

NEW ECONOMICS FOUNDATION SUBMISSION TO THE INDEPENDENT REVIEW OF EMPLOYMENT PRACTICES IN THE MODERN ECONOMY

1 INTRODUCTION

1.1 This paper will focus on employment practices within the gig economy. By 'gig economy', we refer to a form of working practice where organisations contract with workers for short-term engagements, such as a taxi ride or a delivery. We will focus on digital platform employers within the gig economy as opposed to other non-standard or agency work. The apps involved – and in particular the data they collect – have a significant effect on the employer/employee relationship. The resulting shift in power, which for example enables employers to carry out heightened surveillance on workers, has been left largely unexamined in other reports into the sector.

1.2 This focus on the gig economy also includes the deterioration of job quality in the UK; the growth in the gig economy and its social and economic impacts; market capture and platform companies; big HR and worker surveillance; the creation of new monopolies and the inadequacies of existing regulation in addressing them; the impact of platforms on union rights and organisation; and what measure should be put in place to best protect the rights and wellbeing of workers.

1.3 Our recommendations are that:

- Wellbeing – with particular focus on the key drivers of security and autonomy – should be a foundational measure and objective for the quality of work;
- Existing legislation needs to be effectively enforced to guarantee the rights of workers – especially those who are at this moment incorrectly labelled as self-employed;
- Following a public dialogue, the government needs to establish where and how the limits to worker surveillance should be drawn, given the development of new digital technologies;
- Workers who use a platform should be able to freely communicate with one another through the platform in order to enable worker organisation, without surveillance; Employers should commit to a progressive set of standards along the lines of the New Economic Foundation's 'App Workers Charter' (pending release), and the government should demonstrate leadership through its programme of procurement and spending;
- The government needs to change competition policy to check the power of monopolistic and monopsonistic tendencies of platforms. Changes should include but not be limited to:
 - Portability: workers and users should be able to easily move data and profile from one platform to another;

- o Platforms should be required to allow free access to their user and provider pools for other platforms so that no single platform would be allowed to become the gatekeeper to a service.

2 WELLBEING AND THE FUTURE OF WORK

- 2.1 The New Economics Foundation's research has revealed key determinants of wellbeing at work. Two drivers are paramount: security and autonomy. Other factors include a good work-life balance; an equitable distribution of salaries within organisations; sense of job achievability; management styles; safety; and strong relationships between staff and managers. The evidence shows that people who achieve good standards of wellbeing at work are likely to be more creative, more loyal, more productive, and provide better customer satisfaction than individuals with poor standards of well-being at work. Labour market policy has historically focussed on average wages and overall employment. While these are important indicators, much more attention needs to be paid to the effects of the changes in work on the experiences of peoples' daily lives. Good quality work can provide a sense of achievement, purpose, security and progression. Any evaluation of current and future working practices should be judged on the extent to which they produce individual wellbeing in the workplace.
- 2.2 In 2017 the APPG on Wellbeing Economics heard concerns from a number of speakers which suggested that recent changes to the labour market were detrimental to worker wellbeing. United Private Hire Drivers in particular talked of the high number of drivers who had suffered panic attacks, were taking anti-depressants, and whose family and personal relationships had suffered since driving for Uber. Their own survey also showed that 57 per cent of drivers suffer racial abuse, 51 per cent are assaulted or threatened on the job, and 81 per cent say they no longer earn enough to meet basic family needs.
- 2.3 The deterioration of "good jobs" (discussed below), and the concerns raised by workers and observers of recent changes to employment practices suggests that wellbeing will continue to suffer in an economy which prioritises growth over quality work and worker wellbeing.

3 GROWTH IN THE GIG ECONOMY

- 3.1 Data collected by the New Economics Foundation indicates that the gig economy has seen a growth surge since 2010, growing by 72 per cent in London and 28 per cent in the UK. This compares with significantly lower growth in employment within other sectors of the economy. The calculation is taken by looking at the increase in the number of non-employing firms – firms in which the only employee is the registered business owner – compared with firms with registered employees. The same trend can be seen in the capital from data on the number of private hire licences awarded in London, which is on track this year to have doubled since the inception of Uber in 2012.

4 DETERIORATION OF JOB QUALITY

- 4.1 The New Economics Foundation's research on the Five Headline Indicators of National Success shows a reduction of the number of "good jobs" – defined as secure, stable employment that pays at least enough to provide a decent standard of living. Our findings show that only 61 per cent of the labour force has a secure job that pays at least the living wage, and this has been deteriorating for the past 4 years. The expansion of the gig economy

is partially responsible for the overall decrease in good jobs because it has resulted in a widespread reduction of job security.

4.2 Evidence on the determinants of wellbeing at work suggests the increasing prevalence of gig work, and casualised working more generally, will be highly detrimental. Even after controlling for income, **having a short-term, temporary contract is associated with significantly lower wellbeing** and working long hours is associated with substantially higher incidence of tension, stress and worry. The strength of the connection between job security and wellbeing led the 2014 APPG on Wellbeing Economics to state that 'stable and secure employment for all should be the primary objective of economic policy'. These concerns are reflected in a recent survey of gig-economy workers – 76 per cent of whom would feel more secure in permanent employment.

4.3 Finally, New Economics Foundation research has found that this deterioration of job quality has knock on effects for the economy. Specifically the erosion of collective bargaining powers for workers as in the case of trade unions creates a downward economic spiral. This is reflected in recent trends in the economy: as of April 2017, unemployment continued its decline to 4.7 per cent – it has not been lower than that since August 1975. One would expect real wages to increase in these conditions, however instead they have flat lined. Between 2007 and 2015 in the UK, real wages actually declined 10.4 per cent – a drop only equalled by Greece in a list of 29 countries in the Organisation for Economic Cooperation and Development (OECD).

5 MARKET CAPTURE, NEW MONOPOLIES AND ITS EFFECT ON WORKER WELLBEING

5.1 Platform companies have pioneered highly successful business models that harness the technology of mobile broadband, GPS and online payment to connect users and providers of a service. Critically, they have warded off or absorbed competitors in order to enjoy the benefits of a natural monopoly. Once a single platform has established its dominance it makes little sense for any user (e.g. taxi-seeker) or provider (e.g. taxi-driver) to use an alternative – the network effect creates an incumbency advantage. In the current system there is no incentive for these platform monopolies to forego their market position by making their platform open. They have created and then captured a market.

5.2 Our current regulatory system is not equipped to treat these industries as the monopolies (and sometimes monopsonies) that they are. To some extent, the market power of tech and platform companies is a manifestation of old problems in competition policy. But there are inherent characteristics of these companies and industries that mark them apart. The conditions that favour the emergence of monopolies are especially prevalent in the digital economy – the network effects created by a business model centred on connectivity.

5.3 A typical economic solution to market abuse by a single firm is to encourage more competitors in the market. This is difficult for platform companies since the network effects make many of these natural monopolies. The digital economy is now characterised by the concentration of power in a small number of dominant firms whose business model is to achieve market dominance and then reap the rewards. Firms with a monopolistic grip on the market (or a monopsonistic grip on labour supply) are able to set prices and wages, to exert control over workers, and to increasingly pass on costs and risk to workers while taking a greater share of revenues. All of these characteristics are observable in the gig economy. Our existing competition policies are not fit for purpose in an economy of platform businesses and network effects, and it is workers who are suffering the consequences. We need an

urgent review of competition policy to meet the needs of the modern economy.

- 5.4 One suggested solution is to require portability – in other words, we should be able to easily move our data and profile from one platform to another. This overcomes some barriers to switching, but doesn't fundamentally alter the natural monopoly characteristic of networks. A further step would be to require platforms to allow free access to their user and provider pools for other platforms – so an Uber driver might pick up a customer from Gett. In this model no single platform would be allowed to become the gatekeeper to a service.

6 BIG HR AND WORKER SURVEILLANCE

- 6.1 The use of digital platforms in parts of the gig economy brings new challenges to the relationship between workers and employers. New digital technologies are being used to obscure the relationship between employer and employee, whilst giving more and more power to the employer. This has deleterious effects on worker wellbeing.
- 6.2 Autonomy and sense of control are intricately connected to wellbeing. The nature of work in the gig economy with high levels of employee monitoring, performance ratings and centralised pay setting, is therefore likely to have negative consequences for the wellbeing of its workers. One example of a lack of worker control or autonomy in the gig economy can be seen in the case of Uber, where the firm has the power to unilaterally set and change the fares that passengers pay, the rates that drivers are paid, and the commission Uber takes. The firm also sets performance targets (driver rating; job acceptance; ride cancellation) and drivers face deactivation if any of them fall below levels which Uber deems acceptable. Of primary concern for the wellbeing of the workforce is that there is no place in this relationship for the employee's voice – whether to seek conversation, explanation, or negotiation.
- 6.3 The story of one courier we spoke to is illustrative. They referred to the stress and anxiety generated through monitoring. Every delivery they make is broken down into component parts, each of which is timed through logging each step in the app, and then assessed by algorithm with automatic feedback by way of a regular email ranking them against their colleagues. There are echoes here of the ways in which scientific management and Taylorism in manufacturing heralded a step change in the degree of control of workers by management on the production line, but this time it is facilitated by the collection and aggregation of big data and use of algorithms to manage work.
- 6.4 Automated employee surveillance is not a new phenomenon. Some companies already monitor worker activity in a highly intrusive way, such as recording typing patterns or taking regular screenshots from a worker's computer. But it is a growing trend and can also be seen increasing in distribution warehouses of firms like Amazon and Asos. Employers using platform technology have increasing opportunities to collect detailed, real-time performance data on employees that allow a vast expansion of performance-related incentives. There is evidence emerging that this data is currently being used to punish workers unfairly. For example, Uber drivers have reported that they can be deactivated with an average rating of less than 4.7 out of 5 – with 4.6 being described as one in which they are permanently deactivated. A recent employment tribunal in 2016 also heard that if drivers ignored more than two bookings sent on the app, they would be logged out and put in a "penalty box", where they would be unable to work for 10 minutes.

- 6.5 Hiring or firing decisions on the basis of certain individual characteristics is already prohibited, but the arrival of big data and sophisticated surveillance methods increases the power of an employer to identify ways in which it could profit from discrimination. If the incentive to discriminate increases, then so must the disincentive and enforcement. The Information Commissioner's Office Employment Practice Code currently provides guidance for employers engaging in systematic monitoring of workers to ensure they are compliant with the Data Protection Act. This doesn't prohibit any types of monitoring or require consent to be given, but only requires that any monitoring is justified by the benefits the employers obtains from it.
- 6.6 More research is required to understand the effects that extreme surveillance will have on workers' wellbeing and productivity, by examining the experiences of workers that already experience such practices. There is emerging evidence that excessive monitoring by employers can lead to mental health issues. We recommend that a public dialogue is necessary to establish where and how the limits to worker surveillance should be drawn, given the increasing ease with which it can be done. A review should be carried out into how, in this emerging world of work, companies should be held accountable to the standards of privacy and personal agency that our society expects. The review should also establish which of our public institutions should be responsible for enforcing these standards.
- 6.7 The New Economics Foundation is about to start an 18-month project looking at power and accountability in the digital economy, in which we expect to map the landscape around these issues, identify policy solutions and organising strategies, and identify key potential coalition partners to advocate for solutions. We should be pleased to engage further with the Review or the Government in due course as that work develops.

7 MEASURES TO PROTECT WORKER RIGHTS AND WELL-BEING

- 7.1 The New Economics Foundation is working with workers in the gig economy to develop an 'App Workers Charter' – a document expressing good employment practice for workers in the gig economy. The purpose of this is to provide a voluntary code of practice to which workers can organise around and to which responsible employers and state service procurers would be encouraged to sign up. It will also serve to highlight bad employment practice in the sector.
- 7.2 The charter includes the demand that companies such as Uber and Deliveroo adhere to the employment tribunal ruling in October 2016 led by the GMB union. The ruling at the tribunal found Uber drivers should not be treated as self-employed independent contractors, but instead have the same working rights as other staff. These rights include sick pay, the minimum wage, maternity pay, guaranteed holiday, protection from unlawful discrimination, and protection against unlawful deductions from wages.
- 7.3 The charter will outline that everyone working for an app should earn the independently calculated living wage - including the London living wage for those working in the capital. In addition, workers should have the choice of opting for an hourly pay rate rather than carrying out piecework. Piecework refers to a form of payment per item of work done, as opposed to having a set wage which guarantees workers a fixed income. This is problematic because it results in a low level of job security, as well as a constant vulnerability to changes in price that are out of the control of the worker.

- 8.1 The self-employment model creates higher barriers for providers to work together to improve their conditions. The platform workforce is highly individualised: in a sector based on networked technologies there are nevertheless very few ways for providers to communicate with one another. The platform economy has ever fewer communal spaces where workers meet and socialise, preventing traditional means of union organising.
- 8.2 There is a worrying trend emerging within the gig economy to put obstacles in the way of workers' right to establish, join and participate in a union. For example Deliveroo has put in legally unenforceable terms in their contracts that prohibit their riders from going to an employment tribunal. Deliveroo has also rejected the IWGB Courier Branch's request for union recognition. More worryingly, Deliveroo has also used the app against workers attempting to unionise by ensuring that they are kept separate and do not engage with the union – diverting orders and riders to other locations.
- 8.3 Employers should never engage in this form of anti-unionisation. Workers need meaningful opportunities to organise among themselves to protect their interests. The power dynamic in parts of the gig economy is seriously imbalanced and the potential for the exercise of collective power by workers is diminished. This needs to change if we are to see sustained improvements in the working conditions and wellbeing of workers in these sectors.