

**Legal Barriers
To
Home-Based Work**

by

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EXECUTIVE SUMMARY

The activities of women in the labor market reveal two contradictory trends. On the one hand, women are better educated and have more job skills and training than ever before. On the other hand, a substantial number of women are leaving executive suites and returning home to have children and care for their families.

Is there a way for women to resolve the conflict between the career goals for which they have been trained and the family goals that many want to pursue? For many women, the answer is home-based work. Surveys show that:

- As many as 23 million people are using their homes as a place of work.
- Among businesses that are run exclusively out of the home, more than 70 percent are run by women.

Women are taking advantage of a number of important economic and technological trends. Advances in computer technology mean that millions of workers can "telecommute" from their homes. The growth of the service economy is opening the doors for millions of small businesses. Most are being launched from the home.

- Of the 8.2 million sole proprietorships in the U.S. in 1980, 63 percent were located in someone's home.
- While the number of new sole proprietorships is increasing at a rate of 3.7 percent per year, those started by women are increasing at a rate of 6.9 percent per year.

Despite the enormous economic and social benefits created by home-based work, those who work from their homes face a maze of legal uncertainty arising from federal, state and local regulations. About 90 percent of all local communities have home occupation ordinances. Regulations range from restrictions on the number of people who can work in a home, to the amount of space that may be used for work, to the number of customers who can come to a home for business purposes.

In some cases, federal, state and local laws ban entire categories of work. Chicago, for example, has a virtual ban on all home-based work, including a ban on linking a home computer with an office computer.

Many of these regulations needlessly interfere with valuable economic activity and have no apparent valid social purpose. They threaten to stifle one of the most important and growing sectors of our economy, and to place obstacles in the way of the economic and social goals of an ever-increasing number of women.

INTRODUCTION¹

A quiet revolution is taking place in the American workforce. Millions of men and women across the country, men and women are earning a living in homes, either as self-employed workers or as employees of others.

The home-based work revolution is being fueled by two trends in the U.S. economy. First, the growing availability of affordable computers coupled with our nation's shift to an information and service-oriented economy is transforming the way Americans work. Technology now makes it possible for people to perform at home a variety of jobs once reserved for the traditional workplace.

Second, in record numbers women are choosing a dual career -- that of mother and jobholder. Millions of women are choosing to remain gainfully employed while staying at home to rear their children. Home-based work allows women this option. In addition to computer work, there are dozens of other home-based business ventures women are operating from their homes -- including catering services, clothing design and manufacturing, accounting, interior design and graphics.

There are a number of factors working to inhibit the growth of home-based jobs and businesses. These include home zoning ordinances, city and state home occupation laws, federal laws, and pressures from organized labor. All indications are that special interest opposition will continue to mount. For example, the AFL-CIO condemns "piece work at home," whereby workers are paid per item of output, and has passed a ban preventing its members from doing computer work at home.²

Unless action is taken to legalize the home as a worksite and to encourage employers to open more jobs to remote workers, the telecommuting movement and other types of home-based work may not reach their full potential.

THE IMPORTANCE OF HOME-BASED WORK TO WOMEN

Although it is rarely mentioned in discussions of today's working women, throughout most of the history of western civilization almost all women have worked and the work they performed usually was in or near the home. In fact, from colonial times through the early 1800s, the vast majority of all people

¹The author would like to thank John Goodman for many helpful comments and suggestions on this manuscript.

²Congress of the United States, Office of Technology Assessment, Automation of America's Offices, 1985, pp. 190-191.

worked in or near their homes. Prior to the 1800s, more than 90 percent of the population worked in agriculture. What few cities there were provided very limited opportunities for work outside of the home. The non-agricultural businesses that developed usually were operated out of homes or near homes.³

Given the importance of work in the home throughout our nation's history, it is somewhat amazing that in the 20th century the value of work in the home (for which no wage or price is paid) is not included in calculations of our gross national product. Yet, the estimates of the value of this work are enormous. By one estimate:⁴

- The value of non-market work done in the home today (child care, cooking, sewing, etc.) amounts to more than one-third of the nation's GNP.
- This will amount to about \$1.5 trillion in 1987.

Most of this work is done by women. For reasons partly economic and partly cultural, most housework today still is performed by women, even among "young, cohabiting, 'career-minded' couples."⁵ Among couples with children, the child-rearing responsibilities usually also are left to women.

Automation and Technological Change

In the 19th century, most occupations required physical strength and endurance. This, of course, gave men a competitive advantage over women. Throughout the 20th century, however, almost every "labor saving" innovation has been one that has removed this competitive advantage. Today, there are few occupations outside of professional sports where women are at a competitive disadvantage in competing for jobs for reasons of physical strength.

³See Thomas Dublin, Women at Work, (New York: Harper and Row, 1972); Judith A. McGaw, "A Good Place to Work," Journal of Interdisciplinary History, Vol. 10, No. 2 (Autumn 1979), pp. 227-248; and Rolla Milton Tryon, Household Manufacturers in the United States, 1640-1860, (Chicago: University of Chicago Press, 1917).

⁴ Oli Hawrylyshyn, "The Value of Household Services: A Survey of Empirical Estimates," The Review of Income and Wealth, Series 22, No. 2, June 1986, pp. 108-109.

⁵Ruth Cowan, "Times Arrow Makes a Difference: The Historical Roots of Inequalities in Women's and Men's Work," paper presented at the Council of Scholars Symposium on Work, April 27, 1984, p. 28.

The fact that women can compete with men for jobs in almost any labor market has expanded greatly the job opportunities for women outside of the home. This has been especially true in the post-World War II period. Women have responded to these incentives by entering the formal labor market in increasing numbers.

- In 1947, only 18.6 percent of women with children under age 18 were working in the labor market. By 1987, 64.7 percent were doing so.⁶
- Today, 52 percent of mothers with children one year old or younger are in the labor force, compared with 32 percent ten years ago. They are now the fastest growing segment of the labor force.⁷
- In 1986, of all women aged 25 to 54, more than 70 percent worked.⁸
- Partly as a result of these changes, the 'typical' American family has become a myth: In 1987 only 3.7 percent of families have an earner husband, homemaker wife, and 2 children.⁹

Concurrently, the working patterns of women are shifting away from the traditional nine-to-five, Monday through Friday, 40-hour week to part-time work with more flexible schedules. Women, to a greater degree than men, are taking advantage of the opportunity to earn income in non-traditional ways. Women are more likely than men to take part-time jobs. When they do work full-time they work fewer hours than men:

- Nearly 40 percent of women perform income-producing work less than 40 hours per week.¹⁰
- In contrast, less than 16 percent of men work part-time.¹¹
- Among full-time workers, women are more than twice as likely as men to work fewer than 8 hours per day.¹²

⁶Twenty Facts on Women Workers, (Washington, D.C.: U.S. Department of Labor, 1984). Cited in Christensen, "Women and Home-based Work," Social Policy, Winter, 1985, p. 54, and Bureau Labor Statistics, News, August 12, 1987.

⁷Bureau of Labor Statistics, News, August 12, 1987.

⁸Bureau of Labor Statistics, Employment in Perspective: Women in the Labor Force, Report 733, 1986.

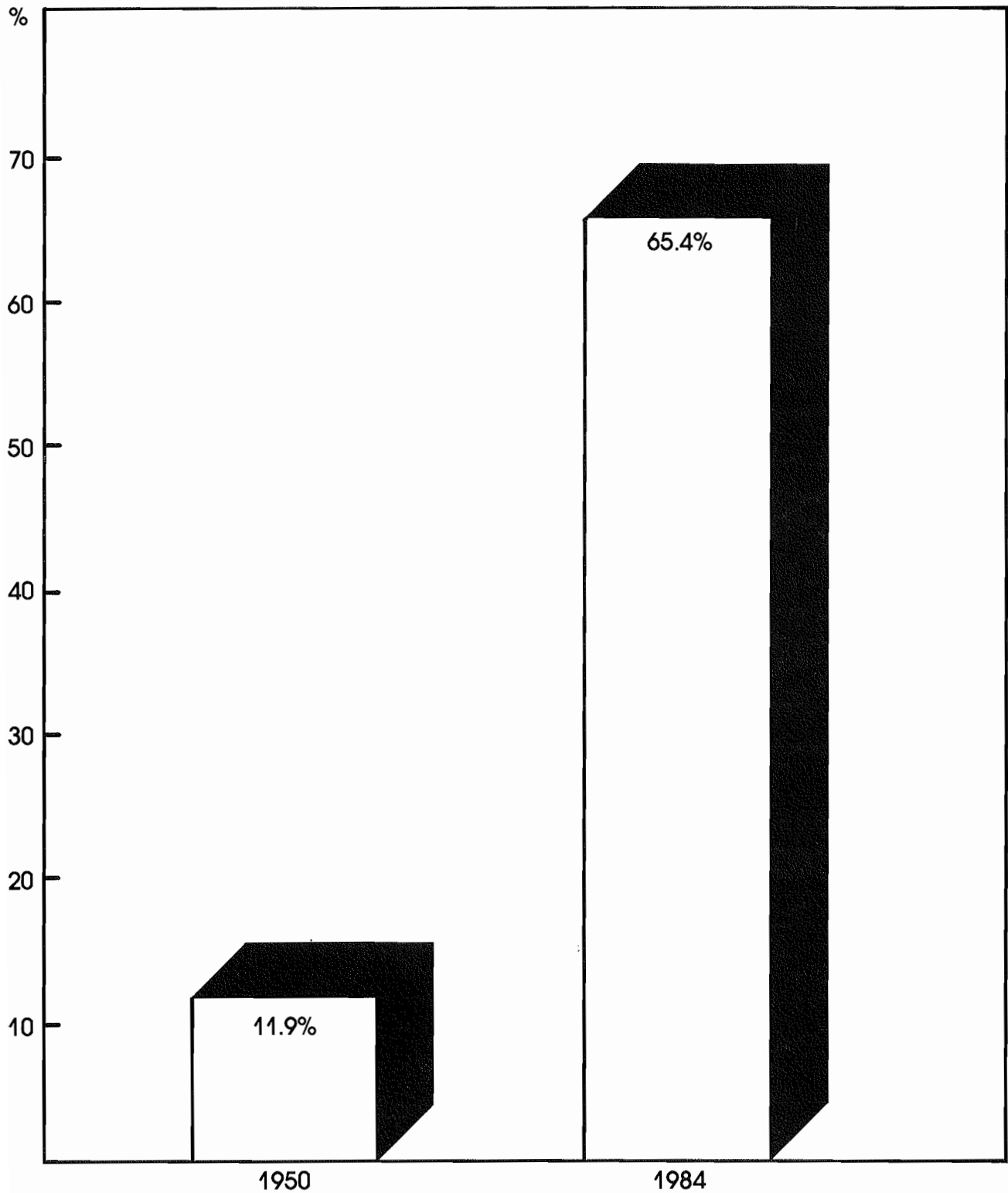
⁹Bureau of Labor Statistics, News, August 12, 1987.

¹⁰Bureau of Labor Statistics, May, 1985 data quoted in Dallas Times Herald; August 20, 1986.

¹¹Ibid.

¹²Employment in Perspective: Women in the Labor Force.

WOMEN WITH CHILDREN UNDER THE AGE OF SIX: PERCENT IN THE LABOR MARKET



SOURCE: BUREAU OF LABOR STATISTICS

It appears that women are seeking new ways to earn income and fulfill their career goals while balancing the demands of marriage and child-rearing.

Recent Career Choices of Women

Studies of the occupational choices of men and women reveal two distinct (and partly contradictory) trends. First, with increasing frequency women today are making the same choices as men with respect to educational and occupational goals. In record numbers, women are obtaining undergraduate and graduate degrees. There also is an increasing tendency for women to earn degrees and seek jobs in previously male-dominated occupations. At the same time, however, a large number of professional women in male-dominated fields are abandoning their chosen career paths and turning to the home -- to engage full-time in child-rearing and housekeeping activities, to work part-time, or to run their own businesses out of their homes.

Educational Choices. The educational choices of college-age women have changed remarkably over the last two decades:¹³

- As recently as 20 years ago, men were twice as likely as women to obtain college degrees.
- Today, men and women are graduating from college in equal numbers.

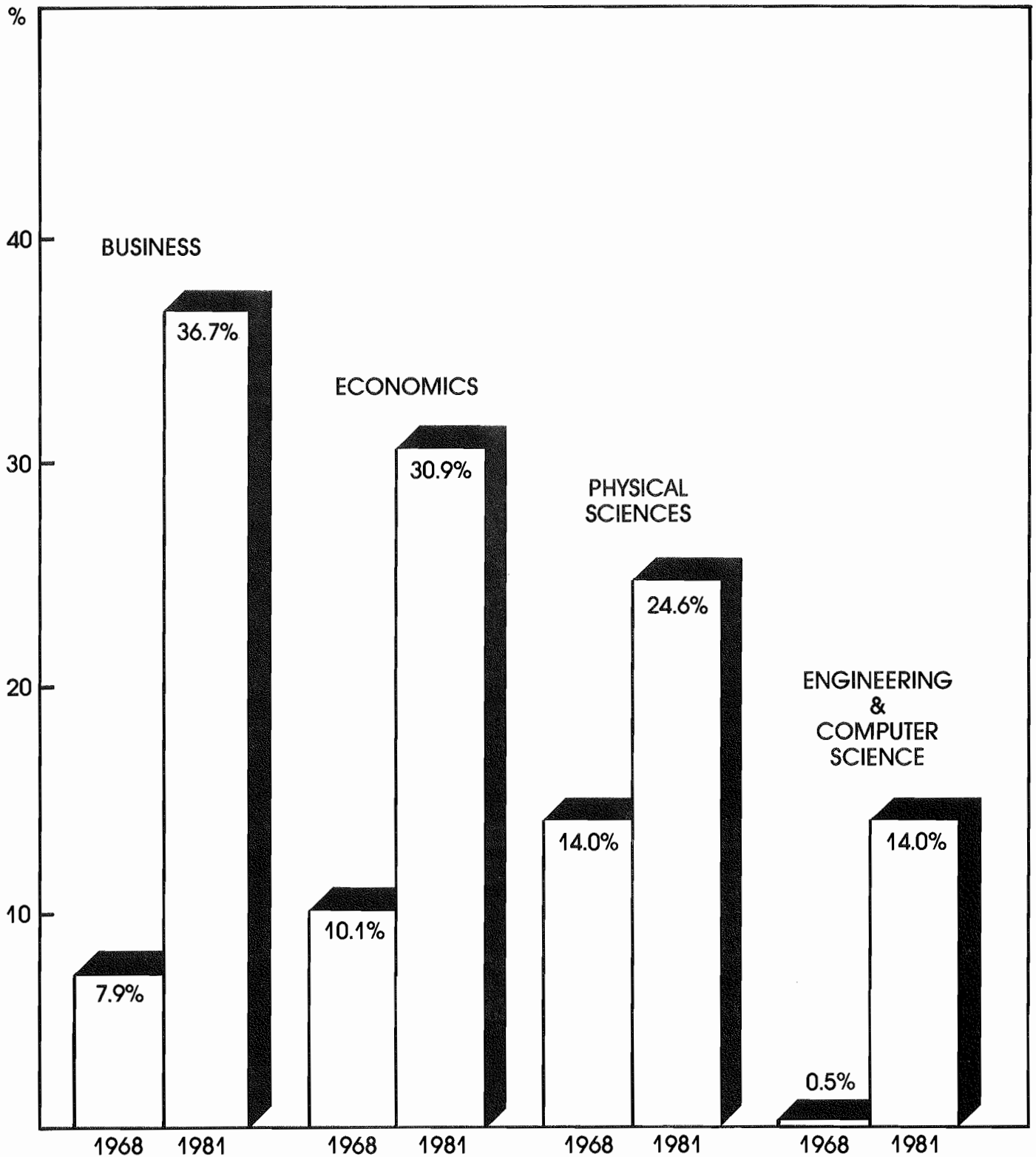
Not only are women choosing to obtain college degrees in record numbers, they increasingly are choosing to major in fields traditionally dominated by men.¹⁴

- In 1964, about 40 percent of the men who obtained college degrees majored in business, economics, the physical sciences or in engineering.
- Less than five percent of female graduates majored in these fields.
- Between 1968 and 1981, however, the percentage of business majors who were women increased from 7.9 percent to 36.7 percent.
- In economics, the increase was from 10.1 percent to 30.9 percent; in physical sciences, the increase was from 14.0 percent to 24.6 percent; and in engineering and computer science, the increase was from 0.5 percent to 14 percent.

¹³John Raisian, Michael P. Ward, and Finis Welch, "Pay Equity and Comparable Worth," Contemporary Policy Issues, Vol. IV, April, 1986, p. 14.

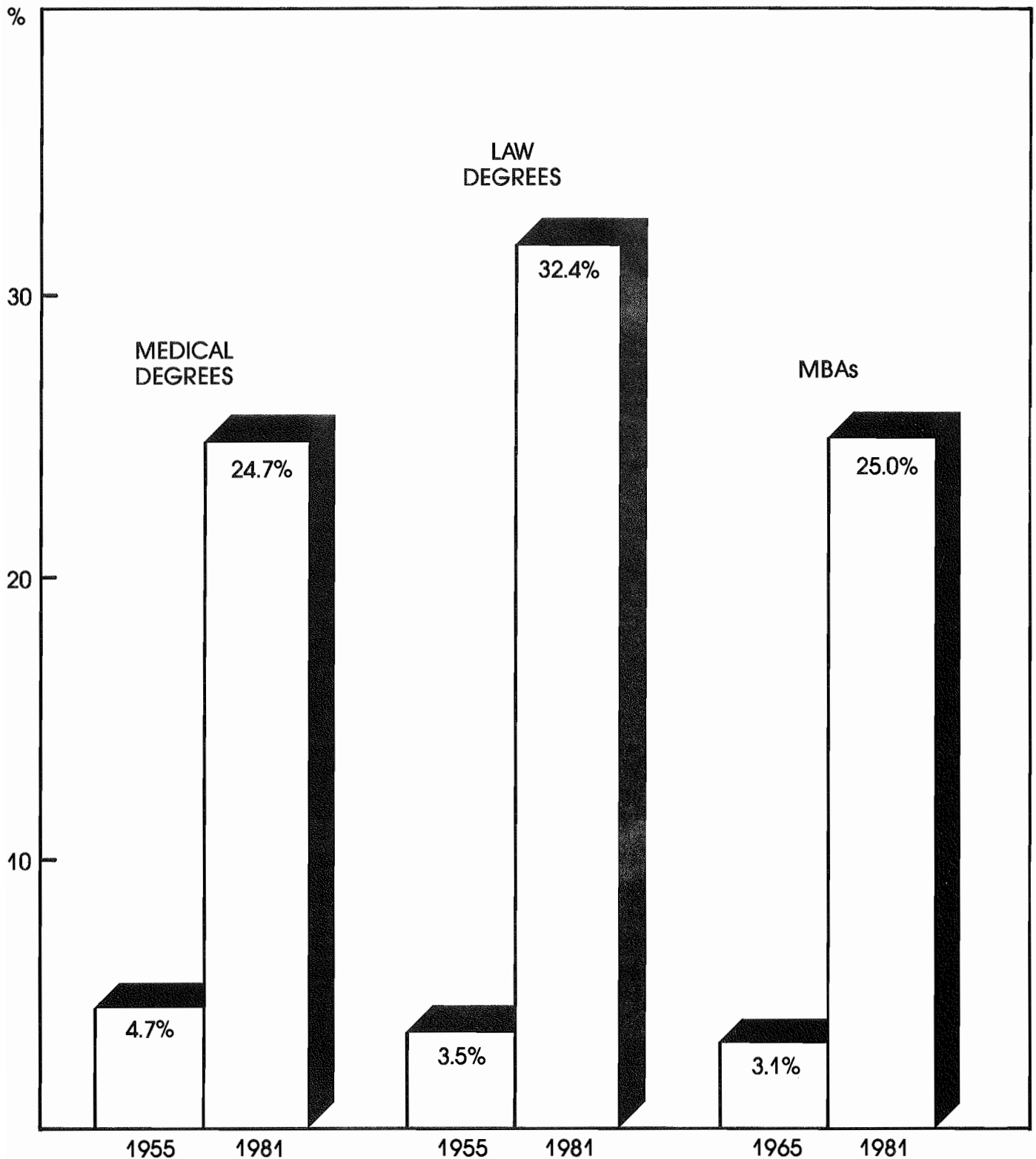
¹⁴Ibid., pp. 14-17.

PERCENT OF COLLEGE DEGREES EARNED BY WOMEN



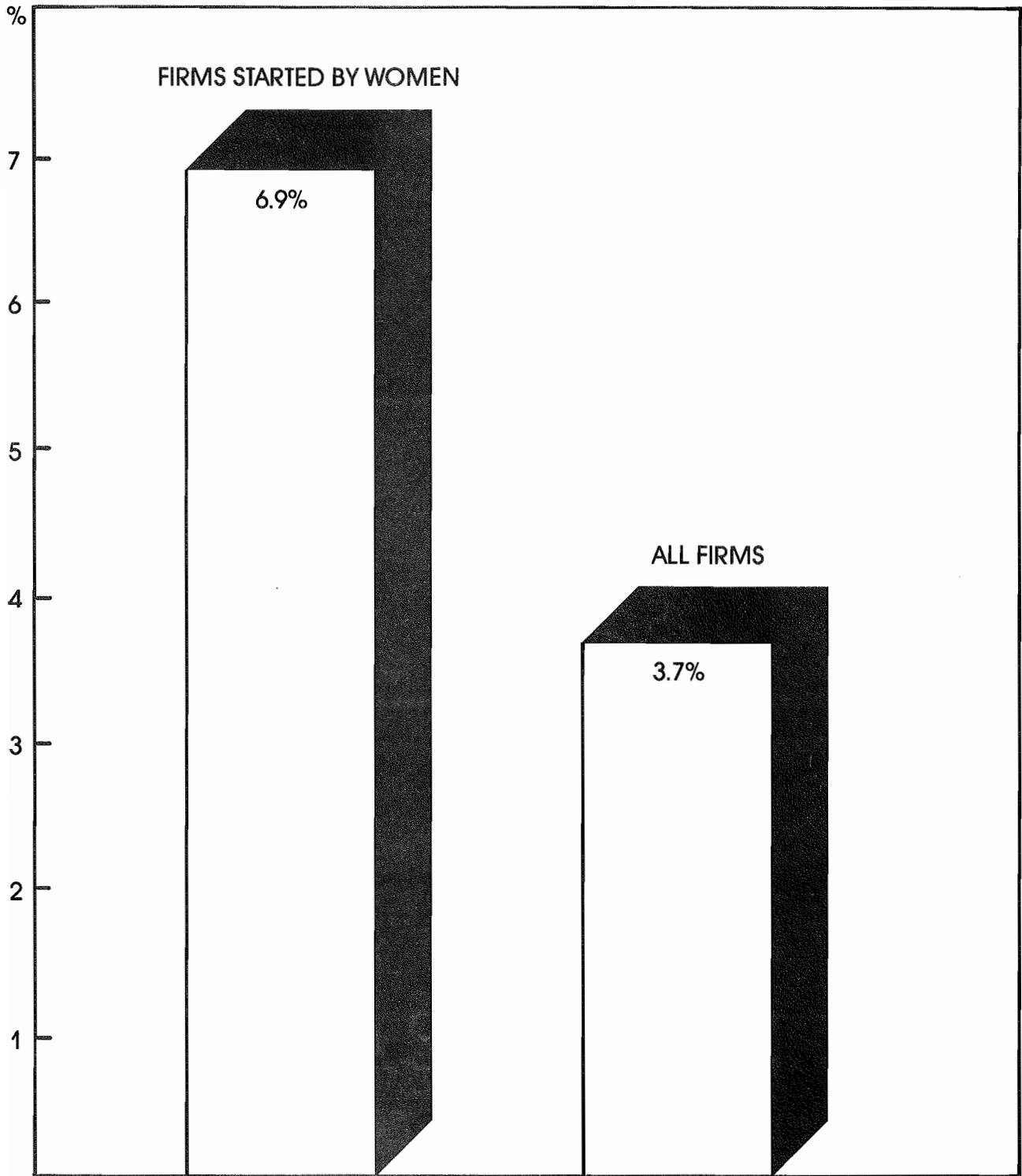
SOURCE: JOHN RAISIAN, MICHAEL P. WARD AND FINIS WELCH, "PAY EQUITY AND COMPARABLE WORTH," *CONTEMPORARY POLICY ISSUES*, VOL. IV, APRIL, 1986, P.P. 14-17.

PERCENT OF GRADUATE DEGREES EARNED BY WOMEN



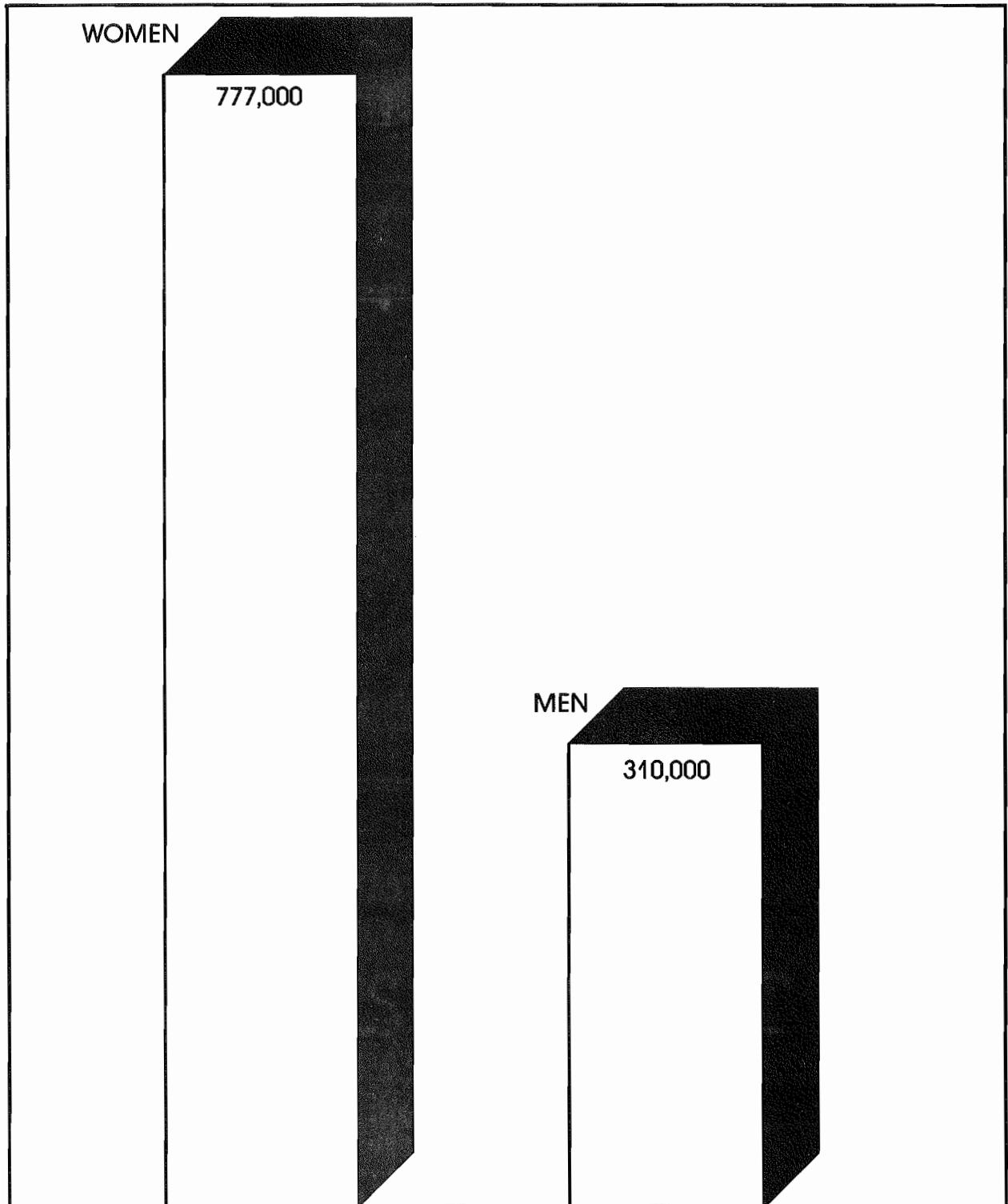
SOURCE: JOHN RAISIAN, MICHAEL P. WARD AND FINIS WELCH, "PAY EQUITY AND COMPARABLE WORTH," *CONTEMPORARY POLICY ISSUES*, VOL. IV, APRIL, 1986, P. 17.

ANNUAL INCREASE IN THE NUMBER OF SMALL BUSINESSES (1977-1982)



SOURCE: SMALL BUSINESS ADMINISTRATION

PEOPLE OPERATING SMALL BUSINESSES EXCLUSIVELY FROM THEIR HOMES (1985)



SOURCE: BUREAU OF LABOR STATISTICS

At the graduate level, these shifts are even more pronounced.¹⁵

- In 1955, only 4.7 percent of medical degrees were earned by women; by 1981 this figure had increased to 24.7 percent.
- In 1955, only 3.5 percent of law degrees were earned by women; by 1981 this figure had risen to 32.4 percent.
- The percentage of MBAs earned by women grew from 3.1 percent in 1965 to 25 percent in 1981.

Occupational Choices. The changes in educational choices being made by women are mirrored in the labor market. For example,¹⁶

- Between 1971 and 1986, the number of lawyers who were women increased from 5.6 percent to 18.1 percent.
- Between 1971 and 1982, the percentage of bank officers and finance managers who were women increased from 18.8 percent to 35.5 percent.
- The percentage of operations analysts who were women increased from 11.4 percent to 32.1 percent. And by 1986, 36.2 percent of all math and computer scientists were women.

These changes, moreover, are not confined to highly professional occupations. They reflect changes that are economy-wide. Over the last decade, there have been dramatic increases of women among forklift operators, mail carriers, butchers, barbers and other traditionally male-dominated occupations.¹⁷

The Movement Back to the Home. A survey conducted by Fortune magazine tracked the career paths of men and women who earned MBAs from some of the nation's most selective business schools in 1976. At the time they entered the labor market, 69 percent of both the men and the women went to work for large corporations or professional firms. Ten years later, a significantly higher percentage of women had dropped off the management track to start their own businesses, to work part time, or to drop out of the labor market altogether.¹⁸

¹⁵Ibid., p. 17.

¹⁶Ibid., p. 16, Note: In spite of these changes, female professionals still remain concentrated in relatively few job categories. For example, at the end of 1986, three-fifths of women professionals were non-college teachers and registered nurses. See Employment in Perspective: Women in the Labor Force.

¹⁷Ibid., pp. 15-16.

¹⁸Alex Taylor, III, "Why Women Managers Are Bailing Out," Fortune, August 18, 1986, pp. 16-23.

Similar findings were reported by a study conducted at the University of Pittsburgh.¹⁹

- Among women who received MBAs between 1973 and 1982, 18 percent were either unemployed or working only part time by 1985.
- Thirty-four percent of the women had dropped out of the labor force at one time or another, compared to only 19 percent of the men.
- Among MBA graduates from Pace University (New York) in 1976, 21 percent of the women (compared to only one percent of the men) are no longer working full time.

What accounts for the movement of women out of the executive suites? One reason seems to be that professional women face a career plateau or "glass ceiling" that hinders women from advancing into higher management positions. Another reason is the pressure of the biological clock on women who desire to rear children. Even among working women, a majority appear to believe that women with young children should remain in the home. A recent national survey found that 63 percent of employed men and 52 percent of employed women think it is bad for children under six to have a mother who works outside of the home.²⁰ Other evidence of a continuing conflict between career goals and family goals has been produced by studies of women at all ages.

Resolving Family Goals and Career Goals Through Home-Based Work

Clearly, millions of American women are opting to have children and spend a certain number of years rearing children in the home, usually in the context of a marriage. Indeed, unless current trends change, 80 percent of all employed women will become pregnant at some point in their working lives.²¹ Is there a way for these women to pursue family-related goals without completely sacrificing their career goals? The ability to work out of the home may be one answer. A recent survey of the readers of Family Circle magazine sponsored by the U.S. Department of Health and Human Services discovered that:²²

¹⁹Ibid.

²⁰"Working Mothers: Effects on Children," The New York Times, July 28, 1983. Cited in Kathleen E. Christensen, "Women and Home-Based Work," p. 56.

²¹Allan C. Carlson, "Working Mothers at Home: The Cultural Politics of the Parental Leave Debate," Persuasion at Work, Vol. 9, No. 10, October 1986.

²²Survey conducted by Kathleen Christensen and reported in Family Circle, November 11, 1985, pp. 70-74. Since the respondents in this survey were not randomly selected, these statistics should be taken as merely indicative of a national phenomenon.

- More than half of the women surveyed (53 percent) reported that they currently earn money at home.
- An additional 42 percent of the respondents reported that they would like to work out of their homes.

Among the important factors motivating home-based work, family and child-rearing concerns ranked high on the list. For example,²³

- One of the two most important reasons cited for working out of the home was "to take care of my family."
- One of the three most frequently mentioned advantages of working at home was to have "more time with my children."

Interestingly, two of the most significant aspects of home-based work in the survey were the incidence of work involving computers and the high incidence of part-time work.²⁴

- Of women engaged in home-based work, 25 percent reported that they used computer equipment.
- Among all respondents, the amount of time spent on home-based work averaged 20 hours per week.

THE IMPORTANCE OF HOME-BASED WORK TO OTHERS

Economists have long regarded married women, teenagers, retirees and the disabled as "marginal" workers in the economy. These are actual or potential members of the labor force whose labor force participation rates are lower and whose unemployment rates are higher than those of male heads of households. A newer term "contingent workforce"²⁵ describes all types of non-traditional workforce groups. They include part-time workers, temporaries, leased employees, and contracted workers. One way to think about these groups of workers is that whether by choice or by default they have not expressed the same need, urgency or ability to acquire and hold a full-time traditional job as male heads of households. As a consequence, they appear to respond more readily to changes in work incentives. Many of them are searching for ways of working at home.

²³ Ibid.

²⁴ Ibid.

²⁵ The term was coined by Audrey Freedman of The Conference Board.

An important method by which individuals can participate in the labor market while remaining at home is telecommuting. Today's office increasingly relies on computers, word processors and communications technology. By one estimate, there is one word processor being used for every three employed clerical workers in the United States.²⁶ Given the heavy reliance on this type of work, there will be increasing job opportunities for people who are confined to home or prefer to work out of their home.

- In 1984, there were over 15 million persons with a personal computer at home in the United States.²⁷
- By one estimate, at least 80 percent of all U.S. households will own a personal computer by the year 2000.²⁸

Another important development that has enhanced the ability of people to work out of their homes is the growing availability of part-time jobs, particularly in the service sectors of the economy.

- Between 1970 and 1982, the number of people who were working in part-time jobs increased by 58 percent, while total employment in the U.S. economy was increasing by only 27 percent.²⁹
- Today, part-time workers constitute about one-fifth of the U.S. labor force, and among them, about 71 percent are working part time by choice.³⁰

The traditional office workforce also is opting out of nine-to-five employment. As many as 2.5 million of all managerial, professional, and technical employees work part time by choice.³¹ As we have noted, part-time work is especially important to women, with about 26 percent of the nation's employed women holding part-time jobs.³² But the ability to work part time is important also to retirees, to the disabled, and to teenagers.

²⁶Christensen, "Women and Home-Based Work," p. 54.

²⁷Paul M. Siegel, Bureau of the Census. Author interview.

²⁸National Academy of Sciences, Office Workstations in the Home, (Washington, D.C.: National Executive Forum, 1983). p. 133.

²⁹Statistics obtained from the Bureau of Labor Statistics.

³⁰Telecommuting Review, September 1, 1986, p. 1.

³¹Ibid., p. 2.

³²Employment in Perspective: Women in the Labor Force.

Retirees. Retirees consist mainly of individuals who either cannot or will not work full time in their previous occupations. When and if these individuals do enter the labor market, they frequently are engaged in a second occupation. If they choose to work, both retirees and their spouses frequently wish to work fewer hours than a full-time work week, and they generally seek to avoid long commutes to and from a work site away from home. Increasingly, individuals within these two groups are becoming part of the telecommuting market place. In 1985, 13 percent of telecommuters were aged 55 years and older.³³

Disabled Individuals. The most frequent disadvantage for disabled workers is lack of mobility. In many cases, traveling to and from a work site away from home is impossible. Telecommuting solves this problem. As Paul Stassman, a Xerox vice president explains, the ability to link a home computer with any office by telephone affords workers at home "absolute perfect mobility" to sell their services to the highest bidder among companies located anywhere in the nation.³⁴ Telecommuting also offers disabled workers two other advantages that are sometimes a prerequisite for work because of their disability -- they can work irregular hours and they can work part time. According to one survey, six percent of telecommuters are handicapped workers.³⁵

Teenagers. An important part of the part-time labor market consists of teenagers. Because of the demands of schooling, they often cannot put in a full day's work, and the days when they can work a full day are irregular. Work out of the home is common and traditional for teenagers, especially in jobs such as babysitting, lawn care, housework, and car washing. The computer offers new opportunities for teenagers who soon may become the most computer-literate of any of the major categories of workers in the labor force.

THE CHANGING NATURE OF HOME-BASED WORK

How many home-based workers are there? The size of the homework population is expanding so rapidly that estimates of the number of homeworkers vary widely. Most experts agree, however, that the numbers are staggering. A recent study by AT&T estimates that 23 million people work out of their homes, if people who take office tasks home and people who perform volunteer work are

³³Joanne H. Pratt, A Profile of the Home-Based Workforce Available from the May, 1985 Current Population Survey, unpublished working paper.

³⁴The New York Times, May 19, 1983, p. 1. Cited in Joanne Butler and Judith Getzels, Home Occupation Ordinances, (Chicago: American Planning Association, 1985), p. 3.

³⁵Joanne Pratt, "Home Teleworking: A Study of Its Pioneers," Technological Forecasting and Social Change, No. 25, 1984, p. 3. As with several other surveys reported in this study, the respondents were not selected randomly and the results should be taken as only indicative.

included. Surveys by the Bureau of Labor Statistics (BLS) give somewhat smaller estimates. According to the BLS,³⁶

- Eighteen million people do some work at home.
- Of these, 9.1 million work at least eight hours per week out of their homes.

Unlike the AT&T estimate, the BLS numbers do not include moonlighters (who operate "side businesses" at home) or volunteers. They do include people who take work home from the office or occasionally stay at home to get work done without interruptions. According to the Bureau of Labor Statistics, anyone who works eight hours or more per week at home and is self employed is said to operate a home-based business. By this definition, there are 3.1 million people operating home-based non-farm businesses in the U.S. Of these, 42 percent are women.

As Table I shows, although women operate a minority of the home-based businesses, they constitute a substantial majority of those who work exclusively out of their homes.³⁷

- Of the 1.8 million home-based, self-employed men, only one-sixth work entirely at home.
- By contrast, of the 1.3 million home-based, self-employed women, more than one-half work entirely at home.

TABLE I

OPERATORS OF HOME-BASED BUSINESSES

	Working Entirely at Home	Working Partly at Home	Total
Men	310,000	1,490,000	1,800,000
Women	777,000	523,000	1,300,000

Source: May, 1985 Current Population Survey.

³⁶Francis W. Horvath, "Work at Home: New Findings from the Current Population Survey," Monthly Labor Review, November 1986, pp. 31-35.

³⁷Joanne H. Pratt, "Home-Based Business: Opportunity or Trap?" "Working Paper for New Era of Homework: Directions and Responsibilities Conference," Airlie House, February 1987.

Scholars believe that the actual number of home workers is larger than those identified in surveys.³⁸ Many people are reluctant to report their home-based business activities to public officials because many home-based businesses operate in violation of city, state and federal laws. In addition, an unknown number of businesses fail to report their incomes to the Internal Revenue Service or pay self-employment tax. In fact, the IRS estimates that the self-employed fail to report about 40 percent of their incomes.³⁹

The number of people engaged in home-based work in all probability will continue to grow. Indeed, some futurists predict that 15 to 20 percent of the total U.S. workforce will be working exclusively out of homes by 1990. Four economic and technological changes are contributing to this trend: (1) the rapid growth of small businesses in the economy; (2) the shift toward a "service" economy; (3) the emergence of a non-traditional workforce; and (4) technological breakthroughs in the design of personal computers, along with a rapid drop in their price.

Small Businesses. Of the four developments, none is as important as the growth of small businesses -- an increasingly important sector of the economy.⁴⁰

- More than 99 percent of all businesses are small (fewer than 500 employees).
- These businesses employ 48 percent of all non-government, non-farm employees and produce 38 percent of GNP.

Moreover, in recent years the small business sector has been the backbone of U.S. economic growth:⁴¹

- Between December, 1984 and December, 1985, the number of jobs held in industries dominated by small businesses increased by 5.1 percent.
- By contrast, the number of jobs in industries dominated by large businesses increased by only 0.7 percent.

³⁸Judith J. Leonard and Alan D. Smith, Statistical Characterization of Home-Based Business: An Exploratory Study, (Richmond, Kentucky: Eastern Kentucky University Department of Business Administration, March, 1986).

³⁹Reported in Butler and Getzels, Home Occupation Ordinances, p. 3.

⁴⁰Joanne H. Pratt and John Davis, Measurement and Evaluation of the Population of Family-Owned Businesses and Home-Based Businesses, (Washington, D.C.: Small Business Administration, 1985), p. E-1.

⁴¹Small Business Administration, State of Small Business: A Report of the President, (Washington, D.C.: U.S. Government Printing Office, May 1985), p. 1.

Home-Based Businesses. Although the importance of small business to the economy is frequently stressed, what is less well-known is how many small businesses are started out of the home and how frequently these businesses are started by women. The home becomes the incubator for new businesses precisely because of the potential for reducing out-of-pocket, overhead costs such as rent. Low start-up costs often mean that a business idea can be tested without seeking outside capital. For example, a study of Philadelphia women-owned businesses found that 82 percent of home-based businesses began with less than \$5,000.⁴²

Not only are most small businesses started in the home, in most cases they remain there.⁴³

- In 1980, there were 8.2 million sole proprietorships in the U.S.
- Of these, 5.1 million (approximately 63 percent) were located at someone's home.

Interestingly, a majority of women working out of their homes these days are self-employed and a majority of new businesses are started by women.

- According to the Family Circle survey, 79 percent of women who reported they worked out of their home were self-employed.⁴⁴
- Between 1977 and 1982, the number of women-owned firms increased at an annual rate of 6.9 percent, compared to a rate of 3.7 percent for all non-farm proprietorships.⁴⁵

Indeed, the "typical" home-based entrepreneur of the 1980s is a married white woman of middle age.⁴⁶ The woman also is likely to be well-educated and experienced. Among all people who start home-based businesses,

⁴²Amy Lyman, The Hub Program for Women's Enterprise Survey of Philadelphia's Women Business Owners, Wharton Center for Applied Research, November 1986.

⁴³Paul E. Grayson, "Male and Female Operated Non-Farm Proprietorships, 1980," Statistics of Income Bulletin, Vol. 2, No. 4, Spring 1983. Note: The number of sole proprietorships is larger than the number of self-employed people. This is because many people operate more than one business.

⁴⁴"How Women Feel About Working at Home," Family Circle, November 5, 1985, p. 70.

⁴⁵The State of Small Business, p. 289

⁴⁶Pratt, "Home-Based Business: Opportunity or Trap?"

- Less than 10 percent have never been to college;⁴⁷
- Most have completed four or more years of college;⁴⁸
- About 40 percent have had prior professional work experience.⁴⁹

The profile of today's home-business owner matches closely the profile of the growing numbers of highly educated professional women previously described who want both to rear young children and have a career.

Mom and Pop Businesses. According to the Bureau of the Census, in 1981 men accounted for almost 70 percent of the self-employed who were not farmers.⁵⁰ Many of these men had wives who helped out in a family business. But the role of these wives has been hidden in Census Bureau surveys under the census term "unpaid family member." Although the phrase conveys an image of teenagers working after school, the facts suggest that in a family-owned business "pop" is usually counted as self-employed and "mom" is counted as an unpaid family worker. For example,

- The vast majority (73 percent) of unpaid female family workers are not teenagers, but women aged 25-54.
- In these family businesses, women work as bookkeepers, clerks, secretaries, and retail sales clerks.

As women become more assertive about matching their income and job title with the actual work they perform, they may be more likely to classify themselves in the census surveys as being self-employed. That would give a truer picture of the increasing numbers of women in business.

It is becoming common for a husband and wife to have separate businesses in their home. The businesses often are carried out in separate offices, or studios on residential property. For example, one person may operate a word processing service in the house while the other repairs appliances in the garage. Or a couple may rent two apartments in the same building to house several businesses as well as their home.

⁴⁷Lyman, The Hub Program for Women's Enterprise Survey of Philadelphia's Women Business Owners.

⁴⁸Ibid.

⁴⁹Lyman, *op.cit.* See also Greenwald and Schmidt, Home Enterprise in Minnesota.

⁵⁰Patricia A. Daly, "Unpaid Family Workers: Long-Term Decline Continues," Monthly Labor Review, October 1982, p. 3.

TABLE II

CHARACTERISTICS OF HOME-BASED BUSINESS OWNERS

	<u>Men</u>	<u>Women</u>
Marital Status:		
Married, Spouse Present	78 %	81 %
Widowed, Divorced or Separated	11 %	13 %
Single	<u>11 %</u>	<u>6 %</u>
	100 %	100 %
Race:		
White	94 %	92 %
Non White	<u>6 %</u>	<u>8 %</u>
	100 %	100 %
Age:		
Under 25 years	3 %	4 %
25 - 34	25 %	28 %
35 - 44	30 %	32 %
45 or Older	<u>42 %</u>	<u>36 %</u>
	100 %	100 %

Source: Joanne H. Pratt, "A Profile of the Home-Based Workforce Available From the May, 1985 Current Population Survey," unpublished working paper.

The Emerging Service Sector

Another factor influencing the growth of home-based work is the growing importance of the service sector of the economy.⁵¹

- Today, the service-producing sector of the economy employs about 74 percent of all non-agricultural workers in the economy.
- In 1960, that number was 62 percent.

The growth of the service sector has a significant impact on home-based work for two reasons. In the first place, a great deal of service-sector work can be done from the home. For example, an issue of Handyman magazine contained about a half-dozen full-page ads suggesting that home workers can earn "kitchen table" or supplementary income by running businesses that range from rug cleaning services to small engine repair shops.⁵² In addition, many service sector businesses have emerged for the purpose of catering to professionals working in the home. These range from providing auditing and accounting services to providing secretarial services such as photocopying, handling mail and answering phones.⁵³

Secondly, the service sector of the economy is far more likely to provide opportunities for part-time work than traditional industries -- a factor, as we have seen, that is very important to home-based workers. According to the Bureau of Labor Statistics,⁵⁴

- In 1982, 32 percent of workers in wholesale and retail trades were part-time workers.
- By contrast, only three percent of manufacturing workers worked part-time.

Women are identifying with and participating in this trend. In fact, most women-owned businesses are in the service sector.⁵⁵ Many of those are home-based.⁵⁶ As Table III shows,

⁵¹The Economic Report of the President, (Washington, D.C.: Council of Economic Advisors, February, 1986), pp. 298-299.

⁵²Butler and Getzels, Home Occupations Ordinances, p. 2.

⁵³Ibid.

⁵⁴William Serrin, "Up to a Fifth of U.S. Workers Now Rely on Part-Time Jobs," The New York Times, August 14, 1983.

⁵⁵The State of Small Business, p. 293.

⁵⁶Pratt, "Home-Based Business: Opportunity or Trap?"

- Of women employed entirely at home as either employees or business owners, 39 percent work in service occupations.
- By contrast, virtually none of the home-based males work in the service sector.

TABLE III

OCCUPATIONS OF HOME-BASED WORKERS
(Employed Entirely at Home as Employees or Business Owners)

	<u>Women</u>	<u>Men</u>
Managers and Professionals	22 %	45 %
Sales	7 %	19 %
Administrative Support	24 %	3 %
Crafts and Repairs	3 %	21 %
Services	39 %	3 %
Other	5 %	9 %

Source: Joanne H. Pratt, A Profile of the Home-Based Workforce Available from the May, 1985 Current Population Survey, unpublished working paper.

The growth of the service sector will continue. By 1995, one-quarter of all jobs will be in "miscellaneous and other services." Most will be in business services, such as personnel supply, business consultants, janitorial and protective services, and computer and data processing services.⁵⁷ This transformation to a service economy is another factor that will accelerate the growth of women-owned home-based businesses.

⁵⁷The State of Small Business, p. 293.

The Contingent Workforce

A major trend in the next ten years will be the development of "hybrid" organizations -- ones that take advantage of new technology, recognize changes in lifestyles, and give employers and employees increased flexibility.⁵⁸ In particular, these organizations will respond to the fact that employers want a more flexible workforce that can expand and contract with fluctuating workloads. Employers also want access to experts without the cost of employing them full time. At the same time, workers' lifestyles are changing in the direction of integrating their work, leisure, and family life.

In general, people want more control over their lives. It is commonly the employee who initiates a more flexible working arrangement. Most seek to work part time at home on a schedule that fits their needs. In return, they offer their employer their commitment to high productivity and high quality output.

Telecommuting⁵⁹

A survey of telecommuters discovered that there are a number of advantages to telecommuting that are especially important to women taking care of young children. The first is the advantage to working irregular hours. The study found that:⁶⁰

- Only 40 percent of the telecommuters surveyed started their workday at the conventional hours between seven and nine a.m.
- More than half reported that they worked at night.
- Almost all of the managerial and professional workers worked on weekends.

⁵⁸Gil Gordon, in Telecommuting Review, March 1, 1987, pp. 12-13.

⁵⁹Strictly speaking, only those who substitute using computers to do their work for commuting are called "telecommuters," but the term is more commonly used to describe any employee who uses a computer for work.

⁶⁰Pratt, "Home Teleworking," p. 7.

If the work did not require concentrated attention, mothers who telecommuted performed routine word processing or data entry with young children in the same room. But women professionals or managers and many mothers doing clerical tasks worked while the children were asleep. Some of them engaged relatives or sitters in order to extend their working time beyond their children's periods of sleep.⁶¹ Interestingly, women with young children who telecommuted from their homes felt no more "house-bound" than mothers who did not work.⁶²

A second advantage is that telecommuters save money -- up to \$200 per month on food; more than \$100 per month on gasoline, parking fees and automobile insurance; and \$100 per month on clothes.⁶³

Being able to telecommute also saves commuting time -- a major benefit to women trying to combine work with child-rearing and a vitally important factor in our economy. The Hertz Corporation has estimated the costs of getting to work as follows:⁶⁴

- In 1985, 106.4 million people commuted an average of 24.4 miles round-trip to work.
- Assuming that the average round-trip takes 40 minutes a day, Americans spend more than 8,000 years of total commuting time every day.
- We pay a total of \$144 billion to get all of us to work in just one year -- an average of \$1,355 per worker.
- If commuting were decreased by only one one-hundredth of one percent, the net savings would be more than \$14.4 million to American workers.

Telecommuting has benefits for employers as well. At the very least, the employer can save the expense of a workstation in a commercial building. The NPD Group, one of the largest market-research firms, recently presented the cost comparisons depicted in Table IV to the Data Entry Management Association.

The State of California has projected a different kind of cost savings as a result of its current experiments with telecommuting. These are savings that will result from increased productivity: more output per employee, higher quality of output, fewer sick days, etc.

⁶¹ Ibid, p. 7.

⁶² Ibid, p. 6.

⁶³ Ibid, p. 5.

⁶⁴ Telecommuting Review, December 1, 1986, p. 13.

- As Table V shows, the amount of money California could save per home telecommuter is estimated to be as high as 71 percent of each worker's salary.
- If California took full advantage of telecommuting opportunities, the long term annual benefits are estimated to be from three to almost nine times the annual costs.⁶⁵

Many professional managers and employees engaged in highly technical work are finding that home-based computer work offers significant advantages over similar work done at a conventional work site. For these people, home-based work allows them extended periods of intense concentration that are unachievable in an office environment filled with other people and numerous distractions. In one study of telecommuters,

- Sixty-two percent of the home telecommuters surveyed complained of interruptions and distractions at the company office.⁶⁶
- By contrast, 67 percent of survey respondents said their productivity increased as a result of working at home.⁶⁷

A further benefit of employer initiated home-based work is the opportunity it gives many home-bound persons to gain meaningful employment. In addition to mothers with young children, the handicapped, retirees and even prisoners are brought into the labor force.

For example, prisoners at the Arizona Center for Women (ACW) handle reservations for Best Western Hotels.⁶⁸ They earn the same beginning pay as outside agents but have no benefit package. All three groups participating in this arrangement gain: Best Western saves the cost of paying benefits; ACW garnishes 30 percent of after-tax income for room and board; and the inmates earn money as well as gaining marketable skills.

⁶⁵Jala Associates, Telecommuting: A Pilot Project Plan, Department of General Services, State of California, June 1985, pp. 6-14 through 6-16.

⁶⁶Pratt, "Home Teleworking," p. 7.

⁶⁷Ibid., p. 5.

⁶⁸David Rubins, "Telecommuting: Will the Plug be Pulled?" Reason, October, 1984, p. 27.

TABLE IV
 EXAMPLE OF COST SAVINGS FROM TELECOMMUTING
 (Annual Cost Estimate)

<u>Item</u>	<u>In Office</u>	<u>At Home</u>	<u>Savings</u>
Equipment Lease or Depreciation	\$60,000.	\$30,000.	\$30,000.
Building and Utilities	\$55,000.		55,000.
Labor @ \$6/Hour	\$360,000.	360,000.	0.
Messenger Service		20,000.	(20,000.)
Corporate Overhead	<u>\$40,000.</u>	<u>20,000.</u>	<u>\$20,000.</u>
TOTAL	\$515,000.	\$430,000.	\$85,000.

Source: Telecommuting Review, November 1, 1986, p. 2.

TABLE V
 TELECOMMUTING: PROJECTED COST
 SAVINGS THROUGH PRODUCTIVITY INCREASES IN CALIFORNIA
 (Savings as Fraction of Average Employee Salary)*

Output Quantity	15-25 %
Output Quality	5-25 %
Decreased Sick Leave	2-15 %
Decreased Medical Cost	0.04 %
Increased Organizational Efficiency	0.5 %
Decreased Turnover	5 %
Total	28-71 %

*Average salary = \$19,700.

Source: Jala Associates, Telecommuting: A Pilot Project Plan, Department of General Services, State of California, June 1985, pp. 6-9 through 6-16.

WEIGHING THE ADVANTAGES AND DISADVANTAGES OF HOME-BASED WORK

Major economic changes generally affect different individuals in different ways. Even when the change produces great benefits for the economy as a whole, not all individuals will share equally in those benefits. Some individuals may derive substantial gain from the change, while others may be harmed. The Industrial Revolution is an example of such change. The homework revolution in the modern era may be another.

Work Practices and Career Paths of Managers, Professional Workers and Clerical Workers

Both men and women managers typically can work only part time or intermittently at home because their job functions involve managing people. The amount of time they spend at home varies widely. Managers save time, but typically not money, by working at home. Since they work part time at their employer's work site, they are not able to save on commuting or clothing costs. However, they save time by working at home protected from office interruptions. Most managers are more productive at home. The time they save gives both mothers and fathers valued contact with their children, even if it amounts only to being there when the children come home from school.

In contrast to people with purely managerial responsibilities, many professional workers have more flexibility with respect to the choice of work site. Computer programmers and analysts, university professors, research scientists, physicians, management consultants, stockbrokers, lawyers and other professionals may manage people as part of their job, but many do not. Therefore, some of them work full time at home. Others work at home part time or intermittently. Many of these professionals are self-employed.

Professionals are more productive when they work non-traditional hours or longer hours, which they are more willing to do in the comfort of their homes. Computer programmers, for example, get quicker responses if they are on-line to a mainframe computer in the evenings when the daytime workers are not also using it. This gives women programmers a chance to work when the children are in bed.

On the other hand, working at home may have negative consequences for a worker's long term goals. For example, for women pursuing a career path in a large organization, working at home is likely to be detrimental to career goals. The ability to telecommute often is viewed as "finger in the dam" -- a way of meeting family goals without dropping off of the career path completely.⁶⁹ Thus, for many women managers and women professionals, the ability to work out of the home is career-saving rather than career-enhancing. As one researcher put it,

⁶⁹Pratt, "Home Teleworking," p. 11.

For those with strong career goals, it is obvious that by staying at home they are not as visible as their colleagues in the centralized workplace, likely limiting their access or entry to professional networks and precluding their possibilities for developing the professional skills and political savvy needed to maneuver in the work world beyond their front doors.⁷⁰

Clearly, not all workers will view the trade-off in the same way. This is true for men as well as women. One study of telecommuters discovered that a sizable number of male workers had switched from managerial to non-managerial positions in order to be able to work at home in a comfortable, relaxing environment.⁷¹

Unlike managers and professional workers, clerical workers often do not think of themselves as having careers. These women choose to perform word processing or data entry at home for the dollars they earn while simultaneously being a "good wife and mother."⁷² Although they save money by not buying gasoline, lunches, or clothes, those who are paid by piece-rates cannot count on a steady income when employers are not able to supply them consistently with a full quota of work.

Employment Status of Home-Based Workers

In general, people who work out of their home are classified as employees, as self-employed (i.e. home-based business operators), or as independent contractors. Workers who are classified as employees receive money income plus non-money fringe benefits. Workers who are independent contractors typically receive all of their compensation in the form of money and pay their own employment tax.

The question of the employment status of home-based workers is becoming a subject of heated debate.⁷³ Arguing that independent contractors are "exploited" by employers, some labor unions have voted a ban on all home-based work. A major court case is bringing some of these issues into focus.⁷⁴

⁷⁰Christensen, "Women and Home-Based Work," p. 57.

⁷¹Pratt, "Home Teleworking," p. 11.

⁷²Pratt, "Home Teleworking," p.10.

⁷³Joanne Pratt and John Davis, Measurement and Evaluation of the Population of Family-Owned Businesses and Home-Based Businesses, (Washington, D.C.: Small Business Administration, 1985). See comprehensive bibliography published as an appendix to the report.

⁷⁴Telecommuting Review, March 1, 1986, p. 7.

The spirit of the term independent contractor is the ability to operate freely in the marketplace, providing services to more than one employer. But often, workers who consider themselves independent contractors work for only one company, with the employer controlling their job routine. These arrangements may be in violation of labor law and tax law. Studies of the impact of office automation on workers reflect concern that employer-paid benefits such as health insurance, pensions, employment taxes, and other benefits are being shifted to "employees" improperly classified as "independent business persons."⁷⁵ Furthermore, even though home-based clerical workers choose to work at home and cherish that opportunity, they have much less leverage than on-site workers in determining their work conditions.⁷⁶

A solution to some of these concerns may be the formation of home-based workers associations similar to the various associations of home-based business owners. Large numbers of home-based workers in the same occupation may find it advantageous to form trade associations and negotiate benefits such as a health insurance plan through the association.

Conflicts Over Neighborhood Values

A major conflict that arises over the issue of home-based work is the conflict between people who want to use their home for "business" purposes and neighbors who prefer to live in exclusively residential communities. Despite the fact that, historically, most people worked in or near their home, it is clear that many people today view their home as a retreat from the workaday world of the office. In their view, a "business on the block" destroys the residential character of the community. Objections are likely to be more vociferous if the home-based business generates recognizable external effects on the rest of the neighborhood, such as traffic, parking problems, noise, odors, and other nuisances.⁷⁷

One possible solution to the problem is to create different types of neighborhoods (within a city or locality) where people engaged in various kind of home-based work are clustered in some areas, while people who prefer exclusive residential living are clustered in other areas. Such arrangements might be achieved through zoning ordinances, through restrictive covenants or through private development. At least two communities have been developed for the express purpose of combining residential living with home-based work. For example,⁷⁸

⁷⁵Office Workstations in the Home, pp. 76-94.

⁷⁶See the discussion in Pratt and Davis, Measurement and Evaluation of the Population of Family-Owned Businesses and Home-Based Businesses.

⁷⁷Butler and Getzels, Home Occupation Ordinances, p. 5.

⁷⁸Ibid.

- Market Place in Oak Creek, Wisconsin was developed to accommodate home occupations ranging from dentists' offices to craft studios.
- The Eaglecrest subdivision of Foresthill, California was designed to function as a telecommuting community.

Even when home-based businesses operate in predominately residential neighborhoods, it is important to recognize that home-based work may create benefits for the neighborhood and actually may increase surrounding property values. For example, home-based workers may help reduce the crime rate because neighborhoods will be less deserted during the day.⁷⁹ There will be fewer school-aged latchkey children if one member of the household works at home. And neighbors also will be available to each other for help in emergencies.

A neighborhood of people staying home to work will never resemble an inner-city business district where workers disappear into office towers at nine and clog the streets at five. People who work at home tend to keep flexible hours. Telecommuters and other home-based workers often come and go during the day.

Home-based work also is of vital concern to the economy as a whole. Some of America's most innovative companies were started in a home or garage:

- Liquid Paper Corporation began in the founder's kitchen, grew to a metal building in the back yard, and finally to a multimillion-dollar corporate headquarters.
- Apple Computer, Inc. began in founder Steve Jobs' garage.

LEGAL BARRIERS: LOCAL GOVERNMENTS

By far, the most extensive regulation of home-based work in the United States occurs at the local level. A recent survey conducted by the Chicago-based American Planning Association of 1,100 cities and counties discovered that 90 percent of the respondents had restrictions of one sort or another on home-based work.⁸⁰ These restrictions range from the requirement that home-based workers obtain a special permit from the city or county clerk and pay a permit fee, to the requirement that they satisfy licensing and zoning or planning agency restrictions, to the requirement that they appear before public hearings.

⁷⁹Joanne H. Pratt, ed., Working at Home: Challenges for Federal Policy and Statistics, Proceedings of a Symposium held October 28, 1986, in Washington, D.C.

⁸⁰Butler and Getzels, Home Occupation Ordinances, p. 8.

In some cities, fire codes work against establishing a home business. For example, a couple cannot live above their restaurant if they cannot afford to construct the required fire separation between the residential and commercial floors. Licensing requirements for food preparation and child care -- particularly those necessitating remodeling expense -- may discourage such home businesses as catering and day care.

In many cases, certain types of home-based business activities are prohibited altogether. Those that are allowed frequently face many legal restrictions on how the business may be operated. These restrictions may become a legal and political battleground around the country.

Home Occupation Ordinances: Conflict and Change

If the American Planning Association survey is reflective of conditions for the country as a whole, about 90 percent of localities in the U.S. have regulations restricting home-based work. Yet these restrictions are coming under constant challenge and attack, both through normal political channels and through the courts.

One of the problems with many ordinances (a problem that frequently arises in lawsuits) is that they are written in language that is too broad and vague. For example, many communities restrict home-based work to that which is "customary or traditional" in the community, or to work that is carried out by a "professional," or to work that is performed only by "family" members without defining what the words "customary," "professional," or "family" mean, and without giving any specific examples of what occupations are included or excluded by the restriction.

When ordinances do list occupations that are accepted or prohibited, the specifics are often bizarre. For example,⁸¹

- In Ottawa, Ontario, the local ordinance permits home-based work for speech therapists but not for physiotherapists.
- In some cities, home-based work is permitted for psychologists but not psychiatrists.
- In other cities, artists' studios are permitted, but photographers' studios are not.

Ordinances such as these are susceptible to legal challenge on the grounds that they are arbitrary and do not promote any clear public policy objective. Sensitive to such considerations, many communities have enacted ordinances that apply to whole categories of activities, rather than attempt to list occupation by occupation what is permissible and what is not.

⁸¹ Ibid., p. 12.

TABLE VI

LOCAL REGULATION OF HOME-BASED OCCUPATIONS

<u>Type of Regulation</u>	<u>Percent of Localities</u>
Any Type of Restriction	90 %
Restrictions on Traffic	46 %
Restrictions on Outside Signs	42 %
Restrictions on On-Street Parking	33 %
Limitations on Employment of Workers	33 %
Restrictions on the Amount of Floor Space Used	20 %
Restrictions on Sales	13 %
Prohibition on Outside Storage of Materials	11 %
Restriction on Inside Storage of Materials	8 %

Source: Jo Ann Butler and Judith Getzels, Home Occupation Ordinances, (Chicago, Illinois: American Planning Association, 1985).

Common Types of Restrictions

The kinds of restrictions imposed on home-based workers and home-based businesses include restrictions on the amount of space within the home that may be used for business purposes; restrictions on the storage of inventory and other materials; restrictions on who may be employed; restrictions on the types of sales that may be made; restrictions on advertising; and restrictions on parking.

Restrictions on the Use of Space Within the Home. More than 20 percent of the communities surveyed impose restrictions on the amount of space within the home that may be used for business purposes. Other types of restrictions on the use of space include prohibitions on working in a garage and using a doorway for business purposes.

Of the localities surveyed, eight percent place limitations on the storage of inventory and other materials within the home, and about 11 percent prohibit storage outside the home. In addition, many communities restrict the display of products both outside and inside the home.

Restrictions on Employees. Almost one-third of all the communities surveyed place restrictions on who can be employed by a home-based business. For example,⁸²

- Home-based employers may not employ anyone who does not live in the home in Arlington, Virginia; Redding, California; Largo, Florida; Rockford, Illinois; Blaine, Minnesota; and Visalia, California.
- Only one outside employee may be employed in Pullman, Washington.

Restrictions on Sales. Approximately 13 percent of localities surveyed place restrictions on the sale of goods and services within the home. For example,⁸³

- In Danville, Illinois, there may be no selling of goods in the home other than the filling of an order previously made by telephone.
- In Southern Pines, North Carolina, there is a total ban on all retail sales within the home.

Restrictions on Advertising. Large numbers of communities place restrictions on various kinds of advertising. For example,

- About 42 percent of localities either prohibit outdoor signs or limit the size of the sign.⁸⁴
- In addition, many cities prohibit advertisements that give the address of the home-based business, including advertising in the yellow pages.⁸⁵

Restrictions on Traffic. Of the communities surveyed, about 46 percent have restrictions designed to restrict the flow of traffic to home-based businesses. About one-third place restrictions on street parking. Numerous cities limit the number of customers who can come to the home at the same time or on any given day. For example,⁸⁶

⁸² Ibid., pp. 25-36.

⁸³ Ibid., p. 14.

⁸⁴ Ibid., p. 16.

⁸⁵ Ibid., p. 15.

⁸⁶ Ibid.

FACT SHEET ON RESTRICTIONS IN THE DALLAS-FORT WORTH AREA

Most municipalities in the Metroplex have a general prohibition against activities that create noise, odors, or traffic problems and/or other nuisances for neighbors. Beyond that, the restrictions vary widely.

Dallas. According to the Dallas Development Code, a person who engages in a home occupation shall not:

- Sell any products on the premises;
- Operate before 8 a.m. or after 6 p.m. for outdoor activities and before 8 a.m. or after 10 p.m. for indoor activities;
- Use an advertisement, sign or display on or off the premises;
- Advertise in the yellow pages of the telephone directory;
- Employ a person other than the occupants of the home;
- Use any equipment other than ordinary home appliances.

Fort Worth. The Fort Worth City Code prohibits home-based workers from:

- Selling any commodity on the premises;
- Keeping an inventory of products in the home.

Other Local Laws.

- In Mesquite, only one-fourth of one floor can be devoted to a home-based business.
- In Highland Park and University Park, no customers or clients can come into the home, and no merchandise may be stored on the premises.
- In Euless and Richardson, no advertising on the premises is permitted.
- In Hurst, home-based doctors' and dentists' offices are permitted, but no other outside employee is allowed.

- In Forest Grove, Oregon, and in Southern Pines, North Carolina, no on-street parking is allowed by customers of a home-based business.
- In Arlington, Virginia, the home-based worker cannot see more than 12 customers per day and, in any event, no more than four at the same time.

Enforcement

A great many of the restrictions on home-based work are, of course, difficult to enforce. There is casual empirical evidence to suggest that, more often than not, the rules are not enforced. About half of the communities surveyed reported the primary means of enforcement is responding to the complaints of neighbors. In general, this means that if neighbors do not complain, nothing is done. As Butler and Getzels explain, "The unwritten rule in enforcement of home occupations for most communities is that if no one complains, there is no problem."⁸⁷

Interestingly, when a neighbor does complain, the real reason for the complaint often is a grievance or irritation (such as a barking dog) other than any injury suffered because of the home-based worker's occupation. When ordinances are enforced, however, the penalties can be severe, especially if there are repeated violations. For example,⁸⁸

- In Marquette, Michigan, the penalty for violating the zoning ordinances governing home-based work is a fine of up to \$100 or a jail sentence of up to 30 days.
- Since every day the violation occurs counts as a separate offense, this means that one year's worth of violations could total a \$36,500 fine or 30 years in jail.

For those who do wish to comply with the regulations, however, compliance can be costly in terms of time and money.⁸⁹

⁸⁷Ibid., p. 21.

⁸⁸Ibid.

⁸⁹Ibid., p. 19.

- In Roseville, California, anyone starting a home-based business must obtain a special home occupation permit and obtain a city business license.
- For certain businesses, approval also is required from the city fire department, and applicants must fill out an additional "occupation clearance form" for the planning department attesting that the applicant is aware of the business license and fire department requirements.

Some Case Studies⁹⁰

Case Study: Blaine, Minnesota. In general, citizens of Blaine cannot legally engage in any home-based work without obtaining a permit from the county clerk or after first undergoing a public hearing. The county clerk is allowed to issue permits for the following occupations: dressmaking, sewing, and tailoring; painting, sculpturing, and writing; telephone answering; home crafts (such as model-making, rug weaving, lapidary work and cabinet making); tutoring; home cooking and preserving; computer programming; and secretarial services.

However, practitioners of these occupations are prohibited from employing anyone who does not live in the residence. Thus,

- A writer cannot employ a secretary to type in the writer's home.
- A secretarial service cannot employ other secretaries.
- A telephone answering service cannot employ a receptionist.
- A dressmaker cannot employ a seamstress.

Moreover, there is a general prohibition on storage of any merchandise in a garage. Thus,

- A painter may not store paintings in the painter's garage.
- A cabinet-maker may not store cabinets in a garage.
- A rug weaver may not store rugs in a garage.

⁹⁰The following case studies are taken from Butler and Getzels, Home Occupation Ordinances, "Appendix," pp. 25-38. The interpretation of these ordinances are strictly those of the authors and do not consist of formal, legal opinions.

Among other restrictions,

- A tutor in math, English or foreign language may not tutor more than one student at a time.
- An artist, sculptor, dressmaker or rug-maker may not display paintings, statues, dresses or rugs in the home for customers who may wish to inspect them prior to purchase.
- In all cases, only one room within a home may be used for business purposes, regardless of the size of the house.

Practitioners of all other home-based occupations can get permission to practice their trades only after a successful public hearing at which their neighbors are invited to give evidence (if any) why the permit should not be granted. Moreover, having obtained such a permit, all of the above restrictions still apply. Therefore,

- An accountant cannot employ a non-family member as a bookkeeper or computer programmer.
- A jeweler cannot display handmade rings, bracelets or necklaces in the home.
- A potter cannot store ceramics in a garage.

In general, there is a prohibition in Blaine against the operation of any wholesale or retail business unless conducted by mail. Thus,

- The selling of Mary Kay cosmetics, Amway products, and Tupperware are essentially prohibited.
- Even those who do business by mail must not receive, sell and ship merchandise.

Even garage sales are tightly regulated in Blaine, and must conform to nine different regulations.

Other Case Studies. Among the hundreds of other restrictions faced by home-based workers around the country, the following are just a few additional examples:

- No on-site sales of goods or services are allowed in Redding, California, and no retail sales are allowed in Washington County, Oregon (other than by telephone).
- Residents of a household may be engaged in only one home-based business in Rockford and Redding.
- In Long Beach, California, no advertisements can be placed in a newspaper listing the address of the business, and homes may not be used as a "Bed and Breakfast."

- In Visalia, California, there can be no advertising, even in the yellow pages of a telephone directory.
- In Pullman, Washington, a home-based day care center may have only six children. In Washington County, Washington, a home-based business may have only six customers per day.
- In Danville, Illinois, only two garage sales are allowed per year; and sellers of Mary Kay Cosmetics, Amway products, Tupperware and similar merchandise may hold no more than four "parties" each month.
- Chicago has virtually a total ban on home-based work, including a ban on connecting a home computer to an office computer.⁹¹

The complexity and cost of these burdensome requirements, coupled with the threat of penalties for non-compliance, have a chilling effect on home-based businesses.⁹² Businesses often are driven into operating underground, a practice that damages their credibility and limits their access to the marketplace. Further, the vast majority of home-based businesses do not know if they are operating legally.⁹³ Often, because local governments are not clear as to whether they support or do not support home-based businesses, the regulatory grey areas make it impossible to find out.

Current governmental policies do not support the new interest in home-based work. The vast number of codes restrict activities that in no way impinge upon the public's rights. Many of the ordinances we have cited are typical of bans imposed during the Industrial Revolution to keep the noise and dirt of manufacturing away from peoples' homes. Such restrictions are outmoded relative to Information Age work, which is relatively quiet and clean.

How should local governments respond to changing patterns such as the increasing trend toward home-based work? To best serve the community at large, it seems desirable to change from restrictions tied to occupational categories to those focused on abuses. The National Alliance of Home-Based Businesswomen has drafted a model zoning ordinance that looks at the impact of a business on the neighborhood rather than arbitrarily legalizing some businesses and excluding others.⁹⁴ It is designed to protect neighbors without imposing arbitrary restraints.

⁹¹Bob Olmstead, Chicago Sun-Times, December 16, 1984.

⁹²Judith J. Leonard, "Government Bureaucracy: A Stumbling Block to the Establishment of a Data Base for Home-Based Businesses," In Appendix to Pratt, Working at Home: Challenge for Federal Policy and Statistics.

⁹³Judith J. Leonard, "Creative Approaches to Identify the Elusive Home-Based Business Owner," Eastern Kentucky University. Unpublished paper.

⁹⁴Zoning for Home-Based Businesses, National Alliance of Home-Based Businesswomen, P.O. Box 306, Midland Park, NJ 07432.

LEGAL BARRIERS: STATE GOVERNMENT

Eighteen states, the District of Columbia and Puerto Rico have laws regulating work in the home. Many of these laws prohibit certain types of home-based work altogether, while others restrict homework to a small fraction of the labor market. For example,

- Eleven states prohibit specific kinds of work in the home.
- In Hawaii and Illinois, the only people allowed to work in the home are people who cannot leave the home.

The list of home-produced products prohibited by various states has the flavor of a vintage movie. Among the prohibited products are: cigars, artificial flowers, articles of food and drink, clothing, toys, dolls, bandages, explosives, outer garments and undergarments (except for hosiery and women's millinery), purses, feathers, infants' and children's clothing, cosmetics and drugs. In some cases, the overt purpose of these restrictions is to prevent competition with factory workers. For example,

- In New York, all homework is prohibited except as specifically permitted by the Industrial Commissioner, who, "after proper study, determines such work may be permitted without unduly jeopardizing factory workers (sic)."
- In Pennsylvania, products made in the home must carry a label that says so -- a restriction designed to discourage the sale of such products.
- In Massachusetts, it is illegal to produce goods and services in the home under contract with an employer or business outside the home.

In almost all states that have regulations, there are licensing and certification requirements in addition to regulations imposed by local governments. In some cases, the two levels of bureaucracy may unintentionally preclude home-based work altogether. For example,

TABLE VII

**REGULATION OF HOME-BASED WORK
BY STATE GOVERNMENTS**

Type of Regulation	States
Certain types of homework prohibited.	California, Illinois, Indiana, Massachusetts, Missouri, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Tennessee, West Virginia.
No work permitted by children under the age of 16.	Connecticut, Hawaii, Illinois, Massachusetts, New Jersey, Wisconsin.
Floor area and ventilation per worker regulated.	Illinois, Maryland, Michigan, Missouri, Ohio.
Only persons unable to leave home can work in home.	Hawaii, Illinois.
Employer must maintain factory with similar operations.	Hawaii, Massachusetts.
No homework contractors allowed.	Massachusetts.
Inspection of home permitted.	California, Indiana, Michigan, Puerto Rico, Illinois, New Jersey, Maryland, Connecticut, Pennsylvania.
Labeling of products as manufactured by homeworkers required.	Pennsylvania.
Existing labor standards must be maintained.	Puerto Rico.

Source: Bureau of National Affairs, "State Laws," BNA Labor Relations Reporter, 1984; and Labor Law Reporter, State Laws Vols. 1 and 2, Commerce Clearing House, Inc., 1980.

- Ohio and Michigan require that work rooms in the home have entrances other than entrances routinely used by members of the household.
- Yet many local ordinances in these states forbid entrances that are used exclusively for business purposes.

State laws appear in the Labor Law Reports under the heading "Industrial Homework." Most were enacted to control manufacturing that is carried out in homes instead of factories. Yet in some cases, the laws are being applied to Information Age clerical employees as well. For example, in 1950 New York State passed restrictions on the direct mail industry that prohibit "homework on typing, addressing, mailing and related processes . . ."95

LEGAL BARRIERS: THE FEDERAL GOVERNMENT

While local governments regulate work in homes through zoning and licensing ordinances, and a few state governments restrict industrial homework, the federal government makes its impact on home-based work through tax laws and labor legislation. However, federal policy is by no means consistent. While federal policies outlaw homework in some industries and discourage it in others, some federal agencies (including the U.S. Army) are conducting pilot projects to test the feasibility of telecommuting by federal employees.96

Federal Labor Legislation

Under a 1942 law the federal government forbids homework in seven apparel industries: knitted outerwear, women's garments, embroidery, handkerchiefs, jewelry, buttons and buckles, and mittens and gloves. In defense of these regulations, the International Ladies Garment Workers Union and other labor leaders have cited sweatshop conditions: inadequate pay, crowded and unsanitary quarters, the use of child labor, poor benefits, and unpaid overtime work.

Contrasting with this dismal view of cottage industry is the pleasant reality of women in Vermont cozily knitting for profit through the long, cold

⁹⁵Labor Law Reporter, State Laws Vol. 2., Commerce Clearing House, Inc., 1980, p. New York 46065.

⁹⁶See Office Workstations in the Home, National Academy Press, 1985, pp. 24-32.

winters. It is the Vermont knitters who have captured the headlines and public sympathy for rewriting homework laws. Take the nationally publicized case of Bonnie Mercier, for example:⁹⁷

- Mercier quit making a 90-mile, round-trip commute to a \$3.35 an hour office job and started knitting sweaters on a knitting machine in her basement.
- In her new job she was making close to \$10.00 an hour -- enough to finance a new home computer and a trip to France. More importantly, she worked at a job she enjoyed while being available to her children after school.

Citing cases like Bonnie Mercier, Labor Secretary Raymond Donovan in 1981 moved to rescind the regulations banning certain types of homework. His action would have affected a very small part of the home-based workforce.⁹⁸ Nevertheless, the Secretary's decision to revoke the regulations -- rather than revise them -- drew protests from unions, manufacturers, consumers, and even some of the same publications that had editorialized in favor of aiding the Vermont knitters.⁹⁹ After a protracted battle in the federal courts, in November 1984, the Department of Labor (DOL) obtained a ruling that permits homework in the knitted outerwear industry. Homework is still banned in six other apparel industries, however.

Tax Laws Affecting Home-Based Work

By narrowly defining a home "business," income tax regulations discourage using the home as a workplace. Individuals may deduct expenses for a home office only under very restrictive circumstances. According to IRS guidelines, "regular" work is allowed, but "occasional" work is not. This means that a moonlighter can deduct a home as the "principal place of business" for a side business, but cannot claim a home office deduction for nights and weekends spent on overtime work for an employer.¹⁰⁰

The requirement that the deductible portion of the property must be used "exclusively" for business also penalizes many people. For example,

⁹⁷Toby Kahn, "Bonnie Mercier Defines the Law," Family Circle, January 15, 1985, p. 55.

⁹⁸Francis W. Horvath, "Work at Home: New Findings From the Current Population Survey," Monthly Labor Review, November 1986, p. 34.

⁹⁹Jonathan Rauch, "Anatomy of a Regulatory Proposal -- the Battle Over Industrial Homework," National Journal, June 6, 1981, p. 1014.

¹⁰⁰Business Use of Your Home, Internal Revenue Service Publication 587.

- A woman may not claim any deduction for the kitchen area that she uses for dyeing fabrics if she also uses it for cooking meals.
- A consultant cannot deduct any portion of a dining room in which he meets with clients if he also dines there.

Often the tax regulations designed as incentives to turn hobbies and moonlighting activities into bona fide businesses inhibit new business formation. When returns are scrutinized for possible abuse, the U.S. Tax Court may disallow deductions during the start-up period of a new business. In one case, a computer scientist moonlighted, developing software for her brother's mail order business. Although she was paid for the job and hoped to attract other customers for her services, the Tax Court denied her claim of business expenses, ruling that "use of computer in her home to work on a project for her brother's mail order business" did not constitute a business.¹⁰¹

The home owner who qualifies for an office deduction may claim the costs of a business space, including part of the mortgage interest, property taxes, repairs, utility bills and depreciation. A tenant can deduct part of his rent. However, the claim may prove later to be a costly business decision. The IRS has a surprise for the uninformed proprietor who sells a home that has greatly increased in value: the portion of the home used for business loses all residential tax benefits.¹⁰²

- Taxes must be paid on the profit from the sale of the business area of the home.
- Sellers over age 55 cannot include that share of the profit in the \$125,000 one-time exclusion.
- Taxes also must be paid on any "recapture of business-related accelerated depreciation" taken in prior years.

Worker's Compensation for the Home-Based Employee

Heading the list of employers' fears regarding telecommuting is liability for Worker's Compensation, despite the fact that there have been no cases of injuries reported. In a situation similar to telecommuting, a Texas sales superintendent answering a work-related telephone call at home stepped on a needle. He filed a

¹⁰¹P-H Federal Taxes Report Bulletin, "Use of Computer at Home Didn't Amount to Carrying on Trade or Business," Vol. LXVII No. 4, January 3, 1986, p. 60059.

¹⁰²The Crafts Report, June 1984, p. 8.

claim and was compensated for his injury, based on the theory that had he taken the call at the work site, he also would have been compensated.¹⁰³

In general, work-related accidents are compensable exactly as they would be on site. The home is considered an extension of the employer's premises. Therefore, employers can be liable for injuries in their employee's homes, even though the employer has no direct control over the working environment.

MOBILIZING SUPPORT FOR HOME-BASED WORK

Community support, both private and public, would help increase the benefits of home-based work in a number of areas:

Employment Agencies for Home-Based Work. Currently, no mechanisms exist to identify employers for home-based workers. Few companies have established policies to hire off-site workers. There appears to be a need for an intermediary to seek out employers and employees and bring them together. A specialized employment agency would be one answer.

Supplementary Child Care. Only rote clerical work can be done while young children are under foot. Not every work assignment can be carried out while children are asleep or at school, nor are relatives always available to baby-sit. Ideally, a neighborhood "child care specialist" would be able to set up a profitable business accepting children on a drop-in basis. Alternatively, informal play groups might prove workable if volunteers were scheduled to supervise and their contributed time were kept on a computer network linking participants.

Training for Home-Based Employment. Courses in home-based entrepreneurship are turning up as new offerings in community college and adult education catalogs. They shorten the start-up time for opening a business and help with growth problems. Similar training could help women who earn an income in their homes as employees.

Dwellings Designed for Work. Residences designed with isolated space for home offices can more efficiently accommodate work than rooms laid out for other uses. A separate entrance is desirable for home businesses (where zoning codes do not prohibit it). Personal computers together with their printers, shelves for software manuals, and special furniture work better in areas where electrical outlets, telephone access, noise, and lighting can be controlled. A terminal on the kitchen table and piles of unfinished tasks in the bedroom add unnecessary stress.

¹⁰³Telecommuting Review, June 1, 1985, p. 11.

Access to Credit. "It is tough, but not impossible, to get credit for your home business."¹⁰⁴ A shift in status from being an employee with documented regular income to an entrepreneur often provokes a reflex rejection of credit applications. Being a woman magnifies the problem. The increasing credibility of the home as a place of business should in time alleviate lenders' perceptions that a home-based business is not a serious enterprise. At the same time, any individual setting up shop in a home must plan the activity in the same way a business would be planned. A detailed personal financial statement as well as a thorough business plan with projected income must accompany the more visible attributes of the business -- calling card, stationary, and "office" environment.

Information Networks. Women working at home lack access to the informal information exchange that takes place around the coffee room at an office. On-line shared interest groups such as the one for home-based workers on CompuServe provide one forum for sharing leads and "how to do it" tips. The National Association for the Cottage Industry, the National Association of Home-Based Women, and Women Working Home are typical associations of home-based workers. Many publish newsletters and take active policy-making roles both locally and nationally.

CONCLUSION

Home-based work appears to be an increasing trend, although statistical data are lacking to substantiate its growth. Since the work style is voluntary and has had few demonstrated abuses, there currently is no public pressure either to promote or stop its growth. Union agitation against home-based work is the exception.

Congress, state and local governments could foster home-based work by taking steps cited in the federal government's Office of Technology Assessment Report:¹⁰⁵

- Revising IRS rulings on independent contractors and relieving employers of some tax liabilities for them;
- Resolving the problems of applying workers' compensation to work performed in the home;
- Persuading states to grant exemption from zoning and building codes for computer-mediated employment in residential buildings;
- Providing significant tax incentives for equipment purchased for home-based work;

¹⁰⁴Establishing Credit," Home Office, Spring 1985, p. 14.

¹⁰⁵Automation of America's Offices, p. 207.

- Clarifying and expanding tax deductions allowed on home offices, especially providing large deductions when all or a significant portion of family income is earned in the home.

If no private or public action is taken, growth will probably continue as it is doing now, fueled by individual initiative and motivated by the need or desire to work at home. But home-based work will achieve its potential benefits to individuals and the economy only when it is made legal.

Note: Nothing written here should be construed as necessarily reflecting the views of the National Center for Policy Analysis or as an attempt to aid or hinder the passage of any bill before Congress or before any other legislative body.

ABOUT THE AUTHOR

Joanne H. Pratt's pioneering studies of home-based workers have received international attention. Her findings have been published extensively in scholarly literature and trade publications devoted to telecommuting and other kinds of home-based work.

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