



BY POST AND EMAIL

Department of Business, Energy, and Industrial Strategy  
Attn: Mr Matthew Taylor  
Modern Employment Practices Review  
1 Victoria Street  
London  
SW1H 0ET

[modernemploymentreview@beis.gov.uk](mailto:modernemploymentreview@beis.gov.uk)

17 May 2017

Dear Mr Taylor

Upwork Global Inc ("**Upwork**") welcomes the opportunity to respond to the Independent Review of Employment Practices in the Modern Economy (the "**Review**").

By way of background, Upwork is a website for businesses to market and find professional services. We have more than 17 million registered users worldwide, including over 500,000 in the UK. Our site provides a public venue for freelancers and other small business owners to market their skills and contract with clients around the world. Users of our site have posted profiles advertising more than 3,500 specialized skills, including web development, graphic design, digital marketing, legal, accounting, and more. Upwork is headquartered in Mountain View, California in the United States.

Our responses to two of the relevant questions from this Review are set out in Appendix One in this letter. In short, we hope to provide the perspective of freelancers and other businesses that leverage the Upwork website to advertise and source professional services and highlight the vital role they play in strengthening local economies. In doing so, we hope we can further inform the recommendations the Review team makes, and any policy and legislative decisions arising from those recommendations and those made by other parties.<sup>1</sup>

Without doubt, our customers and their business models are evolving rapidly as technology underpins more segments of the increasingly competitive global economy. The highly-skilled, highly-valued users of our site are, by and large, working in innovative areas, leveraging new technologies, and growing businesses which are creating a positive economic impact in the UK and around the world. Many are working in sectors, as well as geographical regions in the UK,

---

<sup>1</sup> Including, as an example, the recent House of Commons Report on 'Self Employment and the Gig Economy' (HC847) <https://www.publications.parliament.uk/pa/cm201617/cmselect/cmworpen/847/847.pdf>

that benefit from this type of economic impact and activity as we will expand upon later. Overly regulating their ability to grow their businesses, compete in the global economy, and take on new and innovative projects would be detrimental to both the UK economy and the UK's role in the wider digital economy.

We hope that you find our comments informative and useful. If we can be of further assistance in your review, please do not hesitate to contact me at

Yours sincerely

Upwork Global Inc

## APPENDIX ONE

### 1. THE UPWORK WEBSITE AND HOW THE MODEL WORKS

- 1.1 Upwork is a website that serves as an online marketplace for public use (similar to eBay, Craigslist, LinkedIn, or Facebook). Upwork's website is a venue on which sole traders, plcs, and other businesses may advertise professional services and timely and securely receive payments from their clients through a licensed escrow agent.
- 1.2 At its core, the Upwork marketplace is an online equivalent to the classified section of a traditional newspaper because it enables buyers (referred to as "Clients") and sellers (referred to as "Freelancers") of services to advertise and find each other. Users of Upwork's website create and post their own business profiles and job requests and negotiate directly about the type of services and the amount and conditions of payment. Upwork is not a party to those negotiations and has no involvement in the service relationship.
- 1.3 Freelancer users of Upwork's website decide how, where, when and with whom they work and at what price. Freelancers are free to hire and substitute their own personnel, and many have companies with multiple employees. Freelancers are also highly educated, with over 75% holding a bachelor's degree or higher. On the buyer side of the marketplace, Clients are predominantly small businesses and most are at the startup stage where they require specialized skills on a project basis to get off the ground.
- 1.4 The purpose and permissible uses of Upwork are described in detail in our User Agreement,<sup>2</sup> which is acknowledged and agreed to by all who use our website. Section 3.1 of the User Agreement on Upwork.com provides:  
  
*To use the Site and Site Services, you must have, and hereby represent that you have, an independent business (whether it be as a self-employed individual/sole proprietor or as a corporation or other entity) and further represent that you intend to use the Site and Site Services for your business purposes only ...*
- 1.5 Upwork.com is a venue for users to connect with each other; Upwork is not involved in any service relationships between users and consequently it is not a party to any service contracts between a Client and a Freelancer.

---

<sup>2</sup> The User Agreement is available online at <https://www.upwork.com/legal/>.

- 1.6 Upwork is not involved in any dealings between Client and Freelancer. It has no input in relation to posts, proposals, screening, selection, contracting or the performance of Freelancer services. It is up to Freelancers to use Upwork's site services to identify and determine the suitability of Clients for themselves; equally it is up to Clients to identify and determine the suitability of Freelancers for themselves. The Freelancers' services are not provided under the name or branding of Upwork and neither do they supply services as its agent.
- 1.7 Upwork does not, in any way, supervise, direct, or control any Freelancer or the Freelancer's work. It does not establish any Freelancer's work hours, work schedules, or the location of work and has no control over the services offered or rendered by Freelancers. The Freelancer is entirely responsible for any training, equipment, labour, materials and premises needed for a particular service contract, unless agreed otherwise with their Client. None of this is provided by Upwork.
- 1.8 Upwork is not involved in determining if the Freelancer fees will be set at an hourly, fixed or other rate for the services rendered. This is determined by the contracting parties. The contract terms also address the parties' respective liabilities and obligations under or in relation to the provision of services. All of the above arrangements are reflected in the User Agreement.
- 1.9 In light of the absence of any employment relationship between Upwork and the Freelancer users, there is no provision of sick pay, holiday pay, pension contribution or other employment benefits to Freelancers.
- 1.10 Freelancers that use Upwork's website have flexibility and choice over the volume of their work and their working patterns, subject to the terms agreed with their Clients.
- 1.11 Freelancers are not obliged to find Clients exclusively via Upwork, although in some cases they may choose to do so in light of the convenience and efficiency the website provides. The average time to contract on the Upwork website is under three days. By enabling users to find each other quickly for specialized projects, the Upwork website creates new opportunities that would not otherwise exist.

## **2. OUR IMPACT IN THE UK**

- 2.1 Starting with our legacy brands of Elance and oDesk, which merged to become Upwork in 2014, thousands of sole traders and other small business owners across the UK have used our site to find and contract with Clients around the world. In 2016, the vast majority (84%) of amounts billed by UK Freelancers on Upwork were from Clients located in other countries, representing a significant amount of foreign investment in UK

businesses.

- 2.2 The service types sold by UK Freelancers on Upwork are generally of a higher value, in areas such as web and mobile design and engineering, writing, and other digital marketing such as graphic design. When we look specifically at services provided by Freelancers located outside of London, in the other 10 largest cities<sup>3</sup> in the UK, programming languages such as PHP, OpenGL, CSS and others dominate alongside writing and translation. These highly-skilled professionals are providing services in areas in which there are skill shortages and are able to command their own pricing and inject money into their local economies.
- 2.3 Take, for instance, a digital graphic design agency based in Rochester, Kent, which is a Freelancer user of Upwork. The agency principal, M<sup>4</sup>, contracts with businesses large and small around the world, both on and offline, to provide marketing collateral. M's private limited company has approximately 20 employees and is equipped to serve multiple clients simultaneously. His company is able to complete projects quickly at a very high level and deliver them virtually all around the world. Rather than being limited to local clients in the geographic area in Kent, the agency boasts a client roster with a variety of transatlantic and global buyers whose reach for his work similarly spans the globe. The agency's story is analogous to thousands of others we've seen at home here in the US, in the UK, and indeed around the world. This economic activity, which can provide positive knock-on effects for local economies where such businesses take root, is enabled by the internet, empowered by our site, and only limited in potential size and scope by the capabilities of the agency and its principal.

### **3. OPPORTUNITIES FOR UNDER-REPRESENTED GROUPS**

- 3.1 According to a 2016 McKinsey Global Institute study, 14 million Britons<sup>5</sup> are working independently, either as a primary or supplemental source of income. Because of the freedom and flexibility provided by such arrangements, a healthy portion of that involves populations of people who would otherwise be on the outside of the workforce, either because of disability, retirement from traditional employment, their role as a primary care provider, their skills not matching their local job market, or many other reasons. Working independently creates opportunities for entire communities to gain from such

---

<sup>3</sup> Greater Manchester, The West Midlands, Leeds, Glasgow, Liverpool, Newcastle-upon-Tyne, Sheffield, Bristol, and Belfast.

<sup>4</sup> Full names will be withheld from public submission for privacy purposes

<sup>5</sup> The study is available online here:

<http://www.mckinsey.com/global-themes/employment-and-growth/independent-work-choice-necessity-and-the-gig-economy>

arrangements by augmenting the workforce in new ways.

- 3.2 The Upwork model provides sophisticated professionals with the freedom to determine the quantity of services they wish to provide on terms that they negotiate directly. Upwork exercises no control over working patterns or volume of work undertaken. There is no obligation on Freelancer users to take up contracts or make their services available. This enhances (rather than detracts from) the ability to work flexibly and gives Freelancers total autonomy over their work.
- 3.3 One of the key additions to the workforce is the population of business owners who can live where they choose while no longer bound by the limits of prospective clients in their geographical area. Over 70% of the UK Freelancers that earned income from Clients on Upwork in 2016 were located in areas outside of London. One such agency has been built in Ryde, on the Isle of Wight. The agency principal, C, returned to the UK after living 7 years in Spain and found that job prospects for his field of search engine marketing were quite small in a sleepy, seaside village. By marketing his services on Upwork, he is able to operate a business with global reach, as well as expand his locally-sourced business by about 50%. He estimates that 90% of his clients are US-based companies, and he has billed those companies more than £200,000 through our site, meaning he is able to contribute to the workforce from Ryde and have a positive economic impact on his home community.

**4. HOW CAN GOVERNMENT – NATIONALLY OR LOCALLY – SUPPORT A DIVERSE ECOLOGY OF BUSINESS MODELS ENHANCING THE CHOICES AVAILABLE TO INVESTORS, CONSUMERS AND WORKERS?**

- 4.1 In that same McKinsey study we quoted earlier, the authors also note that between 7-11 million more people are considering or have considered doing independent work, and those numbers dovetail with our own research in the United States. The growth in small business ownership could be a positive boon for the British economy. Nascent growth in self-employment in the UK already outpaces such growth in the leading EU-15 economies. With truly revolutionary economic growth just on the horizon, it will be of critical importance that future policymakers' approach to employment classification, taxation and other factors differentiates between different types of online platforms. Adopting a "one size fits all" approach to business models to which a "gig economy" label is sometimes applied may inadvertently harm sole traders and other small business owners. Policymakers should be alert to legislative developments impeding the competitiveness of small businesses and/or disincentivising economically inactive individuals from re-entering the workforce. Lack of certainty about the employment status of professionals marketing their services online, and how this may evolve in the future, is

a significant concern for future business investment.

- 4.2 HC 847 (Self Employment and the Gig Economy) has recommended that there should be "an assumption of the employment status of "worker" by default rather than self employment by default" and that any companies wishing to deviate from this default model would be obliged to present the case for doing so. The implementation of such a recommendation may render Clients less willing to engage UK-based Freelancers if it is necessary for them to undertake the exercise of clarifying the employment status of every Freelancer sourced via the website; particularly if multiple Freelancers are contracted with supplying a variety of services. The nature of arrangements applicable to the Freelancer's provision of services to each of their clients is likely to be unique to each arrangement. In addition, the diverse geographical locations of Freelancers and Clients may also be problematic in the context of such an analysis. One or both may be located outside the UK. Where one party is located outside the UK this could present conflict of law issues in relation to the classification of the "employment status" of the Freelancer.
- 4.3 Given the hands off nature of Upwork's role in the relationship between Freelancer and Client, legally no question should arise that there should be a default "worker" relationship; that simply would not accord with the factual matrix applicable to the relationship; the Freelancers are not providing their services personally to Upwork.
- 4.4 We have also seen in the US a greater impact of small business growth in areas away from traditional economic power centres like San Francisco and New York. In a study<sup>6</sup> published last year by Stanford University Graduate School of Business Professor Paul Oyer, it was found that the bulk of transactions on Upwork had the effect of moving capital from these power centres to more middle class areas. He noted that 96% of transactions on Upwork in the period he studied took place between a buyer and seller more than 50 miles apart. The same can generally be said in the UK as well, as we note from looking similarly at UK transactions that a large portion of sellers, indeed half of the highest-billing Freelancers for the period of April 2017, are based in cities beyond London, with many in the north of England (Liverpool and Manchester specifically) and the West Midlands.
- 4.5 One of the chief examples we see of businesses leveraging our site as Clients is that of startups. When a company is in growth mode and looking to scale from idea to product, they often look to Freelancers marketing their services through Upwork to help them do so. In fact, globally, 50% of Client users are startups, and 80% are small businesses with

---

<sup>6</sup> Study is available here: <https://www.upwork.com/i/us-independent-workforce/>

10 or fewer employees. One such example is Touchnote, a London-based startup and the brainchild of entrepreneur Oded Ran. Oded's company allows for anyone to take a digital picture anywhere in the world, upload it to the Touchnote app, and generate a physical card that can be sent to anyone. Though a marketing professional with a background in technology, Oded knew that to germinate such an idea into a company, he would need help. He contracted with Freelancers through our website, and today Touchnote is the largest card-sending app in the world, with a growing company based in Shoreditch.<sup>7</sup>

## **5. CONCLUSION**

- 5.1 As more business continues to move online, and the ability to complete work is not limited by physical proximity, we anticipate seeing even greater uptake, especially among young people, retirees and those living away from traditional economic centres seeking the freedom and flexibility to build their own businesses. As such, we look forward to working with policymakers to build a framework which lets websites such as ours, and the impact they can have on businesses built in local communities across the UK, to flourish.

---

<sup>7</sup> Our team produced a short video referencing Oded's story. It is available online: <https://vimeo.com/188020320>