



Self Employed Australia is the registered business name of *Independent Contractors Australia* Incorporated Victoria No A0050004U ABN: 54 403 453 626 PO Box 13103 Law Courts 8010 Vic.

In Search of Unicorns: *Self Employed Australia* submission to the 2019 Inquiry into the Victorian On-Demand Workforce

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Submission prepared by:

Professor Peter Murphy

President, Self Employed Australia

<https://www.selfemployedaustralia.com.au/>

(m) 0401 007 463 peter.murphy.australia@gmail.com

Peter Murphy is Adjunct Professor of Humanities and Social Sciences at La Trobe University and Adjunct Professor in the Cairns Institute at James Cook University. He is the author of *Limited Government: The Public Sector in the Auto-Industrial Age* (2019), *Auto-Industrialism* (2017) and *Universities and Innovation Economies* (2015).

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1. SUMMARY OF THE SUBMISSION

Platform-mediated on-demand work is a tiny part of the Victorian economy. It does not compete with traditional employee labour markets. It functions to smooth income and labour-market fluctuations. The work is typically part-time, short-term, irregular, and occasional in nature. It is performed both by employees and independent contractors. It is such a small component of economic activity that it warrants neither public concern nor government intervention.

2. What is the platform economy?

Digital platforms mediate between suppliers and consumers of goods, services and information. Especially for small entities, platforms can substantially reduce the market transaction costs that occur between the provider and the consumer. Platforms can substantially reduce the costs of reviewing and comparing provider prices and quality, agreeing a contract, scheduling work, issuing a payment invoice, assessing works undertaken and enforcing promises. For a fee, platforms manage these processes efficiently to the point where sole traders, partnerships, micro businesses and small businesses can enter some marketplaces that previously were dominated by large and medium-sized firms.

Platform-mediated economic enterprise is complex in nature. It covers a broad spectrum of activity. Often one segment of this complex object is confused with another. The OCED in 2016 offered a useful matrix of eight key segments making up the platform economy:¹

Segment one: tasks are non-routine, capital intensive and digitally delivered (crowd funding).

Segment two: tasks are much more routine but still capital intensive and digitally delivered (financial services).

Segment three: tasks are non-routine with a greater labour component but digitally delivered (professional services).

Segment four: tasks are routine, labour focused and digitally delivered (click work).

Segment five: tasks are routine, labour intensive and physically delivered (handyman services).

Segment six: tasks are non-routine, labour intensive and physically delivered (personal services).

Segment seven: tasks are routine, capital intensive and physically delivered (transport).

Segment eight: tasks are non-routine, capital intensive and physically delivered (accommodation).

3. Who uses platforms?

There is a huge range of users of platforms. This variety causes considerable confusion in the mind of analysts, governments, and the general population.

At one end of the scale, platform users include conventional large and medium-size firms. At the other end are non-commercial entities including gift-givers, barterers, hobby sellers, and personal re-sellers. In between those two poles fall many different entities including sole traders, partnerships, small and micro businesses.

4. What is on-demand gig work?

One segment—a tiny segment—of the platform-mediated economy involves the provision of on-demand services. These services are booked through platforms. Some are carried out in person such as handyman, food-delivery and ride-sharing services. Some are performed largely online, for example

graphic design and computer coding. Other on-demand services are delivered both online and offline such as administrative tasks, data entry and professional consultancy work.

On-demand service work is concrete-task work. A consumer has a specific demand that needs servicing. The provider offers a service that translates the consumer's precisely-defined and concrete need into a concrete task or series of tasks performed over a short time interval ending in payment once the task or tasks are completed.

5. How big is the on-demand platform-mediated task-work workforce?

The US Bureau of Labor Statistics (BLS) in May 2017 conducted a survey that included a series of questions about what it dubbed 'electronically-mediated work'. What the Bureau meant by the term was work that involves short jobs or tasks mediated through websites or mobile apps that connect the worker with customers and facilitate payment for completed tasks.

Like most BLS questions, the surveyed population were asked about their participation in online platform work 'last week'. As the BLS notes, this overlooks persons who work 'more sporadically' in the field.² In areas of employment where work is commonly part-time, intermittent or erratic, data collection pertaining to 'last week' to a degree can give an inaccurate picture of the pattern of employment.

If we were to ask a question about 'last year' an indeterminate additional number of persons doing on-demand platform-mediated concrete task-work would be recorded in the survey. However that would only be numerically significant because a large portion of persons doing on-demand task-work do so infrequently and irregularly on platforms.

The BLS reported that 1.6 million Americans in 2017 participated in on-demand platform work—1 percent of the total workforce. Thirty-seven percent of that 1 percent (=0.37 percent of the total workforce) were independent contractors. The other 63 percent of the 1 percent (=0.63 percent) were employees of various kinds.³

However it is calculated—whether as a share of persons in work last week or last year or as a share of total work-related income or as a share of FTE employment—we are dealing with a very tiny component of the overall make-up of a modern advanced economy.

6. Who does on-demand platform-mediated task-work?

Both employees and independent contractors do on-demand platform-mediated concrete task-work. As the Inquiry's *Background Paper* correctly states the practice of workers being available 'on demand' is a 'long standing' feature of labour markets.⁴

What the *Background Paper* incorrectly suggests is that on-demand work is reserved to three categories of provider: employees of labour-hire firms, casual employees and independent contractors.⁵ In fact as data from the American BLS 2017 Survey records, of the 1.6 million on-demand platform workers ('last week'), 37 percent were independent contractors, 4 percent were on-call workers, 3 percent were temporary help agency workers, 1 percent were workers provided by contract firms, and 55 percent were regular employees.⁶

Given the relative uniformity of labour markets in advanced economies it is highly unlikely that the profile of on-demand workers in Australia is substantially different from the American case.

Just as the *Background Paper* screens out regular employees it assumes an air of suspicion about independent contractors. This suspicion is neither justified by the paltry size of on-demand concrete-task platform work or the modest portion of this tiny work segment performed by independent contractors. On the face of it the policy suspicion exhibited by the *Background Paper* appears to have less to do with on-demand work and more to do with an apprehension—and a mistaken apprehension—about independent contractors.

The suspicion is spelt out in the terms of the Inquiry—namely the issue of ‘whether contracting or other arrangements are being used to avoid the application of workplace laws and other statutory obligations’.⁷ The Terms of the Inquiry imply a forbidding imaginary scenario. In this scenario independent contracting is undermining the legal status and legally-prescribed benefits and entitlements of employees and is being used as a way of avoiding the enforcement of workplace laws and related statutory obligations.

This is a very old scenario. It periodically gets a second-wind. For more than a century variants of the same gloomy fiction have been cycled and recycled, almost in clock-like manner. On-demand platform work is the latest variant of a moral fairy-tale that pits the ‘good employee’ against the ‘wicked independent contractor’—and that hymns the [employment] ‘contract of service’ (derived from the older master-servant relationship) and disparages the ‘contract for the supply of services’.

The distinction between the ‘contract of service’ and a ‘contract for the supply of services’ retains a faint echo of the Roman law distinction between the hiring and letting of services, *locatio conductio operarum* and the hiring and letting of work, *locatio conductio operis*. The employee renders service in return for an agreed remuneration. The independent contractor undertakes to perform or execute a particular piece of work and promises to produce a certain specified result for a price agreed between the two parties.

Those who glorify the ‘contract of service’ routinely see it as a nirvana of benefits and rights. A common suspicion of this party is that lots of ‘contracts for the supply of services’ are fraudulent—meaning that they are in substance actually ‘contracts of service’ that have had legally-prescribed benefits and rights stripped out of them. But such instances are rare. As the *Background Paper* states ‘only a court may finally determine whether a worker is an employee or independent contractor’.⁸ From time to time courts do make a decision in a particular case that a worker has been incorrectly classified. But each case is different. The distinction between a ‘contract of service’ and a ‘contract for the supply of services’ is a difficult, demanding and nuanced distinction. Because of its many facets, it can only be determined on a case-by-case basis.

As the *Background Paper* states such judgements ‘cannot be applied’ generally ‘beyond the circumstances’ of individual cases. There is no magic universal rule that can settle the matter. Various ‘tests’ of what an employee is and what an independent contractor is have been developed in common law and in statutory law. Australia’s *Income Tax Assessment Act 1997* has a results test, unrelated clients test, employment test and business premises test for independent contracting [aka ‘personal services income’]—each with test sub-categories. Tests tend to multiply. Sometimes they muddy the water as much as clarify it. How one test or subsidiary test relates to another can be complex even confusing.

Often the matter comes down to the ‘dominant impression’ of a court of all aspects of the relationship between the contracting parties. That is, what is the relationship of the parties ‘as a whole’?

The point is that the distinction between employee and independent contractor is an important and powerful distinction but it is not an unambiguous one nor a simple one. Nor can it be legislated away with an all-purpose rule. The distinction as it applies in practice has been contested periodically in courts for at least a century or more. It will continue to be contested. Beyond the particular legal judgments that are applied in individual cases there is little of practical import or efficacy to be said about the legal status of a given contract. The law provides a system for testing the authenticity of contracts and various interested parties can readily avail themselves of that process. Public policy has little practical to offer beyond that.

7. What is an independent contractor?

On-demand work is characterised by work broken down into short-term micro tasks. These mini tasks, in the words of the Australian Productivity Commission, tend to involve mostly ‘low to medium value transactions’.⁹ That’s a function of the tasks being simple. However evidence suggests there is also a professional cohort that is keen to work on concrete yet more difficult tasks as task-work happily divorces them from office politics and office distractions.

Everyone in the platform-mediated on-demand economy typically works for short periods, part-time, and are paid after they complete their tasks. This is true whether the work happens to be performed by continuing employees, casual employees, temp-agency employees, labour-hire firm employees or independent contractors. According to the American BLS about two-third of online on-demand task workers are employees. The other third are independent contractors. What’s the difference?

Employees work for an employer. Independent contractors do not work for an employer. Rather they work for a client. They do not enter into an employment contract when they work. They are independent owner-operators or owner-managers. The group includes sole traders, partnerships, micro business and small business owner-managers. Some of these are incorporated, some unincorporated. Some employ staff, others don’t. Collectively they constitute an independent workforce.

The activity of the independent workforce involves some combination of interaction with customers, contracts with clients and control over work. The independent workforce exhibits a significant degree of either ownership or control over the assets, time, technologies, and talents it utilises when working. Clients and customers pay the provider once a contracted task or project has been completed and they have been invoiced for the service.

Digital platforms help the self-employed owner-manager workforce to do many things. These include lend money peer-to-peer, rent assets that they own such as accommodation space and car-parking space, retail and wholesale profit-making goods, provide professional and personal services, and so on. One tiny component of this welter of economic activities is on-demand concrete task-work.

An independent contractor works in ways that are typically characterised by the following features.¹⁰ Something *typical* does not mean something *universal*. There is not one fixed set of characteristics that applies rigidly to all independent contracts. Independent contracting is a *pattern* that we recognize rather than a *rule* we apply. An independent contractor is not party to a ‘contract of service’ to work either casually or continuously under the direction of an employer. An independent contractor does not

receive remuneration or benefits (such as paid leave) in return for their 'service' (singular). Rather the independent contractor 'supplies services' (plural) in the form of work necessary to complete a task or achieve an outcome.

How the independent contractor works and how those persons use their time is largely under their control subject to the client requirements and the kind of outcome the independent contractor is working to achieve. An independent contractor typically (and we can only talk about what is *typical* not what is universal) provides their own work tools, work space, and business assets. An independent contractor may negotiate the anticipated hours needed to conclude a task or project (a series of related tasks) for a client and the 'contract to supply services' may specify hours of work and hourly rates as a convenient way of calculating the price of a result but this is a payment for 'services' not a payment for 'service'.

Payment for 'service' has its roots in the Roman and medieval eras.¹¹ The 'benefit' is something that is provided in return for 'service', originally to the state, then the church, and eventually the concept was adapted to the modern firm. An independent contractor does not work in return for a 'benefit'—be it a wage, salary, leave, retirement or 'long service' benefit.

An independent contractor works to terms, outcomes, and standards of work agreed in a contract with a client. Clients don't direct the independent contractor in the sense of micro-manage the work being undertaken. When work that is done does not meet the standards set in the client contract, it is the responsibility of the independent contractor to fix the problem. In contrast, in the case of an employee who does inadequate work, the employing firm or employing organization bears the responsibility for the poor quality of work done and the cost of fixing it.

The costs of completing a task or project, the risks of losing money in doing so, and the opportunity of making a profit on the work done is borne by the contractor. Once a project or task is completed, they issue an invoice for payment for the work they have done. As a rule, independent contractors are liable for the quality and safety of their work. They are generally responsible for insuring themselves against work injuries and legal liabilities. Where necessary they will have professional indemnity insurance and public liability insurance. As a rule they are also responsible for their own retirement income arrangements including superannuation contributions. They pay their own tax. In Australia they have an ABN.¹²

Independent contractors are not paid for hours of 'service' nor are they are they entitled to 'leave' from that 'service'. The lack of entitlements or 'benefits' tied to the length of 'service' is a common complaint about independent contracting. The underlying view is: *why aren't these people more like employees?* This view is bolstered by false assumptions that independent contractors are 'exploited' or 'precarious' or 'vulnerable', and that they are being short-changed by working as they do. Nothing could be further from the truth.

Take the case of retirement income. It is often stated that Australian independent contractors have less superannuation savings than do employees. That is misleading. Superannuation is a form of asset accumulation designed to provide a retirement income. If the non-home net worth of independent contractors is compared with that of Australian employees, the self-employed cohort does better than employees.¹³ They have less superannuation accumulated but more cash, shares, property investments and net business assets to fund retirement.

8. Why is it difficult to define an independent contractor?

Listed above are *typical* features of an independent contractor. But the concept of the ‘independent contractor’ is complex. It varies a lot according to particular cases and circumstances.

There is a spectrum of independent contractors. This ranges from those who own ‘a stable incorporated business, pay themselves a salary, and enjoy relatively predictable hours and earnings thanks to a well-established clientele’ through to those operating ‘unincorporated sole proprietors who earn money by performing a series of one-time jobs for which they are paid agreed sums but who cannot count on continuing employment and whose hours and earnings may be volatile’.¹⁴ There are multiple points in between these two kinds.

No ‘rule’ or rule-based definition can adequately encapsulate what an independent contractor is. One of the major pieces of Australian legislation concerned with independent contracting is the Commonwealth’s *Independent Contractors Act, 2006*. Nowhere in that Act is there a definition of an ‘independent contractor’. That’s not an accident.

Independent contracting is a continuously evolving phenomenon. It keeps changing over time. Think of its features a bit like a Venn diagram. Each segment of the diagram overlaps with the others. But how those overlaps occur and the relative size of each segment gradually transforms over time. The rules of statutory law and administrative regulation in contrast tend to be quite static and fairly rigid over time. When these rules do change, the changes also tend to be awkward.

Statutory and regulatory rules tend to be of a type: ‘one rule fits all cases’. Independent contracting in contrast tends to function case by case even if it has a number of underlying broad principles that guide it. Its operation in practice tends to be quite fluid. That is why it is of great benefit to a dynamic economy. It adapts to circumstances readily unlike firms and organizations. The latter tend to either go out of business or become entropic rather than adapt to changing circumstances.

Because independent contracting is a genuinely fluid concept, sometimes some of its expressions do not fit easily into an existing statutory rule or test. When we say ‘as a rule, the independent contractor does X or Y’ what we mean is that there are always exceptions to the rule. That is why the definition of what an independent contractor is has been left principally to courts to decide on a case by case basis.

9. Are there sham independent contracts?

An employer may occasionally disguise an employment relationship as an independent contracting arrangement. This is fraud. Cases of fraudulent behaviour occur in almost all areas of life. Usually persons are honest. However a handful are not.

Sham independent contracting occurs from time to time. It is perfectly reasonable that courts test borderline cases where key questions are raised—such as the degree of control exercised by the client over the contractor’s work including the contractor’s ability to select or reject jobs and choose the hours that they work. After all control and flexibility are key factors that the independent workforce commonly cites in surveys explaining why they like independent contracting. That said, the key is to weigh multiple factors in making determinations about the authenticity or otherwise of a contractual arrangement. Rarely can a good judgement be made if it is based on any single factor. Rather the totality of circumstances has to be taken into account.

Sham contracting is often cited in order to suggest or infer that there is something nefarious about independent contracting. In fact what is often ignored is that there are also sham *employment* contracts.

Take for example the tens of thousands of casual academic employment contracts issued in Australian universities every semester. These are contracts to employ persons for a given number of hours on a casual basis. In spite of being nominally defined by employment-mimicking hours of ‘*service*’ in reality the work actually proceeds in a way that looks and feels like ‘*supply of services*’ style task completion. Casual academics display many of the characteristics of independent contractors: they bring their own capital (computers, books, workstations) to the table; they work much of the time in their own independent office rather than in an institutional staff office; they schedule a lot of their own working time. They control much—and often most—of how they work. They are nominally employees, subject to a notional ‘employment contract’ and are paid by the hour for their casual ‘service’. But they submit payment claims after they have completed their assigned work tasks—and for all intents and purposes invoice the university. It is doubtful if the substance of how they actually work rather than how their work is nominally presented would pass a serious test of what of an employment contract is supposed to be.

10. What are the statutory protections against sham contracts?

The *Independent Contractors Act 2006* (Section 9) makes service contracts (ones to which an independent contractor is a party) unlawful if the contract is unfair, unjust, harsh, unconscionable, unjust, against the public interest, or that ‘provides for remuneration at a rate that is, or is likely to be, less than the rate of remuneration for an employee performing similar work’;

The *Fair Work Act 2009* makes it unlawful to: a. Misrepresent an employment relationship as an independent contracting arrangement; b. Dismiss an employee in order to re-engage them as an independent contractor; or c. Knowingly make a false statement to persuade or influence an employee to perform similar work for the employer as an independent contractor.

11. Where does gig work fit into independent contracting?

On-demand task-work that is mediated through digital platforms is the latest iteration of independent contracting. Many iterations have come before. Many will come after this one.

The University of Hertfordshire survey in 2016-2017 undertook a study of gig working. The survey asked respondents who had engaged in gig work to identify what was their ‘principal employment status’ in their capacity as a gig worker. Most described themselves as either fulltime (52 percent) or part-time employees (13 percent). Thirteen percent said they were self-employed, rising to 17 percent in the case of persons who earned more 50 percent of their income from gig work.¹⁵ The figures for the self-employed are consistent with the overall percentage of self-employed persons in the Australian, American and UK workforces.

12. How reliable are the data cited about on-demand task-work (aka gig work)?

There are a lot of misleading claims made about on-demand task-work and the broader ‘sharing economy’ of which it is a small part.

A recent classic of the genre is the Commonwealth Government's Board of Taxation report *Tax and the Sharing Economy* (2017). The report stated that 'the sharing economy has grown exponentially in the past decade'.¹⁶ An 'estimated 10.8 million Australians are set to earn extra money from sharing economy services in the next 6 months, representing roughly 60% of the nation's entire working population'.¹⁷ Sixty percent of the working population sounds dramatic. However when you take a harder look at the figures, it turns out that this is a very misleading figure.

The Board provided no detailed inventory of its data. Instead it talked vaguely and evasively about 'the biggest earners from shared services' and 'the next highest earning demographic'. Unfortunately this is typical of the kind of analysis that accompanies much of contemporary discussion of the platform economy. Terms like the on-demand micro-task or 'gig' economy, the sharing economy, the collaborative economy, and the platform economy are run together as if they were one giant gooey blob. They are quite distinct.

Gig work mostly is a form of engagement characterized by part-time and incidental-time work that generates typically small or modest amounts of annual income that usefully supplements other sources of income. The platform economy is primarily an automated, machine-dominated part of the national economy. There is also a very small high-income professional work force that supplies services through platforms. Yet overall as a percentage of total personal income earned or a percentage of total employment time, the gig economy is a tiny portion of the national economy—and it is a portion that has a definite ceiling on it.

The Board of Taxation stated that Australia's 'sharing economy' was worth approximately \$15 billion in February 2017.¹⁸ From the point of view of employment—or the Board of Taxation's primary concern, the taxation of income—that figure compresses into one ungainly unit vastly unlike enterprises. The \$15 billion figure (which may not be at all accurate) collapses gig work platforms for micro-task services with platforms for ride, car, space and accommodation 'sharing' (aka asset renting) with platforms for peer-to-peer lending, peer-to-peer funding and online goods purchasing. These are completely different.

The \$15 billion figure and the Board of Taxation's other estimates were based solely on an online CanStar summary report of the peer-to-peer lender RateSetter's *Sharing Economy Trust Index 2016* report.¹⁹ Compare the \$15 billion figure with a 2017 UK Revenue and Customs Service (HMRC) inquiry report. The latter estimated the 'sharing economy' was worth £8 billion (\$12.8 billion) in an economy whose GDP is twice the size of Australia's.²⁰ In addition the UK regards itself a 'hub' for the 'sharing economy'—far more so than its EU counterparts (or Australia).²¹ The British figure of £8 billion is consistent with a PriceWaterhouseCoopers estimate for the European Commission of a £7.5 billion contribution to the UK economy in 2015.²²

Whatever the exact UK figure at least the British government demanded some actual research as opposed to going online and plucking a figure out of virtual thin air. The Board of Taxation admits that the 'sharing economy is difficult to define and quantify'. Yet the Board makes no serious or even half-serious effort either to define or quantify it. Instead the Board relies on a second-hand summary of a peer-to-peer platform lender's industry report that does not make available its raw data, statistical methodology, survey numbers or survey methods.

But at least the peer-to-peer lender RateSetter, the ultimate source of the Board of Taxation data, did a survey even if the parameters and methods of the survey were not disclosed.²³ In contrast, the 'Inquiry into the Victorian On-Demand Workforce' is promising to collect anecdotal or impressionistic data, a

very inferior kind of data.²⁴ Persons who provide anecdotes or impressions generally have a reason to do so. They have some kind of itch to scratch or axe to grind. Anecdote and impression collection is about as far from representative sampling as it is possible to go. It has a strong bias toward persons who are discontented, unhappy, mischievous and disappointed. The gig workforce is a segment of the independent contracting workforce. As we will see below, independent contractors have high levels of work satisfaction and all-round happiness. People who are happy typically don't spend much time reporting their anecdotes or impressions about their happiness to government inquiries.

In the absence of serious quantitative survey research, and carefully structured follow-up qualitative interview research, just 'talking to people' is of little value if we want to understand the actual empirical patterns of an economy. Worse than that, inevitably it will be misleading.

13. What is the size of the gig economy?

It is tiny. A lot of people participate in it in a very marginal way but the overall value of the gig economy is tiny. From the point of view of employment, it is a pocket-money economy.

The Grattan Institute in 2016 estimated—or guesstimated—that less than half of one percent of adults Australians worked in any one month via platforms. The figure was derived from estimates of mainly platform-mediated micro-task working.²⁵ This was based on very scanty data but as a gut-estimate it captured something of the essence of the reality that the economic scale of gig work is tiny and the economic value of the broader 'sharing economy' though larger is currently still on the modest side. The Grattan Institute estimate has been confirmed by more recent American and British survey data.

To date there have been a small number of soberly-done surveys in countries comparable to Australia and its economy and society. These paint a clear picture of a gig workforce that employs a lot of people very occasionally and a small number of persons on a regular basis. Most gig work is micro-part-time. A lot of it occurs only once a year or once a month. The income it generates supplements other larger sources of regular income or serves as a temporary bridge between sources of income. This increases personal fiscal flexibility and well-being in a boutique manner. In very few cases does gig work represent any kind competition or alternative to regular 30-hour-per-week-plus employment—whether the employment happens to be in the wage-and-salary or independent-contracting sectors.

The scale and significance of gig work employment and related taxable income in the context of an overall national economy is miniscule, as the following survey data show.

The NatCen Social Research organization provided a November 2017 report for the UK's Revenue and Customs (HMRC) service. The report was based on three large surveys done in late 2016. The first survey was a nationally-representative sample of 2,373 invited participants selected at random. This was supplemented by a YouGov Omnibus online survey of 11,354 participants weighted so as to be nationally representative of the population. The third survey was a bespoke YouGov survey of 2,234 'sharing economy' providers. The NatCen Social Research organization defined the 'sharing economy' to include the *task-based services-provider segment* (transport providers, delivery services, short-term task providers), the *asset renter segment* (accommodation space renters, car space renters, vehicle renters), the *informal goods segment* (craft selling, buying to resell sellers), and the *investing and lending segment*.

The report *Research on the Sharing Economy* found the following: Around 11 per cent of the working age population (5.3 million individuals in Great Britain) participate in the ‘sharing economy’ as providers. But much or most of that participation, as we will see, is minor, marginal, negligible, incidental and occasional in nature.

14. How much do individuals earn in the sharing economy?

HMRC Study

The income generated by the ‘sharing economy’ in the UK in the twelve months prior to the *Research on the Sharing Economy* survey was estimated to be £8 billion. In an economy with a gross national income of 1.92 trillion pounds in 2016, that’s *0.416 percent* of the nation’s income—*less than half of one percent*. Not much.

The annual mean individual income generated through the ‘sharing economy’ was around £1,700, or as the report put it ‘small’.

According to the report, seventy-three percent of the survey participants earned a gross personal annual income of less than £40,000. This though is not a very revealing figure given that the average gross annual income of UK wage-and-salary employees in 2016 was £28,000.²⁶ However drilling further down into the sector income streams is more instructive. It is apparent that most survey respondents earned only tiny amounts from participating in the ‘sharing economy’.

Forty-five percent said they earned under £200.

Another 24 percent earned between £250 and £1000.

That is, *69 percent earned less than 3.57 percent of average wage-and-salary income*. Not much.

Six percent earned between £1000 and £2000. Did anyone earn any sizable supplemental income amounts from participating in the ‘sharing economy’? Six percent earned between £2000 and £11000, that is, between 7 percent and 39 percent of average gross weekly national wage-and-salary earnings. Four percent earned between £11000 and £50000. No one reported earnings of more than £50000.

Two percent of the survey respondents reported earning a mainstream-style income from the ‘sharing economy’. Not many.

University of Hertfordshire Study

In 2016, the University of Hertfordshire in the United Kingdom—working in conjunction with the European think tank FEPS and the European service workers’ union UNI Europa—undertook two surveys to measure the ‘crowd working’ in the United Kingdom, Sweden, Germany, Austria, the Netherlands, Switzerland and Italy.²⁷ Because the UK is closest in comparison to the Australian economy, the UK data will be reported here.

For the UK part of the project, an online sample of 2,238 adults aged 16-75 were interviewed across the United Kingdom. The resulting data were weighted by age, gender, region, working status and social grade to match the profile of the adult population aged 16-75 in the UK. The survey addressed respondents who had ‘ever carried out’ any gig work.

Nine percent of respondents indicated that across the *unspecified time-period* they had ‘done some’ gig work.²⁸ In ‘the majority of cases’ this was ‘a very occasional supplement to other earnings’.²⁹ A smaller number, 2.7 percent of total respondents, said they had earned ‘more than half of their income’ from gig work. Five percent had performed gig work *at least weekly*; six percent had done it *at least monthly*.³⁰

Comparing UK gig working to other internet or platform-mediated income-generating activity, the study reported that 8 percent of the Hertfordshire survey respondents had rented accommodation, 10 percent had sold goods on their own website, 10 percent had sold self-made products, 31 percent had re-sold products through a platform and 54 percent had sold their own possessions via a platform. Some respondents had done more than one activity.

We can infer from this that over fifty percent the UK population at some time has participated (at least at some *minimal* level) in the ‘sharing economy’ while nine percent of the population has ‘done some’ gig work. This includes professional, office, errand, personal services, home help and taxi driving work.

Of the 9 percent who report doing some gig work, 6 percent of those, that is, the equivalent of *0.5 percent or half of one percent of UK adults*, got *all* of their income from platform-sourced task-work.³¹ That survey data is broadly consistent with the findings of the American economists Katz and Krueger who calculated that, in 2015, the ‘primary job’ of *0.5 percent* of the US workforce was to provide on-demand task services through online intermediaries.³²

The Hertfordshire study observed that most earnings from gig work is a ‘small supplement’ to a ‘main income’.³³ Forty-one percent of the nine percent of UK respondents (=3.69 percent of the population) who had done gig work reported earning less than 10 percent of income from such work. Another 15 percent (=1.35 of the population) earned somewhere between 10 and 25 percent of their income doing task-work.

Twelve percent of nine percent (=1.08 *percent of the population*) could earn more than 75 percent of their income from platform-mediated task-work. That is, they could treat it as their main job.

What did paid platform-mediated task-workers earn from *all* of their income sources—not just their platform-mediated income but their *total* income? According to preliminary Hertfordshire study data, seven percent of them earned more than £55000. Twenty-two percent £35000 to £54999, thirty percent £20000 to £34000, 42 percent up to £19999.³⁴

In other words platform-workers are drawn from most income grades in the UK. That doesn’t mean that these workers earned all or even half of their income from undertaking paid platform-mediated work. But it does mean that they come from a broad range of income classes.

JPMorgan Chase Study

The American bank JPMorgan Chase over a thirty-six month period analysed a random sample of a million of de-identified accounts to better understand income flowing from platform-mediated activity.³⁵ From those accounts it created a dataset of over 260,000 individuals who had offered goods or services on 30 different platforms. It found that *one percent of adults* (among its account holders) earned income from the platform economy in a given year. Four percent earned income over a three year period. The platform economy was a secondary source of income and the income earners did not increase their reliance on it over time.

JPMorgan Chase divided platform types into *labour platforms and capital platforms*. The distinction is not analytically perfect but it is adequate to the purpose of understanding income flows.

Labour platforms were used to weather income volatility when persons were between jobs or their income dipped for other reasons (mostly because of the variation of earnings within a job). Typically platform earnings offset *a 14 percent decrease in annual income with a 15 percent top-up*. This data supports the suggestion of Australia's Productivity Commission (cited in the Inquiry's *Background Paper*) that one of the benefits of on-demand work is to 'moderate otherwise irregular earnings'.³⁶ In the case of income from capital platforms, those earnings typically supplemented non-platform earnings by contributing *an additional 7 percent of annual income*.

In short, labour platforms smooth the fluctuations in labour market earnings. Capital platforms provide a modest addition to annual incomes.

15. What work is undertaken by platform-based providers?

A considerable portion of platform-mediated work is 'work for a business purpose' rather than 'on-demand task work for a customer' let alone 'on-demand task work for a client'.

The University of Hertfordshire survey study reported that UK adults who engage in gig work tend to participate in a broad spectrum of such activities. More than fifty percent at some point had done some kind of professional, IT, office, errand, click, and home help work.³⁷

The HMRC-commissioned study on the broader 'sharing economy' looked at activity in the twelve months before November-December 2016. The most common kind of activity reported by those surveyed for that specific time-frame was not on-demand task-work service provision but rather buying items to resell (mentioned by 44 percent of providers) followed by selling crafts (22 percent) and renting out space (19 percent).³⁸ On-demand task work ('short-term jobs') was only 16 percent of the total. This was comparable with the 15 percent of 'sharing economy' providers who were involved in investing and lending activity.

16. What is work?

'Work' is an elastic analytic category. When people 'work' they do many different things. Many of those activities are not substitutes for 'employee work'. In fact they are not in any way comparable with 'employee work'. Conversely there are different kinds of 'employee work'. In the case of the gig-style micro-task-employee, typically the employment period is short-term. The work is measured in hours and subject to employer direction. Unlike typical wage-and-salary jobs the work is broken down into specific tasks and the employee is paid once the tasks are done. Unlike independent work, the short-term task-employee works (via a 'contract of service') for an employer who micro-manages the terms of the work. The beneficiary of the work (the customer) is not simultaneously a client of the employee, and cannot be.

Platform-mediated on-demand task-work, whether performed by employees or independents, is a relatively minor boutique sub-category of work. On the evidence of the HMRC-commissioned survey, UK platform on-demand task-workers in a 12 month period made-up 16 percent of the 11 percent of UK adults who are 'sharing economy' providers.³⁹ This is a small percentage of a small percentage, the equivalent of *1.76 percent of the total workforce*. That's not much. As most of these providers work

part-time or negligible-time, their portion of the total FTE hours worked by the entire population is miniscule.

The American economists Katz and Krueger calculated that, in 2015, the 'primary job' of 0.5 percent of the US workforce was to provide on-demand task services through online intermediaries.⁴⁰ The figure for platform-based on-demand task-work was drawn from a survey that they conducted. The survey had 3,850 respondents.⁴¹ Katz and Krueger's 0.5 percent is smaller than the small UK HMRC figure of 1.76 percent. The UK study included persons earning primary, secondary and other incomes. In either case, we are dealing with a marginal workforce sub-category.

Far from this work segment growing exponentially as some contend, it is to date only a minor part of any advanced economy. Despite that it is paid exorbitant attention. Partly this is because a lot of consumers interact with the segment. Partly it is because its visibility is cynically leveraged by lobby groups who are keen on promoting classic 'employee work', 'contracts of service' and 'benefits of service'. This is a deeply-ingrained yet often disputed view of the world. A significant portion of the workforce, notably in Anglophone societies, actively chooses not to participate in employee work or engage in 'contracts of service'. High among what they value is 'independence'. More specifically what independents value ranges from 'being my own boss' and 'not answering to a boss' to 'flexibility' and 'controlling my own schedule'.⁴² Men emphasize the first two values; women the latter pair. Other reasons for preferring independent working is a common view of independents that independent working overall brings higher income and greater security. It is observable that nowhere in the *Background Paper* does the Inquiry raise the issue of values and the values that motivate people to work in the way that they prefer to work.

17. What is the social profile of the gig economy worker?

What is the social profile of those who undertake paid task-work via platforms? The University of Hertfordshire study reported that half are under the age of 35 and one in six are over 55.⁴³ Fifty-three percent of them are female; forty-seven percent are male.⁴⁴

The HMRC-commissioned study reported that the range of earnings of 'sharing economy' providers is fairly similar across all ages from 18 to 55+, though higher earnings do drop off somewhat in the older 44+ age brackets. Men earn slightly more than women. The amount of income earned from platform-mediated economic activity mirrors levels of total household income as well as a provider's level of educational qualification.⁴⁵ The social profile of platform providers reported by the HMRC study was young (34 years or under) and urban though the study does not provide any data comparing that social demographic profile with the national UK age and location profile.

18. Is the social concern about on-demand platform work a Unicorn?

Yes it is. It has no basis in reality.

The *Background Paper* for the Victorian Government Inquiry into On-Demand Labour outlines a number of social concerns.⁴⁶ These are listed below with comment:

1. 'Vulnerable' workers. It is suggested that some workers in the platform task-work economy may be 'vulnerable' or left in a 'precarious' state because of:

Gender. In fact there is little appreciable difference between income earned by men and women doing platform-based task-work.

Age. There is a greater number of younger than older people doing platform-based task-work. There is also a greater number of younger persons earning *more* from platform work than older age-cohorts. Typically youth unemployment is higher than the average rate of unemployment across all working ages. The ease-of-entry for any work-seeker onto multiple platforms is a corrective to the social norm of scantier job opportunities for younger persons. Platforms offer a chance to acquire substantial work experience in a relatively short period of time. Among employers, character-traits and experience are increasingly valued above qualifications for many non-professional occupations.⁴⁷

Location. Some regions have less employment than others. They always have. They always will. That's how economic geography works. Persons move to jobs. Jobs don't move to people. That's an economic law of nature. Platforms can't alter that, one way or the other.

Visa over-staying. Persons who over-stay their visas are engaged in illegal behaviour. Their temporary residence visas for Australia have expired. They are violating the requirements of Australian law. There is no evidence that platform-mediated work is either less or more susceptible to illegal riders than any other work segment.

The report on the UK sharing economy prepared for the UK's Revenue and Customs service identified only four areas where the broad category of 'sharing economy' workers differed in a statistically significant way from the general workforce. They tended to be younger and better educated and more often renters, members of households without children, and resident with family or friends.⁴⁸ A third of providers had degrees; 44 percent had A-levels or sub-degree qualifications. Fifty percent worked fulltime; 20 percent part-time; 10 percent were retired; 9 percent were fulltime students. Fifty-eight percent had no child in the household. Fifty-six percent were homeowners; 28 percent were renters; 19 percent lived with family or friends. That is hardly a workforce dominated by 'the vulnerable'.

2. '*Precarious work*'. Unions especially cannot accept that there is such a thing as task-work. Some tasks (e.g. a domestic-help service) can be one-off jobs. Other tasks like driving tend to be serial in nature. On-demand work by its nature is not 'certain' unlike a 'continuing contract of service', the somewhat idealised image of wage employment. On-demand work is 'contingent' because it requires a 'demand' for a task to be done. Contingency though is not the same as precariousness. An employment 'contract of service' is often characterised as 'secure' and 'ongoing'. In fact, in many cases it is not. In the normal course of things, many businesses fail or shrink. The expectation of unqualified job 'certainty' in a high-functioning modern economy is unrealistic. Judging on-demand micro-task work by this imaginary standard is doubly unrealistic.

Terms like 'vulnerable' or 'precarious' are widely used by lobbies with vested interests. These terms are employed without credible supporting evidence. They are designed to trigger moral anxiety for the purpose of 'winning an argument' for which there is no serious empirical proof.

19. Who is happiest at work?

A study based on 2001-2010 HILDA (Household, Income and Labour Dynamics in Australia) Survey data reported that job satisfaction across multiple years for the self-employed workforce in Australia consistently rated higher than job satisfaction for continuing employees.⁴⁹ 2014 HILDA survey data

broke down satisfaction into three components: satisfaction with work overall, satisfaction with job security, and satisfaction with flexibility.⁵⁰ The survey found that independent contractors were happier overall, mildly less happy than continuing employees about job security and mildly happier than continuing employees about job flexibility.

The HILDA data underscore the results of the large annual survey of independent contractors commissioned by the American firm MBO Partners and undertaken by independent research firms.⁵¹ The survey has consistently reported high levels of independent contractor satisfaction. In 2018 nearly three-quarters (72 percent) of full-time independents surveyed by MBO said they were *very satisfied*—ranked between 8-10 on a scale of 1-10—working as an independent. The 2018 online survey was based on 3,584 respondents. A 2018 study surveyed 5,000 self-employed workers in the UK, US, New Zealand and Australia. It reported similar findings about segments of the self-employed cohort.⁵²

It is evident that, for all their supposed ‘certainty’, continuing employees in fact are *less* happy at work than independent contractors. If so then why are there not questions raised about *that* happiness deficit instead of the habitual emotive language depicting the fictional ‘vulnerability’ and ‘precariousness’ of the self-employed? The recurring use of this kind of rhetoric is crafted to alarm the casual reader of reports but empirically it is ungrounded. It seeks for cynical reasons to paint a bleak picture of a social group that in fact is going about its business and life in a happy manner.

20. Is the gig economy popular?

Yes. Consumers love it. Many more people consume its services than perform work in the gig economy. Only a tiny portion of the total labour force is engaged in platform-mediated on-demand task work. A much larger portion of the population interacts with platforms to receive services. Many of these services involve little or no labour. They are either automated, machine-driven in nature or else they involve the rental of capital assets such parking spaces or bedroom accommodation or the sale and resale of goods. In some instances activity in the ‘sharing economy’ (itself a component of the larger omnibus platform economy) involves a combination of on-demand task-work and the use of an owner’s capital, such as an owner-driver offering ride-share services through a platform.

The University of Hertfordshire survey study reported that 86 percent of UK respondents had shopped online for non-grocery products, 36 percent had bought domestic services, 17 percent non-domestic services, 19 percent taxi or delivery services, and 17 percent had rented accommodation in a private dwelling via a platform.⁵³

21. Are consumer concerns about the on-demand platform work a Unicorn?

The *Background Paper* for the Victorian Government Inquiry into On-Demand Labour provides an outline of consumer concerns. They are listed here, with comment:

1. Health and safety of consumers
2. Safety of road users
3. Quality of consumer service and standards of professional care
4. Provision of services without licences, trade or professional qualifications

It is unclear how a digital platform mediating between the consumer of a service and the provider of a service alters in any way the common law, statutory and regulatory requirements of a provider to pay proper attention to matters of health, safety, quality, and qualification. Do some people on occasions fail to do so? Yes. Is there any evidence that there is a greater incidence of poor behaviour in the case of online mediated services compared with offline ones? No. Is there any reason to create laws specifically for platform-mediated services delivery? No.

Do platforms enhance good occupational conduct? Yes. The operation of the Internet is based on trust. It is a medium for facilitating, enhancing and expanding interaction between strangers. To do so, it must be a trusted medium. How does it enforce trust? It operates like any business or activity within the framework of the law. It also has its own trust-building mechanisms. A key one is rating systems. Consumers who purchase goods or services through platforms can rate the providers of those goods and services. These rating systems are effective. They are reliable guides and work well in weeding out bad or incompetent providers.

It is notable that a recurring complaint by labour unions about independent contracting through platforms is that providers are rated. But rating is a measure of competency and proficiency. The union view is guild-like in its mentality. It says that standards and quality are guaranteed by abstract rules and regulations rather than consumers rating the performance of the person supplying the service. Abstract rules mean little unless a person's work is measured by those rules or expectations. Even employing organizations have performance reviews, though these are generally meaningless as it is the employer not the consumer who rates the work done.

In any event, the collective judgment generated by consumer rating systems about the quality and standard of services supplied tends to be remarkably sound. Specific rules of professional and technical conduct or general rules of safe and prudent behaviour are matters of law that are enforceable irrespective of whether a transaction between provider and consumer has been initiated online or offline.

22. Why the gig worker issue *now* if the gig economy is small?

The *Background Paper* for the Victorian Government Inquiry states: 'While it may feel like hordes of people are now providing their services via digital platforms, the scarce data that exists on this topic suggests only a tiny proportion of those working in the labour market are in the on-demand economy.'⁵⁴ That is a true statement.

This then begs the question: why have an Inquiry into something that, by any reliable measure, hardly exists at all?

What the serious survey data to date indicate is that a lot of people participate in an incidental, minor or trivial capacity in the 'sharing economy'. Those who do paid work including on-demand task-work via platforms principally do so for a limited number of hours. The annual income generated by this activity is generally modest averaging no more than the equivalent of two month's income on labour platforms and one month's income on capital platforms.

This is hardly an economic segment that is in direct competition with either the conventional wage-and-salary cohort or the traditional independent-contractor cohort. The personal income that the broad 'sharing economy' generates is supplemental. Seventy percent of it is pocket-money style income, a nice

minor addition to annual income but nothing that should draw the attention of public policy makers or governments or lobby groups. So why all the fuss?

New technologies generate moral panics. Remember the millennial Y2K bug? A computer bug was going to destroy the world's new-minted computer networks. Planes were going to fall from the sky. What happened? Nothing. It is the same with the platform economy. Its technology is popular with consumers and providers. In equal measure it triggers nightmare scenarios of Technological Armageddon and the End of Work. This is especially so among public policy makers and industry lobbies but perhaps for more cynical reasons than techno-phobia.

23. Why isn't it still 1960?

Governments regularly think that they are 'missing out' on sources of tax revenue. From an income tax revenue point of view, gig working represents mostly additional minor supplemental portions of annual income. Yet governments are anxious that this mainly marginal income won't be taxed properly either because taxpaying gig workers don't understand their tax obligations or else because some of them might intentionally avoid those responsibilities.

Australian and UK government initiatives in 2017 to require digital platforms to report platform-user income are in line with existing requirements for organizations to report on wages, rent, interest, dividend and other income streams.⁵⁵ However given that taxpayers for the entirety of the modern tax assessment and collection era have had to report multiple streams of income to tax offices, the concerns about gaps in revenue seem rather exaggerated. Doubly so in Australia given that today only 2.3 percent of individual taxpayers submit a self-prepared tax form (72.4 percent use an agent and 25.3 percent use the MyTax portal).⁵⁶

So much of the discourse around both the platform economy and the independent workforce is inflated, overstated and alarmist. A good bucket of icy cold-water needs to be tipped over the protagonists of this hyperbole. That includes governments.

Much of the hyperbole has a common trigger. This can be summed up in a sentence: *"why isn't it still 1960?"* That was the high-point of a time when the workforce was predominately wage earners whose income was mostly or solely income from wages or salaries and who worked for a single medium or large business or organization that issued an annual 'group certificate'. Today the situation is different. The number of income streams for an average taxpayer has multiplied. Wage-and-salary earners commonly now have several streams of income including income from primary and secondary jobs and from interest, shares, property, and superannuation. Platform-mediated on-demand task-work income is yet another stream.

The anxiety of government is not just in assessing multiple streams of income for tax purposes but also the fact that these exist and do not easily or neatly fit government rule-based thinking. *"If only it was still 1960"*, when one big organization (government) could interact with another big organization (a listed company) and both could interact with a third big organization (the labour union).

A small number of industries—notably the taxi industry and the accommodation industry—have faced stiff competition from ride sharing, car sharing and space rental platform-mediated competitors. Sole traders, micro businesses and small businesses have had their ability to compete with large traditional

operators enhanced due to the power of mediating technologies. Mature industries often don't like competition, and will pressure governments to protect them from competitors.

Firms and organizations became the focus of business and government from the 1930s onwards—and the staple of public policy. Their highest point of dominance was the 1960s. This was an era preoccupied with organizational thinking. Platforms have not eliminated firms and organizations nor will they. But they have reduced the power of the answer that the American economist Ronald Coase gave when he asked the interesting question: why do we have firms when an independent self-employed workforce could contract with each other to perform the work of the firm? The answer he gave was that contracting involves large transaction costs so it is better or cheaper to hire employees.

24. How many independent contractors are there?

On-demand task-work is a minor genre of independent contracting. However a major part of the hand-wringing over the gig economy in Australia is due to a dislike of independent contractors in some quarters.

Nonetheless the independent workforce is a long-established, large and thriving component of the economy. To understand its scale and significance, let's begin with a point of comparison: the United States.

US Internal Revenue Service (IRS) figures indicate that in 2013 the non-employing self-employed cohort made up 16 percent of the US workforce.⁵⁷ This compares with US Bureau of Labor Current Population Survey (CPS) data on the 'main job' of surveyed persons. About 10 percent of survey respondents in 2013 were self-employed. US Census Bureau data on independent non-employing entities concurs with the IRS data on a figure of around 16 percent of the US workforce. If a count for employing entities is added, the figure based on Census Bureau data rises to 20 percent. Meanwhile the MBO Partners annual (2011-2018) survey of the US independent workforce estimates that the fulltime equivalent (FTE) independent workforce in the US is around 16 percent of the US workforce.⁵⁸

The 2016 Australian Census provides the following picture:

Fourteen percent (1,531,161) of all employed persons in Australia identified their 'main job' as the owner manager of a business.⁵⁹ That figure included owner managers of incorporated businesses (with or without employees) and unincorporated business (with or without employees) as well as contributing family members.⁶⁰ The Census recorded that 54 percent of Australia's owner managers operate unincorporated enterprises while 46 percent run incorporated enterprises. Fifty-seven percent of owner-managers employ no one. Only 4.2 percent of the cohort employ 20 or more persons. That is, owner-managing overwhelmingly involves micro and small business operations.

Twenty-six percent of the owner-manager cohort lives in Victoria mirroring Victoria's share of the Australian population.⁶¹

The owner-manager group is prevalent in certain industry sectors. Twenty percent of them work in construction, 13 percent in professional, scientific and technical services, 8 percent in health care and social assistance, 7 percent in other services, 7 percent in retail trade and 6 percent in agriculture, forestry and fishing. It is worth noting that industries with the largest clusters of owner-managers (construction, professional and technical, health and other services) are also sectors in advanced

economies that are projected to grow most rapidly across the foreseeable medium term.⁶² These sectors engage persons at all skill and education levels.

The Australian owner-manager cohort is 33 percent female and 33 percent foreign-born. Its median age (48) is ten years older than the median age of employees. The median weekly total personal income for Australian owner managers in 2016 was \$1,028 compared with \$1,023 for all employees.

The Australian Census collects data where owning-managing is a person's 'main job'. Extrapolating from American data, it is possible that owner-managing as a part-time secondary occupation may account for another 2-4 percent of FTE work undertaken in Australia.

Another source of data is the Australian Tax Office de-identified tax statistics.⁶³ Micro and small businesses represent 77.2 percent and 6.8 percent of Australian companies.⁶⁴ They generate respectively 12.7 percent and 11.6 percent (a total of 24.3 percent) of net company tax revenue. As to individual (unincorporated) taxpayers: there are 10,469,919 wage-and-salary taxpayers, 1,786,937 partnership and trust taxpayers and 1,122,260 business income taxpayers.⁶⁵ That is, for every four wage-and-salary Australian taxpayers there is one owner-manager taxpayer. Some of the owner-manager entities will be investing rather than contracting entities. Whatever the complexities, the data provide at least a rough indication of the relative numbers of persons engaged in different work types.

25. Why is it difficult to be more precise?

Both the Australian Census and the American CPS survey ask respondents to report on their 'main job'. This screens out multiple jobholding. The 2016 Australian Census inquired about employment 'for the main job held in the week prior'.⁶⁶ This has its limits. The 'main job' question for example does not capture activity by persons working in the on-demand platform-mediated task-work sector who are doing that work as a 'second job', whether it be as an employee or as part of the independent workforce.

Surveying persons to establish the incidence in the workforce of 'second jobs' is difficult, as the US Bureau of Labor Statistics found out in 2017 when they undertook a special survey on 'electronically-mediated employment' (by which they meant gig work). In follow-ups with survey participants, to check on the quality of the survey, the BLS found a high incidence of false positives in survey answers, though no false negatives. In short, some people surveyed simply didn't understand what the BLS meant by 'electronically-mediated work', e.g. some people said 'yes' to survey questions if they simply used a computer or mobile app in their job.

26. What is a portfolio of occupations?

The Katz and Krueger study (US) indicates that *0.5 percent* of the workforce does gig work as their 'main job'. The Hertfordshire study more indirectly suggests that *1 percent* of the workforce does gig work as their 'main job'. The HMRC study (UK) indicates that all-in, main job and second job, about *1.76 percent* of workforce does paid gig work. This is a measure of the number of persons not their hours of activity. In any event the number engaged in platform-mediated on-demand task work is tiny. In effect this sub-category of work is a 'drop in the ocean' of work.

Much on-demand task-work by its nature is part-time, intermittent, and occasional. A significant portion of this type of work is carried out by multiple and serial jobholders. People used to talk about life-time portfolio careers in which persons moved from career to career. By contrast here we have slice-of-time

portfolio occupations: persons have a main job, often a wage or salary job, but they add-on to that first occupation a second or even third job. These ancillary jobs can involve 'contracts of service'. Alternatively they can involve independent contracting. According to one study previously cited, a third of gig work is done by the independent workforce; two-thirds by employees. According to another study the self-employed cohort does something in the range of 13-17 percent of gig work, pretty much in line with its overall workforce share in the major Anglophone economies.

There is conflicting but perhaps reconcilable data on multiple jobholding. The Katz and Krueger survey in 2015 recorded that 13 percent of the US workforce are multiple jobholders. That 13 percent cohort includes all employment types, from the self-employed through to employees with second or third jobs.⁶⁷ The US Bureau of Labor Statistics in 2018 reports that 5 percent of the US workforce holds more than one job 'at the same time' (compared with 6 percent in the mid-1990s).⁶⁸ But what other data about platform-based working indicate is that there are considerable number of persons who work multiple jobs serially rather than just 'at the same time'.

Such data puzzles are not simply statistical conundrums. More importantly they point to the way that contemporary economies function in a mosaic fashion. Governments and organizations have difficulty adapting to this mosaic world. 1960s thinking dominates. Accordingly the expectation is that persons have one occupation and one income source. Governments become anxious when occupations and incomes multiply into slice-of-time portfolios. They fear they might 'miss out' on revenue.

Adopting this defensive posture, governments manage to miss why mosaic splintering is important. It enhances the overall flexibility and suppleness of the economy by diversifying and increasing income streams, cushioning the effects of economic downturns, encouraging new skill-set development and providing a seed-bed for new enterprises and vocations.

Like governments, labour unions view the world and their members through the lenses of the 1960s where, if you were a wage-or-salary earner, that was it. You were not simultaneously part of the independent workforce even if only for a few hours a week or a month. Unions refuse to adapt to circumstances where their remaining and declining membership invests in rental properties, rents out accommodation space, sells their boutique-business goods online, and does a bit of freelance work or consultancy mediated by the Internet and platforms—or where their partners or children or parents do the same.

Public policy should not reflect the rancour of labour unions and others toward the independent workforce. Nor should it reflect the irritation of governments having to now respond to complex and sometimes contradictory sets of motivations, interests and needs born of multidimensional working lives. Too much contemporary public policy reflects the spleen of large organizations struggling to adapt to an economy and society that is surpassing them in a variety of large and small ways.

27. What can government in general usefully do for gig work?

The best thing government in general can do is to leave it alone.

The gig economy is a minor, miniscule, marginal component of the Victorian economy. On-demand platform-mediated task-work does not compete with 'main jobs'. It is primarily a form of 'secondary jobbing' providing useful additions to income but not replacing principal incomes or primary work and

vocation types. In a boutique manner it enhances the productivity of the general economy. Its flexible nature is valued by consumers and providers alike.

28. What is the bias of the Victorian State government?

In 2006 Australia's federal government legislated the *Independent Contractors Act*. It did so because state governments were repeatedly trying to treat independent contractors as if they were wage-earners. In other words, state governments were unsympathetic to or uncomprehending of independent contracting. In 2006 state governments had much of their legislative responsibility for independent contractors removed.

This then raises the question of what the Victorian State government expects to do in relation to gig economy workers.

A number of intents appear to be signalled by the Inquiry's *Background Paper*:

1. With respect to *the Long Service Leave Act 2018 (Vic)*.

Long service leave, like leave benefits generally, is a benefit contingent on a 'contract of service'. 'Service' and 'benefit' are concepts that have been interwoven since Roman times. 'Service' is different from the 'supply of services' which is what an independent contractor does.

There is a sometimes-expressed vague desire to 'extend leave benefits' to independent contractors. That is based on a misunderstanding of the conceptual difference between 'service' and the 'supply of services'. The underlying intent of the wish is to return to a pre-2006 situation where state governments sought to treat independent contractors as if they were employees.

2. With respect to the *Payroll Tax Act 2007 (Vic)*. Payroll tax is a tax on employees. A common anxiety that governments have is that independent contractors, who are not employees, can't be taxed as employees and that government will 'miss out' on revenue. As most on-demand platform-mediated task workers have a 'principal job' that fear is unfounded. The linking of taxation to 'being an employee' moreover has a distinctly outdated feel. It reflects a bias in favour of a mid-twentieth century model of the economy that is increasingly outmoded.

3. With respect to the *Labour Hire Licensing Act 2018 (Vic)*. The Act used the fig-leaf excuse of 'vulnerable workers' to substitute small-scale independent contractors with a cohort of government-preferred labour-hire providers. The Act mandated a government bias in favour of employees in place of independent contractors. In the Victorian state school system, independent contracting cleaners were replaced by 'Appointed Service Providers'.⁶⁹

It is an interesting question whether these actions violated the Commonwealth *Independent Contractor Act 2006* whose purpose is to ensure 'the freedom of independent contractors to enter into services contracts' (Section 3)—and specifically the exclusion of state and territory laws that 'deem a party to a services contract to be an employer or employee, or otherwise treat a party to a services contract as if the party were an employer or employee' (Section 7).

29. What could the Victorian State government usefully do for independent contractors?

The principal constructive thing that the Victorian state government can do for self-employed independent contractors is to commission an independent statistical body to undertake a serious long-term (minimum decade-long) study of the multiple segments of the self-employed cohort in Australia. This cohort constitutes 14 percent plus of the workforce, and likely a higher portion of Australian wealth and income generation. It is also tied-in deeply to the most dynamic and flexible segments of the economy, important for long-term economic and social prosperity.

The current statistical, quantitative and analytic understanding of the self-employed cohort in Australia is limited. Sound policy-making requires serious hard data based on a good conceptual parsing of the sector and a deep knowledge of how the sector works. This requires both the thoughtful analytical design of a large-scale survey instrument in the first instance followed by experiment, trial and feedback, and development of iterations of the instrument. This needs to be carried out by an experienced research body unconnected with vested interests that have ill-informed preconceptions about the nature and workings of the self-employed sector.

Two possible bodies who might be commissioned to undertake a serious multi-faceted longitudinal study of the self-employed sector include the Australian Bureau of Statistics and the Melbourne Institute of Applied Economic and Social Research. Detailed analysis of Taxation Office anonymised data on income generated by on-demand task-work and the independent workforce would also be useful.

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