***Beyond “Unprecedented”: The Post-Pandemic Economy***

**Episode 4: “Helping Small Businesses Survive—and Thrive”**

[00:00:02] **Tim Wu:** There’s a way in which the coronavirus warp-speeded certain developments.

[00:00:05] **Lynnise Pantin:** I’d like to see some changes, I think, in the way that any aid is given.

[00:00:10] **Wu:** I am ultimately kind of optimistic. I have some faith in the enduring spirit of the small-business person.

[00:00:16] **Pantin:** When people are in crisis, it spurs innovation.

[00:00:20] **[Media clips of journalists saying “unprecedented”]:** The coronavirus pandemic has tanked the global economy with unprecedented speed. The steepness of the decline here is unprecedented. This is a crisis that is unprecedented. It is unprecedented. And we just don’t know.

[00:00:35] **Eric Talley:** This is *Beyond “Unprecedented”: The Post-Pandemic Economy* from Columbia Law School and the Millstein Center for Global Markets and Corporate Ownership. I’m your host, Eric Talley, Sulzbacher Professor at Columbia Law School and a co-director of the Millstein Center.

[00:00:55] **Talley:** You Google a business in your neighborhood, maybe a dry cleaner or a wine shop or a restaurant, hoping to figure out operating hours before you head over. But your search comes back with two ominous words: permanently closed. Have you noticed this scenario unfolding more frequently since the pandemic started? Well, you’re not alone. According to Yelp, nearly 100,000 small businesses that closed due to the pandemic won’t be reopening their doors at all. And the numbers climb with each passing month. Now, to their credit, governmental actors saw the gathering storm during the spring and moved to provide help to small businesses in a variety of ways. For example, Congress passed the Cares Act authorizing the Paycheck Protection Program, or PPP, which provided forgivable loans to businesses that kept workers on their payrolls. And the Federal Reserve created the Main Street Lending Program, which was designed to subsidize loans to small businesses. But as the pandemic has lingered, and now appears to be on the verge of a second wave, a large proportion of small businesses still lack a steady stream of revenue, with little additional assistance looming on the immediate horizon. So what can or should be done now to help small businesses? And what will it take for them to be even more resilient in the years to come? Today, my guests—entrepreneurship and community development expert Lynnise Pantin and antitrust scholar Tim Wu—take us down the path for survival for the millions of small businesses across America.

[00:02:26] **Talley:** Lynnise Pantin is clinical professor of law and the founding director of the Entrepreneurship and Community Development Clinic at Columbia Law. Her scholarship focuses on the systemic socioeconomic barriers faced by entrepreneurs of color and those of modest means. Welcome, Lynnise.

[00:02:41] **Pantin:** Thank you. Great to be here.

[00:02:44] **Talley:** Tim Wu is Julius Silver Professor of Law, Science, and Technology. He is author of *The Curse of Bigness: Antitrust in the New Gilded Age*, and he writes and teaches about private power, free speech, and information warfare. Welcome, Tim.

[00:02:58] **Wu:** Thanks.

[00:02:59] **Talley:** So this is notably a precarious moment for small businesses. Even as the pandemic continues to rage, the original PPP, while hailed as a success by many measures, is largely played out, and the Main Street Lending Program appears to have had few takers. And the most recent noises out of Washington sound far from optimistic about whether any other form of relief package is going to be in the offing. Let me start with you Lynnise—what are some of the key challenges that small and medium-sized businesses face as they attempt to come out of the crisis? And relatedly, do you think we’re on the verge of another precipice? How bad is it going to be relative to what we saw in the spring?

[00:03:39] **Pantin:** Well, I’ll just say to the first part of your question, I think that we’re in the crisis, right? So I don’t know that anyone is coming out of it immediately. And I think the first few months of the crisis, we saw a hundred thousand businesses permanently closed, and then some businesses did reopen, but they never have returned back to their February 2020 levels of revenue and profit. Businesses are just trying to hold on and maintain and figure out how to move forward with an uncertain future.

[00:04:10] **Talley:** And do you see with the possibility, seemingly a stark possibility, of a second wave that we may be back in store for what we saw in March and April of this past year?

[00:04:21] **Pantin:** I think that all indicators would point that direction. I wish that I had more optimistic and happy thoughts about this, but that’s definitely what I think is likely to happen. Although I work with early-stage entrepreneurs and we’ve been really busy. People have decided they’re going to take on this pet project and are going to launch a new business. And so I think that there is a level of resiliency that’s coming out in the sort of startup space of folks who are moving forward despite their circumstances and are trying to push a business forward even in the midst of a crisis.

[00:04:52] **Talley:** Tim, you were involved actually in helping some small businesses apply for PPP funds, and you have a longstanding interest in the vibrancy of small mom and pop retailers. Tell us a little bit about how that process unfolded and how did it work out for some of the businesses that you worked with?

[00:05:11] **Wu:** In the kind of, I think, height of the first wave, so I guess in April, when the PPP program was announced, which was designed to provide money for it to keep payroll paid, basically, I got a group of Columbia pro bono volunteers, ultimately almost 50 of them. We helped out a whole bunch of businesses, hundreds by the end, trying to get PPP loans. The loan process was a little bit confusing for some. It was frustrating at first. But ultimately, people did get their money. You know, for a while we were wondering, are we kidding ourselves with this program? And why do we keep reading about places in North Dakota getting all the money? Ultimately, the money did come for most of the businesses. You know, anecdotally, we got a lot of thanks, a lot of people saying it helped them survive. So that was the Columbia PPP program. And I guess I want to give a little shout out to the students who really did a huge amount of work. And a lot of them felt, you know, they wanted to be doing something. And I think it was successful in that way.

[00:06:06] **Talley:** Yeah, I agree with you. I had several students myself that were working with you on that program, and they were hugely grateful for the opportunity to feel like they were doing something. Well, Lynnise let me pivot back to you. You weren’t directly involved in the PPP applications, as was Tim. But through this entire process, you’ve been continuing to work with clients in the community. Some of whom got PPP assistance, some of whom didn’t. Do you have a sense, you know what, businesses have been sort of the most resilient during the current crisis? What types of businesses have been the hardest hit?

[00:06:36] **Pantin:** Businesses that really depended on face-to-face interaction I think struggled the most. For example, just in our own neighborhood stores like Bank Street Bookstore that permanently closed. I think, 95% of their revenue and sales is because of in-person sales, and so they didn’t have an Internet presence. So those businesses that were not able to pivot to online sales, for example, definitely fared worse. I think we know that businesses in Harlem in our, you know, in Columbia’s backyard were struggling before the pandemic, and they’re probably worse off now. And minority-owned businesses were disproportionately impacted by the pandemic. So I think that the minority-owned businesses struggled more and are struggling more under the pandemic.

[00:07:23] **Talley:** During the last six months, there’s been a pretty strong push, hasn’t there, to convince private parties, landlords, and so forth to have some flexibility in their own contractual dealings, such as through things like rent abatement or rent holidays or forbearance. And in a recent *New York Times* op-ed, Tim, you describe this kind of move as good, but a little bit like spitting in the ocean. And that the true impediment is some of the deeper structure of some of these commercial leases and rents. What did you mean by that?

[00:07:53] **Wu:** None of us knows precisely what the exact picture is when it comes to the costs small businesses face. But the anecdotal evidence suggests that commercial rents have proved sticky, despite the efforts, I will say, of some landlords to try to lower prices in some ways or give out favors or try to find some ways to keep it going. Some landlords are not. The reasons are complicated. But one of the ones that keeps coming up is the fact that many mortgages have minimum rent terms in them so that landlords are concerned about defaulting on their mortgages should they offer leases below their rent minimums. Some of them are just suffering so badly they’re willing to lower their rents. But some of them are just kind of hoping to weather the storm. I like to think of commercial rent as not unlike interest rates or oil prices. You would hope that when the economy is in trouble that those will go down. But commercial real estate has a historic record and a current pattern, I think, of being stickier, not being responsive to market conditions. And I think that creates a problem for New York’s recovery.

[00:09:03] **Talley:** Yeah, it’s an interesting question. In fact, it’s something that we’ve talked about in a previous episode of this podcast about the fact that markets are, you know, if they’re working well they should be fluctuating up and down. But a lot of things can cause stickiness. And some of those things are on either institutional, structural, or legal impediments.

[00:09:21] **Wu:** Yeah, I think it’s a big deal. You know, one of the things I called for in that op-ed you mentioned was a state law negating mortgage minimums for this situation. I mean, imagine interest rates were somehow stuck at 10% and we couldn’t lower them. We’d be like, we’ve got to do something here.

[00:09:37] **Talley:** Lynnise, let me do circle back to you on something that you had mentioned earlier, which is some of the clients you’ve been advising are either newly entering or reentering in as entrepreneurs. And I want to get a sense of what some of the maybe more flexible and less flexible aspects of the small business model might look like. [Last week, the topic for the podcast was all about large-firm bankruptcies](https://www.law.columbia.edu/news/archive/beyond-unprecedented-new-chapter-bankruptcy), mainly. And when a very big company goes out of business or shutters, it’s a kind of a Humpty Dumpty effect: All the pieces fall all over the place and it’s really hard to put them back together. I guess for small businesses, reentry might be a little bit easier. Does that seem right to you or are there still pretty significant impediments even if a small business wants to reenter?

[00:10:32] **Pantin:** It’s an ecosystem, right? So we can be optimistic about a business reentering the market—they’ve pivoted, they’re offering their goods and services in a different way. But if their vendors aren’t there, if their employees aren’t there, and if their customers aren’t there, there’s very little we can do for a small business or an entrepreneurial venture to be successful. There’s lots of different inputs that are going to affect whether or not a business can reenter the marketplace.

[00:10:58] **Talley:** Now, part of the issue involving, you know, sort of government policy, fiscal policy, and certain types of loan programs is also a bit of a triage question. What sort of categories of businesses are really continuing to need special attention from sources of public finance for various public policy reasons and need an extra push to stay alive? And it makes sense for everyone to give them that, almost a too small to fail type of policy? And then also on the flip side, are there any types of small businesses that are perhaps either not worth saving or don’t need as large of a government push to make it through the current trough?

[00:11:38] **Wu:** You know, you don’t need to be an expert on public choice theory to suggest there’s a danger in having a choice mechanism at all. You start by saying, well, which are really the businesses that need to be saved. And then it turns into, well, who are my friends? And, you know, who can convince me they need to be saved? I’m skeptical and very nervous about programs that involve picking winners. And it’s hard to design a program that isn’t like that. I mean, in my opinion, a lot of small businesses throw off huge externalities for their neighborhoods. You know, if you think of the local bakery or the local cafe, you know, they may not make a lot of money, or the day care, but in what they enable—whether by people sort of having a place to go and do some work or have meetings—what they make possible in terms of economic activity, not to mention people’s peace of mind, is enormous. So in my sort of ideal world, you’d find out, this is a very academic answer, who’s throwing off the greatest externalities and try to help them out. But, you know, that’s pretty hard to do in a practical basis. So I’m basically about sort of neutral aid programs that are longer-term as opposed to trying to pick winners.

[00:12:45] **Talley:** What’s your take on this, Lynnise? Is it a hopeless task to try to triage deserving recipients from less deserving recipients? Is it just gonna be an invitation for all kinds of other political and other sorts of factors to get into play? Or are you more optimistic than Tim?

[00:13:01] **Pantin:** No, no, no. I actually think that what Tim is saying exactly correct. I think it’s very difficult to decide who is more deserving than others. The PPP was a good program on balance, but there were some spaces where PPP kind of failed. I’d like to see some changes, I think, in the way that any aid is given. Small businesses are defined as any business with under 500 employees, which is OK, but that’s a huge variable, right? So a business that has 10 employees compared to a business that has 490 employees, they’re all in competition for that same amount of money. And so we know that the money mostly went to all the businesses on the larger end of that spectrum. So to have an approach that really focuses in a meaningful way on what I call is, like, real small businesses that are actually small, under maybe 50, is a way to approach it so that we’re making sure that everyone in that net is captured and that we’re not focusing on the larger end of the sort of small-business definition. I also think that any aid really also has to balance the needs of the employees and the consumers against small businesses as well. So when I think about what should we do in the future, I also think about we need to support small businesses, but we also need to support the employees that are working for those small businesses and the consumers as well. And so it all sort of, to me, has to come together.

[00:14:24] **Wu:** I think that’s right. I mean, that’s a good example of a neutral category. You know, 50 or less or 20 or less. I want to echo also the idea that there are in the midst of these depths and hard times some hope for optimism. I was talking to a guy who runs a restaurant the other day. He went to the website, applied for parking spots to be turned into his restaurant’s outdoor seating, and the next day they gave him six parking spots. Whoever heard of something like that in the city? You apply with something where the web application actually works. And then the next day, you get something, as opposed to, like, you apply for something and four years later you get on a waiting list or something. So now, in some ways, the city has really responded quickly and well. There is reason to be optimistic. I have some faith in the enduring spirit of the small entrepreneur, the small-business person.

[00:15:16] **Pantin:** I have to say that today, I woke up feeling optimistic. And I think that especially in New York City, people care about their community and we want to support those businesses. And so, you know, there’s huge efforts to support local economies, to buy gift cards to local stores, to buy takeout, and to just support those businesses that we have relationships with. And I see that trend continuing. I don’t know if it’s going to be on the level that we’re gonna be able to save all the stores that we care about. But I definitely think that consumers have a say in what stores survive and what don’t. And I think there’s power there.

[00:15:48] **Talley:** It seems to me, and probably you would agree, that, you know, in the middle of a heated presidential election where, you know, it seems like everyone in Congress says, yeah, we should have some sort of a second aid package. It may not happen until after the election. Give me a little bit of a sense of how the current dislocation of small businesses may factor into what settles down to be the longer-term mix of big-box retailers and small retailers.

[00:16:14] **Wu:** You mentioned big box and small, but there’s another 10 trillion pound gorilla which is online, and particularly Amazon. There’s a way in which the coronavirus warp-speeded certain developments, trends that were already happening and, you know, the big trend over the last 10 years, unless you’ve been under a rock, is people buying stuff online. But, you know, sort of five years of that happened in two months. And that is very bad for big-box models. And I wouldn’t be surprised if a lot of them are gone unless they manage somehow, like Walmart is doing, to have an online version of themselves. I do think there’s hope in the long term for small retail because of their sort of high-touch boutique nature, you know, they do have something distinct. So I see kind of a future of retail where this very smallest and the very largest survive and everyone else is dead.

[00:17:03] **Pantin:** I think Tim’s absolutely correct. The online marketplace is kind of where it’s at. Retail across the board is struggling because the consumers aren’t buying. When it’s time for a rebound, who’s more likely to rebound? The big-box store or the small, local retailer? And so I think it is possible that if the Amazons of the world don’t swallow up all of the retail space, that it’s possible that the big-box stores are able to come back bigger and better than they did before and overtake the small local market.

[00:17:35] **Talley:** Tim?

[00:17:36] **Wu:** Yeah, so I disagree with Lynnise slightly, which is to say, I think in fact that smaller retailers, if they do it right, will have the advantage in the recovery period over big boxes, not over Amazon, but over big boxes—the Staples, the Best Buys. I think those guys are the ones in trouble because I don’t see what they offer over Amazon. As compared to small retail, where if they do it right, as Lynnise was saying, people live in neighborhoods, live in communities and, you know, like to support the local people. That’s very different than wandering into a Lowe’s and, you know, looking for a hose for half an hour and then ordering it from your phone.

[00:18:16] **Talley:** What sort of program would you like to see implemented now or over the next six to 12 months that either wasn’t done well or wasn’t done at all that might best help to engage some of the concerns that you’ve been talking about here? Let me start with you, Tim, and then I’ll go to Lynnise.

[00:18:35] **Wu:** So I think the city and state need to get at this commercial real estate problem, commercial rent problem. And I think they should adopt a program that’s designed to get the market moving. Some of it would be repurposing, changing zoning laws. Some of it would be examining the property tax structure. It would also include, as I said, state laws trying to void mortgage rent minimums and maybe property vacancy tax, where you raise the property taxes on stuff that’s left vacant for too long to encourage its rental. Landlords don’t like that, but there’s too much stuff being held vacant, especially in retail. If they want to take it off the market altogether, that’s one thing. But I think everybody sitting around hoping for these massive rents to come back is kind of a frozen bubble. And, you know, it’s one thing to have a bubble, it’s another one to have one made out of concrete. Federal level is more challenging. I think I support some version of kind of a Main Street program, but then better, longer term, micro-targeted for small businesses. And as I said, I am ultimately kind of optimistic. I do think in some of these areas that there were, you know, bubbles that needed to be popped. There is room for a lot of people to maybe get out of business that they didn’t like and try out running their own businesses. So in the long term, we will both be dead, but I’ll still be optimistic.

[00:20:05] **Talley:** I guess it’s better to be dead than optimistic or optimistic than dead, I don’t know which one. Lynnise, give us your thoughts on this. You’re in charge for the day, what would you like to see put in place?

[00:20:15] **Pantin:** We need a real small-business survival package that’s not a program just to protect paychecks, that goes a little bit beyond. I would say we need multiple forms of financial assistance, not just loans, but rather grants. I think a couple of things to tweak the program would be to support insolvent businesses and insolvent business owners. You can’t get a small business association loan for seven years after declaring insolvency or bankruptcy. So I think revisiting those rules would be very helpful. And to go beyond and deeper, beyond payroll, for example, paying for those commercial rents that Tim is talking about, to allow the money to be used for that and not be the focus so much on payroll protection. And I think at the local level, also providing grants from the state, from the city as well, and also training, giving businesses support, technical assistance to help them pivot to develop an online space, that is so important given like the social distancing rules, and trying to find areas where we can provide additional access to capital and credit for underserved, minority-owned businesses and supporting that community as a whole. And then lastly, both in the context of the classification of employees as well as receiving money, I think re-categorization of what is a small business would be my number one “queen for a day” to get the truly small micro-businesses out of the same category of the large businesses that have 499 employees. And really think about that category as a separate group and to adjust accordingly.

[00:21:54] **Talley:** What did we not talk about today that you think is an important part of this topic, that deserves some attention?

[00:22:01] **Wu:** Many parts of the world are reacting to the challenges to business in this environment. And I can’t say this has been our most unified period in the history of the United States. You know, maybe Lynnise thinks differently. But there’s, I do feel like there’s this problem that we’re going to all sink together if we don’t learn to swim together.

[00:22:20] **Pantin:** I’ll just add that I think we’ve all sort of said that we’re optimistic. And I think the unknown that we haven’t really talked about is like when people are in crisis and they’re forced into needing to be resilient, it spurs innovation. So I’m just really excited, despite the fact that we’re in the midst of this deep, dark pandemic, to see what innovation is going to come forward and what changes are going to be made.

[00:22:40] **Talley:** So this has been a fantastic discussion. I want to thank my ultimately hugely optimistic and not dead guests, Lynnise Pantin and Tim Wu. This has been a terrific discussion, and, very much thank you guys for joining me.

[00:22:57] **Talley:** Join me next time for another episode of *Beyond “Unprecedented.”* Make sure to subscribe wherever you get your podcasts. Thanks so much for listening.

[00:23:04] **Talley:** *Beyond “Unprecedented”* is brought to you by Columbia Law School

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