needed computer experience to be employable in the emerging tech-economy or even by AOL. Kelly Hallisey, a volunteer since the early 1990s, recalls explaining to her husband why she stayed online for such long hours, “We were having major arguments over it [staying on line] and I said, ‘You know [...] this is the way things are going to go, I can see this turning into a really good paying job.’”¹² Still others felt compelled to volunteer by the “community” spirit they encountered on AOL, and thus many of the accounts of why remote staffers volunteered so many hours are permeated with references to “online families” and go so far as to create a kinship system based on mentor/mentored relationships. The mentor would be considered the mother or father of the mentored volunteer, and the grandparents were the mentor’s mentors.¹³ This sense of “family” was not only created as a marketing tactic by AOL but existed and was propagated among some volunteers in the very early days of the “community”.

AOL was wildly successful at marketing its online services, primarily because of a central vision articulated by Steve Case that crafted the services as facilitators of communication, not as a sales service, such as the services of CompuServe, a chief competitor, came to be viewed. Thus, for the company, online chat, e-mail, and bulletin boards were its main form of content early on. “Chat was a compelling form of content that the cash-poor AOL did not even have to pay for. With thousands of people chattering away nightly, AOL subscribers could entertain themselves”, wrote a Wall Street reporter when commenting on AOL strategy.¹⁴ Even in the name it gave its volunteers, AOL implicitly expressed the value of the type of relationship it had with early volunteers helping to create content. They were called “remote staff”, with no designation separating

11. Unknown author, interview, “Interview with Guide Tom D”, available at www.observers.net; last accessed November 2002.

12. Hector Postigo, phone interview with Kelly Hallisey, 15 February 1999.

13. Unknown author, interview, “Reflections of a Guide”, available at <http://www.observers.net/fguide3.html>; last accessed November 2002.

14. Swisher, *AOL.Com*, p. 94.

them from the remote staff that were paid for their services. Some remote-staff volunteers saw their relationship to AOL as a work relationship even in this early period, primarily because they felt that in exchange for services they were getting significant savings in online-provider costs. One remote-staff volunteer, upon learning that AOL would be converting to a flat service fee and that guides might be required to pay a discounted monthly fee, stated,

Yeah, I'll guide for \$3.95 a month if they only make us work one shift [...]. I'm a teacher and it warms the cockles of my heart when I look into a kid's face and see that he "gets it" [...] but I sure as hell wouldn't keep going to work each day if I wasn't getting paid.¹⁵

By mid-1995 tensions developed between AOL and its volunteers, even before the switch to a flat rate later that year. The primary causes of emerging tensions were an already-increasing membership and a lawsuit filed by an ex-volunteer, both of which culminated in a reorganization of the volunteer groups. The volunteers had already started voicing their concerns that they could not handle the volume of members frequenting chat-rooms and bulletin boards, and that therefore many were going unattended. To accommodate the rise in members, AOL had taken in more volunteers to begin filling in where current volunteers could not. This irritated current volunteers, because their once small community began to see large increases in numbers. Some complained that they no longer recognized those in the volunteer community, and others chafed at having to admit new members who had not been recommended, as was the tradition. The element of elitism in this scenario is easy to spot: along with volunteering came certain powers that admittedly some volunteers were not willing to share. Additional tension came from AOL's change in attitude. Since, at that time, the volunteers were not clearly organized under any one internal division, AOL now realized that it had little control over how volunteers were representing AOL in the various public forums. As one manager put it, "There was this sudden light-bulb moment where they [management] said, 'Oh, my God, we have thousands of people out there acting as our representative, and we don't even know who they are'."¹⁶ This prompted AOL to begin restructuring in order to get a handle on the activities of its volunteers.

An even more important catalyst for reorganization was ex-volunteer Errol Trobee's decision to sue AOL for the value of the "banked" hours he had earned prior to his release. As stated earlier, AOL volunteers, under the hourly-pricing plan, could earn two free hours for every hour they

15. Chat log, "Log of Row 800 Incident", available at www.observers.net/row800.html; last accessed November 2002.

16. Robert Grove *et al.*, "The People vs America Online", *Forbes ASAP*, available at <http://www.forbes.com/asap/2001/0219/060.html>; last accessed June 2002.

volunteered. Trobee demanded less than \$600 for his work and claimed that, under the technical definition within AOL's own employee handbook, he was an employee. Trobee was able to produce a manual given to volunteers that proved to the court that he could be classified as an employee. AOL was forced to settle the lawsuit to avoid facing charges of violating labor law. The lawsuit jarred AOL management, who commissioned an internal analysis of the company's relationship with its volunteers. Following the study, an internal memo written by AOL counsel John Gardiner stated, "Notwithstanding AOL's classification and structure, there are [sufficient] elements of an employer/employee relationship between AOL and the remote staff to warrant internal review of the relationship and appropriate action by AOL."¹⁷ Gardiner suggested three options for AOL: first, that AOL restructure the relationship to be more consistent with that of an independent contractor relationship; however, Gardiner suggested that such restructuring would compromise AOL's ability to control the volunteers. Second, he suggested that AOL completely outsource the remote staff to a third party; however, the third party should not be a proxy or shell, since this would not relieve AOL of its employer responsibilities. And thirdly, he suggested that AOL hire the remote staff outright.¹⁸

Reorganizing the volunteers: what's in a name?

In retrospect, it is clear that AOL chose two of the three options presented by Gardiner. As Bob Marean, a manager for AOL, fielded questions about the new pricing plan for monthly services and the restructuring of the volunteer relationships, AOL was preparing to hire some of the volunteers. It also decided to create a proxy organization, AOL Communities Incorporated (ACI), to handle the volunteers as well as to serve as a source of temporary employees. The volunteers would no longer be called remote staff but community leaders and would be housed in the Community Leader Organization (CLO) managed by ACI. AOL chose not to give more control over content and community management to the volunteers; rather, it placed control over communities and content production more squarely in the hands of the company. AOL did this in a number of ways.

Firstly, the dissolution of overhead accounts took away some volunteers' ability to design content for AOL. To many of the volunteers this was seen as a deskilling process. With access to RAINMAN, volunteers not only had the ability to change content, but could also attain the kinds

17. John D. Gardiner, "Summary of Legal Issues and Options Related to Remote Staff", available at www.observers.net/oalmemo.html; last accessed November 2002.

18. *Ibid.*

of programming skills that they felt made them viable for future employment. Many suggested that without access to RAINMAN they essentially became TOSCops (Terms of Service enforcers).¹⁹ Furthermore, the CLO required that volunteers serve one to two three-hour shifts per week to remain in the Community Leader Program (CLP). This practice was in place prior to the formation of the CLO but now became centralized and enforceable through a single management entity.

The CLP was not only composed of volunteers: at certain levels volunteers and ACI employees were working together. And there seemed to be much speculation as to who was getting paid for the work they were doing. Many felt that teams were composed of both volunteers and paid staff. One area of the new organization was of particular concern to those volunteering as guides. The Community Online Support Team (COST) within the CLO was composed of four teams of volunteers, guides, people connection hosts, road trip hosts and rangers. The management team at the level of COST (coordinating the four COST teams) was clearly ACI paid staff, yet many speculated that at the level of team managers, those actually managing guides or rangers, there was a mix of paid and volunteer staff.²⁰ When one guide tried to request a list of who was paid and who was not paid within a certain team, her request was denied. She describes her frustration as follows:

I wanted to know who'd been paid [...] so I put in my request for who had been [...] promised paychecks and who was receiving paychecks. They refused to answer that [...] now why refuse to answer that [...], and you know people that were paid that were management from my area refused to answer the question, but all of a sudden I started getting jumped on by these other people and I know for a fact that three out of four of those other people got paychecks [...]. I understand it's a corporation and it has a right to make money but I think even a corporation has to have some sense of morals and what is proper behavior [...] it's very underhanded.²¹

For this particular volunteer it was necessary to know who was paid on her team, because she had also been promised a paycheck when the transition to ACI took place. This silence created a level of division among the volunteers and also made it more difficult for individuals to demand payment.

Other policies implemented by management at this time also became disruptive to the community of volunteers. One such policy involved a

19. Unknown author, interview, "Interview with Guide Tom D".

20. Unknown author, "Response 2", available at www.observers.net/response2.html; unknown author, interview, "Reflections of a Guide", available at www.observers.net/fxguide3.html; unknown author, "AOL Glossary", available at www.observers.net/index/glossary.html; Observers.net; and Hector Postigo, phone interview with Kelly Hallisey, 15 February 2001. Websites last accessed November 2002.

21. *Ibid.*

“Names and Initials” folder posted to the community leader forum, the Community Leader Headquarters (CLHQ). The folder itself was a repository of screen names that current volunteers used when not on a shift. Thus, it was possible for volunteers to browse through this folder and see when a fellow volunteer was in a chat area under his or her “play-name”. That way other volunteers would be able to recognize them and engage them in conversation about work without fear of violating their nondisclosure agreement. The official use for the folder was so that some employees and specific volunteers would be able to update carbon copy lists for e-mailing purposes. But since access was not restricted to only those volunteers with an official use, other volunteers appropriated the list for their own social purposes. However, in a letter to staff, one of the ACI COST managers informed the community leaders that access to the “Names and Initials” folder would be restricted to only those who had an officially sanctioned reason. The community leaders responded with a series of e-mails and postings protesting the restriction.

The primary reason for the protest was that if a community leader was released from the program, as was often the case during this period, then the remaining volunteers would have no way of knowing that person had left. The “fired” community leaders would, as one volunteer put it, “[slip] into the night, quietly”.²² CLHQ did have at this time a “Goodbye” folder which departing community leaders could post to when they left; however, this folder was only available to those who left voluntarily. Community leaders who had been let go by AOL would usually get an e-mail when they logged on to AOL informing them that their access to places like the CLHQ had been terminated; therefore, unless they contacted other community leaders via another method, there was no way for these released community leader to address the community-leader population in general. Before losing access to the “Names and Initials” folder, community leaders could check for the “play-names” of individuals they had not seen in a while and inquire about their status. Now that level of access was gone. Some community leaders were quick to speculate that this was a form of damage control, since it was known among them that those volunteers who criticized AOL while in “uniform” (a term referring to being logged on with a name that identified the user as a volunteer, such a GuideRRP or HostAtom) were often removed from service.²³

22. Unknown author, forum log, “Inside AOL Guide Program Pt. 2”, available at www.observers.net/response2.html; last accessed November 2002.

23. Almost every log and interview reviewed for this article, including those posted from internal AOL sources, mentioned this point. These include “Inside AOL Guide Program Pt 2”, “Interview with Guide Tom D”, “Reflections of a Guide”, “Former Guide RRP’s Story”, and unknown author, interview, “Interview with HostAtom”, available at http://www.observers.net/host_atom.html; last accessed November 2002. See also Robert Ablon, “Was America Online Out of Line?”, *New Jersey Law Journal* (4 December 1995).

Community leaders complained bitterly that this change would disrupt their means of communicating, but management proceeded with the change anyway. The results of this particular act of restructuring are an immediately obvious and salient example of what Lawrence Lessig meant when he said that in cyberspace “code is the law”.²⁴ By simply changing the access permissions to the “Names and Initials” folder, management easily made it much more difficult for volunteers to communicate with potentially dissenting members.

The incident concerning the “Names and Initials” folder is of particular interest because it brought out much of the frustration the community leaders were feeling with management. Among other things, this incident was a disruption to the sense of community within the volunteer group and was emblematic of the process by which some community leaders began to see themselves as employees. One particular post put it in these terms: “Frankly I admit that there are times where I feel like we volunteers are now work in cubicles, where before it was an auditorium.”²⁵ Yet this was not the only outcome of the “Names and Initials” incident. What also surfaced was the declaration of a general fear among some community leaders that speaking out against changes would have repercussions. During the exchange over the folder, some of the community leaders confided that they normally did not talk about their feelings of demoralization as a result of the structural changes because of fears that they would be released, or because they generally found management inattentive to their concerns.²⁶ The rift that was present at this juncture in the history of the CLO contrasts dramatically with the stories recounted by some community leaders of the early days of AOL.

Things did not seem to be going smoothly for the management of the CLO either. Management seems to have been under pressure to keep the community leaders in line and out of litigation as the restructuring occurred. As one manager put it, “The mantra that came down from on high was, ‘Keep them [volunteers] out of the newspapers, out of the courtrooms, and get as much out of them as you can’.”²⁷ To this end, some volunteers were consistently promised paying jobs that were continuously moved out of reach.²⁸ One particular guide, for example, was promised a job as a RAINMAN programmer and waited from January of 1998 until April of that year to get his first check.²⁹ When it eventually came, it was for a lower pay-scale and only covered part of the time he had worked; the

24. Lawrence Lessig, *Code: And Other Laws of Cyberspace* (New York, 1999).

25. “Inside AOL Guide Program Pt. 2”.

26. *Ibid.*

27. Grove *et al.*, “The People vs America Online”.

28. Unknown author, interview, “Interview with Guide 29”, available at www.observers.net/g29.html; last accessed November 2002.

29. “Former Guide RRP’s Story.”

remainder of the time he had worked was still considered volunteered time. The volunteers were not AOL's first priority, and even some members of management found themselves in tough positions concerning the community leaders. An ACI manager, responding to this particular guide's complaints, wrote:

ACI staff and community leaders "were out of site out of mind" to most AOL employees [...]. Frequently, VPs with budgetary responsibility deferred decision-making regarding ACI, and on some occasions reversed decisions after the results of ensuing policies were already being implemented. This caused those of us managing ACI to go back on promises we had made based on approvals we had in hand from our VPs. My whole experience with ACI was painful [...]. I did not want to be in a position of managing people who I treated as colleagues but who the company treated as second class citizens.³⁰

As the ACI structured the CLO, it also initiated a program called "member empowerment". The thrust of that initiative was to make the member experience as free from volunteer intervention as possible. Prior to the restructuring process, members who had been hacked or were being harassed in a chat-room or via instant message could contact a guide to either "nudge" the offending member (gently inform him or her of the Terms of Service contract and of proper online etiquette) or remove the offender altogether. Under the member empowerment program any TOS action (an action that resulted in expelling a member for violation of TOS) was highly discouraged, and members were encouraged to contact the TOS department themselves via e-mail. According to guides working the chat-rooms and in the TOS department, these e-mails went largely unanswered unless the violation was so egregious that the TOS mailbox was flooded.³¹ The guides most affected saw their positions further compromised. First they had lost the overhead accounts with access to RAINMAN and bankable hours, and now they could do very little except corroborate the complaints about the offending behavior of a member and hope that enough members complained. Many guides saw this as an attempt by AOL to boost their member base by simply not enforcing the TOS agreement.

All told, the restructuring of the volunteer program at AOL after 1996 resulted in AOL having a much greater degree of control over what the community leaders did and how they interacted online, especially those serving as guides. Guides now had to adhere to minimum shift requirements, engage in the corporate bureaucracy when they needed to act against a member, enter a structured two-week training session, fill out

30. *Ibid.*

31. See "Interview with Guide Tom D"; unknown author, interview, "Inside AOL Guide Program Pt. 1", available at www.observers.net/responser1.html (last accessed November 2002); and "Interview with Guide 29".

extensive shift reports, and deal with a management that increasingly appeared to be unresponsive to their needs. AOL accomplished all of this by setting up ACI as the organizing proxy for its volunteers, and it managed to get a hold on its content by taking a larger role in the activities of community leaders. AOL, however, had inadvertently ignored Gardiner's recommendations: the proxy organization did not seem to create enough space between AOL and its volunteers, and by taking such an active role in the work volunteers did, AOL may have contributed to volunteers appearing more like employees should the court apply the law's Right to Control test for determining employment relationships. "The Right to Control test focuses on a factual determination of whether the employer controls principle aspects of the individual's work efforts."³² These include "(1) amount of training; (2) set work hours; (3) oral or written reports required; (4) order of work set and significant investment by the worker."³³ By 1999, as many of the CLO's changes became entrenched, various community leaders began to see their volunteerism in a different light.

The volunteers today

It's clear that not all community leaders were dissatisfied with the turn that volunteering for AOL took, following the creation of ACI and the CLO. The majority, in fact, were either silent on the matter or echoed one community leader's sentiment, "I knew I was volunteering and what the work would be and the benefits would be. It was still my choice to do so. If I wanted to be an employee of AOL, I would apply for one of those positions [...] I got what I bargained for."³⁴ Yet, the few that did change their attitudes about AOL did so in a dramatic fashion: To them, AOL was no longer a family affair but an exploitative relationship, no longer fun but drudgery.

When, in 1999, a group of ex-volunteers filed a class-action lawsuit against AOL under the Fair Labor Standards Act, most had been released from service for allegedly criticizing the CLO. When asked to list reasons why they were willing to work such long hours for so long and only now chose to file a grievance, they invariably recounted stories of community and of feeling good about their volunteer work. While there is little doubt that many did volunteer for the altruistic rewards, many came to AOL with other expectations. Some thought that volunteering would be a springboard to employment in a lucrative Internet company; others

32. Gardiner, *Summary of Legal Issues and Options Related to Remote Staff*.

33. *Ibid.*

34. Unknown author, "Fighting the Truth, Kicking and Screaming", available at www.observers.net; last accessed November 2002.

wanted to gain experience with computers; and still others simply wanted a price break on the hourly rates that were driving their service bill beyond their budgets. As their expectations failed them, the reorganization process positioned some of the volunteers to begin reassessing the meaning of volunteering and community at AOL. Whether as a means of revenge or as a means of empowering themselves against organizational and institutional forces that took from them work they valued, these few ex-volunteers chose to reconstitute themselves as employees and began viewing community as a commodity.

Kelly Hallisey is one of the lead plaintiffs in the 1999 lawsuit. Following her release from AOL, she joined a group of ex-guides and founded Observers.net, a website dedicated to critiquing AOL's business practices. From Observers.net, Hallisey launched her lawsuit for back wages and gathered much media attention for her role as an ex-guide. The lawsuit contends that AOL volunteers are employees of the company, and that AOL is in violation of the Fair Labor Standard Act because it failed to classify its 15,000 volunteers as employees and pay them a federal minimum wage. Should Hallisey win this case, it would dramatically restructure the way AOL, and any other portal that uses volunteers to maintain its technical and social infrastructure, does business. Today, community leaders who are suing AOL readily recognize their role in the production process for community, and make direct links between their work and the profits garnered by AOL. The ex-volunteers have a long road ahead of them, because they must convince the court and their many critics that community production online is no mere hobby or leisure activity, but an organized process yielding a valued commodity. If they succeed, the value of what they do will no longer be hidden under the rhetoric of hobby or leisure. As they engage in this next phase of defining themselves as workers, the story of AOL volunteers becomes a story of occupational formation.

DISCUSSION

The large socio-economic changes of the past thirty years are of significant importance to an analysis of unwaged labor on the Internet, because they create the context within which such activities as forming and supporting community, volunteering, and pursuing hobbies can be tapped as a source of revenue. Tiziana Terranova first put forth the thesis that unwaged labor on the Internet is an aspect of the postindustrial economy in an article entitled "Free Labor: Producing Culture for the Digital Economy".³⁵ My paper, first and foremost, adds to that work by investigating examples

35. Tiziana Terranova, "Free Labor: Producing Culture for the Digital Economy", *Social Text*, 18 (2000), pp. 33–57.

originally pointed out by her. While her work convincingly situated the phenomenon within the context of postindustrial society, it did not explain how the labor-exploitative relationship developed specifically between free-content providers and commercial interests, such as AOL.

In her analysis, Terranova identifies the emerging phenomenon of unwaged labor on the Internet as an extension of an ongoing project of cultural appropriation and commodification. She borrows from the Italian autonomist analysis of late capitalism the concept of the social factory, which “describes the process whereby ‘work processes have shifted from the factory to society’”,³⁶ and uses it to explain both the harnessing of “Netizens” work by corporations, and the giving and “channeling” of such work, freely, by “Netizens” themselves. Taken collectively, the work of volunteers, content makers, website posters, and all others who add content to the World Wide Web constitute a “network of immaterial labor”, comprised of a collective intelligence that is the self-organized, principle productive force of the digital economy. “Capital’s problem”, Terranova states, “is how to extract as much value as possible”,³⁷ from this collective.

Terranova is correct in her analysis of the relationship between post-Fordist production and the cultural production on the Internet. David Harvey, in *The Condition of Postmodernity*, points out the emergence, since 1973, of a new productive regime from the aftermath of the economic failures of Fordist production. In the wake of the devastation of the world’s industrial centers following World War II, America stood alone as the single industrial giant from the 1950s until the early 1970s. During this period, America’s economy underwent a Golden Age, driven by Fordist production processes, goods, and patterns of consumption. The Fordist model relied upon the mass consumption of mass-produced products. Within this model, various sectors of society came together to form a total regime of capitalist accumulation dependent on the state, the consumer, and the laborer.

Signs of a crisis in this regime of accumulation began as European and Japanese reconstruction reached completion. Increasing levels of competition destabilized the Fordist regime that had been built out of investments on rigid, fixed capital infrastructures presupposing “stable growth and invariant consumer markets”.³⁸ Flexible accumulation emerged as a new regime after 1973. Organizational structures became more fluid, with the emergence of outsourced and flex-time labor markets. The flexible production process of the post-Fordist state depends on constant

36. *Ibid.*, p. 33.

37. *Ibid.*, p. 46.

38. David Harvey, *The Condition of Postmodernity: An Enquiry into the Origins of Cultural Change* (Oxford, 1990), p. 142.

innovation and product development driving fast-paced markets and competition. Under flexible accumulation, businesses employ their flexibility to stay ahead of their competition, and consumption is dependent on rapid turnover of goods. Goods such as software, computers, and other technologies, whose production is driven by rapid and continuous innovation and short market life, have become staples of the new consumption. Generally then, production patterns have shifted toward the production of knowledge goods and services.

As David Harvey points out, the economy could not be sustained by flexible accumulation if consumption had not been restructured as well, primarily by the cultural forces of the “fleeting qualities of the post-modernist aesthetic that celebrates difference, ephemerality, spectacle, fashion and the commodification of cultural forms”.³⁹ The ephemeral nature of today’s jobs can hide labor in the context of leisure. In the case of the Internet, this labor is always in plain site (we see the wealth of information on the Web) yet those who do the work of generating and maintaining the Web remain hidden away under the rhetoric of volunteerism or hobby. Terranova tries to get at that “hiddenness”, and explains it as a complex relationship between cultural production, or the social factory, and the technologies and methodologies of postindustrialism.

Ultimately, however, I part ways with Terranova over her analysis of individuals within this technological/economic vortex; in her desire to explain the nature of unwaged labor and its relation to the broad historical shifts of postindustrialism, she too quickly dismisses the AOL volunteers and other content producers. When discussing AOL volunteers, she writes, “Out of 15,000 volunteers only a handful turned against it”, and suggests that they work for “the excitement and dubious promises of digital work”. Portraying them so powerlessly leads to a hopeless vision of what these “hidden workers”⁴⁰ may accomplish. While some may have come to AOL in hopes of attaining what Joe Sullivan has called computer capital,⁴¹ that “dubious promise”, this alone cannot disqualify them from earning a wage, especially if they so directly contribute to the success of a company like AOL. Furthermore, when Terranova wrote her analysis in 1999, it is true that only a “handful” had turned against AOL by filing a

39. *Ibid.*, p. 156.

40. Here, I mean hidden in the way Greg Downey suggests when he writes “Labor is crucial not just in setting up internetworks but in operating them as well. This kind of ongoing, flexible labor is hard to see. Indeed the very advantage of constructing an information network can be that the commodification of the virtual serves to mystify the material”; Greg Downey, “Virtual Webs, Physical Technologies, and Hidden Workers: The Spaces of Labor in Information Networks”, *Technology and Culture*, 42 (2001), pp. 209–235, 224.

41. Joseph Sullivan, “Understanding Computerization: Sociological Concepts for a Phenomenological Approach”, (paper presented at the 1999 Meetings of the Eastern Sociological Society), p. 26.

lawsuit, but many more were frequenting sites such as Observers.net, posting stories about their fallout with AOL. In 2002, the number of volunteers filing suit has increased and lawsuits have cropped up in California and New Jersey, as well as in New York State. One cannot dismiss such attempts at recognition now. AOL thought its volunteers were contributing to its content as a form of leisure, but today these contributors no longer seem like passive “cultural producers” in an economy that extracts value from them while they passively continue to produce it.

Staking out an occupation

The transition of AOL community leaders from volunteers to workers is one mediated by both self-reconfigurations and responses to institutional changes. In a sense, the case of AOL community leaders is a classic study of the process by which an occupation is born from unpaid work. At an early level of development, an occupation lacks the institutional and social recognition that helps the early “occupational pioneers” convince society that they are worthy of compensation. The problem is compounded when the services they provide are tasks that are generally perceived to be the work of families and communities, or hobbies and leisure. At the core of this difficulty are ideological perceptions of the relationships between those who do care-taking work, such as creating communities, the service itself, and the recipients of the service.

One way of better understanding how these ideological perceptions came about is to look at women’s labor history. In response to the rapid growth of capitalism during the nineteenth century, there was a growing apprehension of the sale of labor power to strangers.⁴² This preoccupation, even obsession, as Nancy Folbre has called it, led to the prevalent antebellum concept of gender spheres, which designated maintenance of the home and the associated housework as a woman’s sphere. The notion of gender spheres suggested that, through women’s self sacrifice and altruism, civilization would be saved from the evils of emerging materialistic capitalism. Jeanne Boydston further explains how this concept became entrenched in the popular consciousness by describing how “ideology of spheres” gained a foothold through prescriptive literature and romanticism. Ultimately, women’s housework disappeared in the popular consciousness as a form of labor by being romanticized, “pastoralized” as she puts it, into a form of leisure. Boydston writes:

The metaphors of ideology were transformed into the data of behavior. With no loss of prescriptive power – indeed, with the enhancement that arises from the

42. Nancy Folbre, *The Invisible Heart: Economics and Family Values* (New York, 2001).

immediacy of lived experience – the symbolic assumed the garb of daily experience [...]. As romantic narrative played against lived experience, the labor and economic value of housework ceased to exist in the culture of Antebellum Northeast. It became work's opposite: a new form of leisure.⁴³

Community making, as an extension of family maintenance, falls under the influence of the same type of rhetoric that “pastoralized” women's housework. American society continues to see volunteer work of the kind that generates and maintains communities (both on and offline) as market inalienable, as a noble and altruistic pursuit, even as companies like AOL commodify community.

In the case of community making, community as a commodity requires a degree of de-pastoralization. AOL volunteers must force a reconceptualization of community making as no longer altruistic or an act of familial responsibility, but rather as a commercial service. They must also force a reconceptualization of the relations between the service providers and recipients. That shift must reconfigure service relations compelled by family and community ties to a relationship compelled by employment and contract. The community leaders involved in the AOL lawsuit have started thinking of their work along these lines. They recognize community as a commodity and understand the key role it played in the making of AOL. One community leader put this way: “We were creating community, community which is what they [AOL] sell themselves as.”⁴⁴ Ultimately, the volunteers' lawsuit is an attempt at forcing a new understanding of community making.

While the case of AOL community leaders itself follows the pattern of previous groups' attempts to stake out new occupational territory, recognition is not certain. Unlike other groups attempting to make similar transitions, AOL volunteers lack much institutional support. AOL refused its volunteers access to its content-creation tools when it became clear that AOL did not have control over content production. In addition, by renaming the volunteers from remote staff to community leaders, AOL moved out of reach much of the institutional rhetoric that would have helped volunteers shape themselves as being involved in the occupation of community making. Comparatively, other volunteer groups that did make the transition to an occupation had considerable institutional support. Take for example the volunteer IBM user group “Share”, founded by IBM and some of its customers to develop applications for IBM mainframes. Participation in the Share group was on a volunteer basis, but it is clear that the group had at its disposal considerable resources to help establish programming as an occupation. While working on developing applications

43. Jeanne Boydston, *Home and Work: Housework, Wages, and the Ideology of Labor in the Early Republic* (New York, 1990).

44. Hector Postigo, interview with Kelly Hallisey, 15 February 2001.

for IBM hardware, it was the availability of resources, such as access to the company's computer centers, and the support of supervisors, that made occupational formation possible.⁴⁵ Ultimately Share programmers did not stake out their occupational claims through the formation of professional societies and other tactics typical of occupational formation,⁴⁶ but rather through a process of interaction with their large institutional "customers".

Apart from ideological and institutional hurdles, volunteers engaged in community making online, must ironically transcend their own history. As stated earlier, community making online has its roots in hacker culture, and its tradition of free information exchange. AOL community leaders hoping to recategorize themselves must transcend the history that has defined them as volunteers and hobbyists. Howard Rheingold in *The Virtual Community*, for example, is most often cited as the spokesperson for understanding online communities. Rooted in the counterculture of the 1960s, online communities have been described by Rheingold in romanticized and ideal terms. The work of Pekka Himanen, Eric Raymond, Peter Wayner, and others involved in the open-source movement has also presented hacking and community making in idealized terms by giving production of software and content online the aura of the "gift economy".

CONCLUSIONS

The process of value production on the net continues to be hidden. Even as the class action lawsuit against AOL goes to court, many content producers and volunteers in other venues continue their work. Certainly they have chosen this path, and one does not wish to patronize them with claims of false consciousness. Their reasons for contributing are their own. Some truly find it rewarding, and that is payment enough. But for those who feel cheated by the experience, perhaps the course that the AOL volunteers have taken is appropriate. Such a course does not seem easy, however, and it comes about through painful realizations about prior conceptions of contributions to an idealized Internet. For the AOL community leaders who eventually filed a lawsuit, it was a process marked with a sense of loss of the promises that the Internet seemed to hold. Community turned out to be for sale and the AOL "family" turned out to be alienating as the membership grew. While a "self-organizing",

45. Atsushi Akera, "Voluntarism and the Fruits of Collaboration", *Technology and Culture*, 42 (2001), pp. 710–736.

46. Examples of these tactics include "linking practice to formal knowledge, teaching recruits, acquiring rights to self-discipline, and securing legal authority to license and credential practitioners"; Bonalyn Nelsen and Stephen Barley, "For Love or Money? Commodification and the Construction of an Occupational Mandate", *Administrative Science Quarterly*, 42 (1997), pp. 619–653.

harnessable labor force may be a postindustrial dream come true for corporations, it also proves to be intractable. Attempts to bend the collective intelligence of the Internet to the will of corporate organization withers its versatility and its willingness to continue to contribute to the social factory. In that case, businesses like AOL seem to be facing a double bind. They need the kind of dynamism that spontaneous cultural production and organization engender, yet they must avoid the alienating control structures that often have to be established to operate multibillion-dollar media conglomerates.

The course that the AOL volunteers have chosen seeks to grasp the “ephemerality” of cultural production, a project made all the more difficult by the historical baggage that work such as community making seems to carry. It is further complicated by the ironic trends within Internet history that situated production within a gift economy. Staking out an occupational claim is tricky business, because it opens AOL up to a new host of exploitative practices, such as outsourcing, a process made all the easier by the nature of ICTs and globalization. Ultimately, however, the AOL volunteers represent an example, small as it may be, of the possibility of breaking out of the “social factory” and making visible the new sources of value in an emerging media world.