

Intelligence MEMOS



From: Parisa Mahboubi

To: Canadian Ministers of Employment and Labour

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Re: **LET'S MODERNIZE TO PROTECT CANADA'S GROWING GIG ECONOMY**

The so-called gig economy and platform work have been growing globally and in Canada ever since the 2008-09 recession, driven by technological and economic changes and the desire for greater flexibility by workers and employers.

However, the legal employment framework remains outdated even as COVID-19 shifts even more working-age Canadians into temporary or contracted employment instead of conventional jobs.

There is still limited consensus on what the gig economy is, how to classify gig workers and, consequently, how to address concerns about their protections. There are [three approaches](#) to defining the gig economy that overlap somewhat, but can also cause confusion.

The most common approach is based on work structure, employment relationship and how gig workers get paid. The gig economy includes a wide variety of non-traditional arrangements that are temporary or based on projects or tasks, such as freelancing, self-employment and subcontracted or on-demand online work.

A second approach focuses on the nature of work, including scheduling, flexibility and types of daily activities that are not traditional.

The third approach is based on the classification of workers by employment laws and tax status. When workers are considered employees, their income is subject to payroll tax deductions – Employment Insurance, for example – while earnings of independent contractors are not.

As a result of these complexities in defining and classifying workers, measuring the gig economy is no easy task. Estimates over the past few years range from [Statistics Canada's](#) 8.2 percent (using a narrow definition) to about 30 percent from [Randstad Canada](#) and the [Bank of Canada](#). The latter number is more consistent with the US and EU, where [20 to 36 percent](#) of the work force is engaged in non-standard work.

Gig work has [advantages](#) and [disadvantages](#). On the positive side, it offers flexibility and independence that can provide work-life balance. Consequently, most gig workers engage in independent work by choice ([60 to 80 percent](#)), particularly those who work through digital platforms.

The downside, however, is the lack of financial security and predictability, paid sick leave and other benefits and work-place protections.

And overall, there remains confusion about tax treatment, employment benefits and severance packages. Much of this is due to the [misalignment](#) of the definition and classification of independent contractors under employment standards set by regulatory bodies, and Canadian Revenue Agency tax collectors.

The pandemic has highlighted the need for stronger safety nets for workers involved in non-standard employment and precarious work, including gig workers. The [Canada Recovery Benefit](#) attempts to address the income support challenges of these workers. The program is temporary, but the concerns about income-related stability and uncertainty are not.

To address issues around financial security, governments in jurisdictions such as [Europe](#) and [California](#) have recently decided to apply traditional employment and employee models and reclassify many gig workers and independent contractors as employees. This includes app-based transportation workers who are [major contributors](#) to the rapid growth of the US gig economy, such as Uber and Lyft drivers in California.

Uber in Canada is also facing a class-action lawsuit that may lead to the designation of its drivers as employees and consideration of a minimum wage, vacation pay and other protections under Ontario's Employment Standards Act.

The potential consequences of such changes in classification of workers in the gig economy are not clear yet. But several outcomes are possible, including reducing flexibility for workers and businesses, limiting market entry, slowing the growth of gig work, job losses and hours cuts. These outcomes can affect [the growth of non-standard work](#) and its potential key role in post-COVID-19 [economic recovery](#).

Workers generally face a trade-off between flexibility and independence needed for modern work places, and financial security and benefits of the traditional model.

[Regulations](#) will need to find the right balance between flexibility and protection.

Previous C.D. Howe Institute [research](#) highlights the idea that Canada should focus on policies that provide proper supports for workers in non-traditional jobs – for example, through an expanded Employment Insurance system – while maintaining a dynamic labour market.

Canada also needs to make sure there is an alignment between tax and labour standards on the definition and classification of gig workers and enforcement of regulations, and for that it will need better, more comprehensive data on all types of work arrangements. It is also time to consider more diverse employment classifications to be able to set out employment laws and develop social security frameworks suited to each category.

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