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EDUCATION, SKILLS AND LABOUR MARKET POLICY

Should 'gig' Workers be Covered by the EI Regime? The Challenges and Pitfalls

by
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- Gig workers have become a fixture of the modern workforce and a focus of policy ideas to reduce their often marginalized status. This E-Brief examines one aspect of that status: the lack of unemployment insurance that magnifies the precarious nature of their work lives; an issue being examined by the federal Employment and Social Development Canada department.
- The author examines two possibilities for providing EI coverage to gig workers or other unincorporated self-employed workers without employees. The first consists of integrating them into the standard, regular-benefit EI regime along the lines of the Special Benefits for Self-employed Workers program available to fishers, which involves voluntary participation. The second involves the creation of a special, separate boutique regime for gig workers. He finds both approaches are economically unfeasible.
- Are there other policy responses to the challenge of assisting unemployed gig workers? There are three that merit consideration. (i) For gig workers who seek to transition to more stable employment, it is possible to obtain retraining benefits and employment assistance through existing provincial workforce development agreements. (ii) A Temporary Unemployment Assistance (TUA) provision that would provide income assistance for the unemployed who cannot access EI and who should not be required to turn to social assistance. The benefits consist of forgivable loans in the form of a flat weekly benefit for a limited duration of time. (iii) Changes to the labour code to transform these gig employment relationships and the status of its workers such that they become dependent workers rather than independent contractors.

Over the past 20 years or so, much concern has been expressed regarding the plight of non-standard workers engaged in precarious employment situations who lack access to Employment

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Insurance (EI).¹ The COVID-19 pandemic has laid bare the important shortfalls of Canada's rigid 1970s-vintage EI system and the pressing need for substantive reforms. EI was originally designed in the late 1940s to cover full-year, full-time workers from the risk of cyclical or idiosyncratic unemployment, but the scope of coverage was extended in the early 1970s to provide benefits to seasonal workers. The Liberal government's Speech from the Throne preceding the 2021 Federal Budget called for a modernization of EI for the 21st century, mentioning possible provisions for gig workers and the self-employed. When Budget 2021 was subsequently released, however, it did not specify any new provisions for either gig or other self-employed workers. It did announce, however, forthcoming consultations on future, long-term reforms to EI and provided ample funding to the federal Employment and Social Development Canada department to conduct the sessions. The department's mandate is to: ". . . examine the systemic gaps exposed by COVID-19, such as the need for income support for self-employed and gig workers . . . Any permanent changes to further improve access to EI will be made following these consultations and once the recovery is fully underway" (Canada p. 89).

The Liberals are not alone in addressing this issue. During the 2021 election campaign, the Conservative party platform contained a plank labelled Security for Gig Economy Workers, which promised modifications to the EI system. It should be noted that during the pandemic in 2020 and 2021, the government acknowledged the precarious situation of gig workers, most of whom were indemnified – some quite generously – by the temporary programs of the Canadian Emergency Response Benefit (CERB) and the Canadian Recovery Benefit (CRB).²

In this paper, I discuss through an evaluative lens the case for providing EI to gig workers or, more broadly, to the unincorporated self-employed without any employees. The first section discusses the theory of unemployment insurance (UI) as applied to the risk of income loss by self-employed workers. Since I argue that it is extremely problematic to cover this risk within the standard EI regime, I then turn to the real-world track record for providing coverage to self-employed workers. Indeed, several countries have provisions for certain types of these workers, some of which have been developed quite recently. In most instances, however, access is quite restrictive, and indemnities are low.

In the third section, I address the possibility of creating a vertical, boutique regime designed expressly for gig workers, which is somewhat similar to Canada's special program for fishers. I provide an illustrative case study of a unique French program that provides UI benefits to a particular group of gig workers called "*les intermittents de spectacle*," which is targeted exclusively at performers and technicians in the entertainment industry. I conclude that this particular intervention creates major inequities in coverage. While I argue against the creation of a special regime targeted expressly at gig workers, in the final section I briefly mention alternative policy responses that could deliver aid to the more vulnerable members of this very particular group of workers.

1 See, for example, Mowat Centre EI Task Force (2011), Davis (2012) and HUMA (2021) for prior recommendations on EI issues and gaps.

2 In order to collect these benefits, no EI eligibility was required, and individuals had to have earned at least \$5,000 in 2019 and their employment or income loss had to be due to COVID-19. CERB ended in September 2020, and CRB – a program intended only for those ineligible for EI benefits – is supposed to end in October 2021. CRB recipients face a maximum duration of 54 weeks, and no new applications are to be accepted after 23 October 2021.

Gig Workers in the Canadian Labour Market

The definition of a gig worker is subjective. In the public psyche, gig work tends to be characterized by hyper-flexible and minimally binding work arrangements. Given the apparent lack of consensus in both the scientific literature and the public forum, I rely on a fairly recent, authoritative US study by Abraham et al. (2018).

Borrowing from the music industry, we define ‘gig employment’ as one-off jobs in which workers are paid for a particular task or for a defined period of time. . . . a gig worker is not paid a wage or salary; does not have an implicit or explicit contract for a continuing work relationship; and does not have a predictable work schedule or predictable earnings when working. Applying this definition to the characteristics we have assigned to the various work arrangements, independent contractors and freelancers, day laborers and on-demand or platform workers should be considered gig workers. (p. 10.)

A Statistics Canada study by Jeon, Liu and Ostrovsky (2019) that was released just before the pandemic provides a statistical profile of gig workers. The authors explain why the well-known and highly reputed monthly *Labour Force Survey* is not suitable for identifying these workers.³ They systematically identify gig workers, drawing on a data set based on individual and corporate income tax returns. Applying the work-arrangement typology from Abraham et al. (2018), they state that: . . . gig workers can be viewed as unincorporated, self-employed workers (sole proprietors) who report business, professional, or commission self-employment income, and whose future business activity is uncertain or expected to be minor or occasional.

Their identification criteria for gig-work arrangements are four-fold: no wage or salary; no stability of the employment relationship; no fixed work schedule and no predictable earnings.⁴ As well, a gig worker must receive some of his/her income from gig work, but that does not preclude the possibility of holding a part-time job(s) or even a full-time one. The use of tax data – as opposed to self-reported survey data – to identify gig workers is completely consistent with the administration of the existing EI program, as eligibility and benefit entitlements are always based on some measure of prior earnings.

Jeon, Liu and Ostrovsky (2019) find that from 2005 to 2016, the percentage of the labour force represented by gig workers rose from 5.5 percent to 8.2 percent.⁵ These figures include those gig workers who also held part-time employed positions. The study conjectures that this increase in their labour-force share represents both a decline in the percentage of unincorporated self-employed workers who had a steady business (gig work as a

3 Typically, there exists a huge discrepancy in levels and trends in self-employment between survey data and administrative tax data due to potential underestimation of the actual extent of self- and contingent employment in labour force surveys. For example, Abraham et al. (2018) show some self-employed workers, particularly those whose self-employment is their secondary job, do not report having self-employment income in labour force surveys.

4 More specifically, gig workers are identified by having a T2125 Statement of Business and Professional Activities attached to their T1 income tax declaration forms (the standard declaration). Some gig workers have some of their employment income reported on a T4a slip (Statement of Pension, Retirement, Annuity, and Other Income). Incorporated self-employed workers or any self-employed individual with employees are excluded.

5 Morissette (2018) indicated that the percentage of the labour force comprised of workers with permanent jobs was stable from 2016 to 2018. Labour market conditions were improving gradually over this two-year period, and it therefore seems unlikely that the incidence of gig work rose.

fallback substitute for primary employment) and an increase in the number of self-employed workers who did gig work in addition to their main business activity (gig work as an income supplement). Workers whose main occupations were in the arts, entertainment and recreation were about four times more likely to be gig workers than workers whose main occupations were in management.

Gig workers' 2016 median net income was very low at \$4,303. Nearly half (48.6 percent) had no wage-earning job and thus reported no employment income, while 36.3 percent had one wage-earning job, and about 15 percent had multiple wage-earning jobs.⁶ Therefore, gig workers were split almost evenly between those who had no other earnings and those whose gig work supplemented their wages and salaries. Among all gig workers in 2016, the median share of total earnings accounted for by gig work was 76 percent. While it appears that they were highly dependent on that source of income, gig work was only a temporary state for many of them. Over that time period, roughly half of the people who entered gig work in a given year have no such income the next year. About one-quarter of them, however, remain in that status for three or more years. Overall, this evidence paints a portrait of gig workers that suggests some, but by no means all of them, are at the periphery of the labour market.

The Theoretical Case for Providing EI for Gig Workers: Solvency and Efficiency

The two principal criteria that apply to the evaluation and feasibility of a UI regime are interrelated: solvency and efficiency.⁷ Ideally, a claim is invoked only when the worker involuntarily loses his/her engagement, and no other work is available. Such a loss followed by indemnity should, ideally, be infrequent. Furthermore, the coverage should be neutral in the sense that it has no impact on employment choices – hires, quits and layoffs – made on either side of the market. More generally, in order for any potential loss to be insured in either a private or a public insurance regime, three distinct facets of the covered risks must be addressed, as they all present challenges to solvency and efficiency. They are: i) verification of the state of nature; ii) moral hazard and iii) adverse selection. I will apply each of them to the policy question of extending EI coverage to Canadian gig workers within the framework of the standard EI Part 1 regime.

Verifying the “State of Nature”

In insurance terms, the state of nature consists of a precise description of the item that is being underwritten, the potential loss, the event that caused the loss and an assessment of its value in dollars and cents. One must verify that a loss actually occurred for a legitimate reason, and one must then assess its magnitude. In the case of

6 The study, however, provides no information on any potential supplementary income (e.g., spousal/family income or pensions) or living status (e.g., living with parents or a partner with earnings.)

7 The regime is solvent if the flow of earmarked revenues is sufficient to meet the benefit obligations. It is efficient if the benefits (to social welfare) that are paid out do not outweigh the (excess burden) costs that are imposed through taxation. If neither the taxes nor the benefits have much of an impact on the behaviour of workers and firms, that criterion of efficiency is likely to be satisfied.

gig work, the definition of loss is that the remunerated task has ended, and no further work (from any potential employer) is on offer.⁸

In the case of standard EI in Canada, the item to be insured is the level of weekly insurable earnings, which is typically calculated as the average value of the 14-to-22 highest-earnings weeks during the qualifying period. In the case of gig workers, the absence of wage or salary income measured as a flow quantity renders it difficult to measure anything resembling what is labelled generically as “normal flow of earnings.” As gig work payments are typically linked to tasks without a precise time frame, it is very problematic to convert the payments into some income quantity.

Furthermore, the earnings of many gig workers are highly variable, which also complicates the calculation of the value of the earnings base to be insured. Rather than insuring a flow of earnings with a stream of constant-value, weekly EI benefits, it might be feasible to insure a pre-specified value, as is typically done for property or life insurance. A claim might be awarded a one-time payment of \$X for every \$1,000 of gig remuneration irrespective of the time frame. The problem of verifying the legitimacy of the loss remains unsolved.

Moral Hazard

The second facet of insurance risk is moral-hazard behaviour, which is thought to be one of the principal factors preventing the provision of insurance contracts for self-employed workers. Coverage typically weakens the incentive of the insuree to take every feasible precaution to minimize the risk of loss, thereby raising the probability that it will occur. It is for that reason that in the case of regular EI benefits, workers who quit their jobs are disqualified (with a few exceptions granted) because they are deemed to have initiated the separation. In contrast, self-employed workers have a high degree of control over their work schedules given the nature of their employment bonds, and they have some margin of maneuver to end their jobs. In practice, it is infeasible to determine to what extent the separation and the ensuing income loss were involuntary.

On the demand side of the market for gig workers, one can also imagine a scenario whereby the purchasers are less reticent to lay them off if they are assured that their workers will benefit from some indemnification. It seems reasonable to expect a high degree of moral hazard behaviour emanating from one or both sides of the market, leading to higher levels of separation than the counterfactual case of no EI coverage. These behavioural distortions undermine the efficiency of the gig labour market and also work to undermine the solvency of any insurance contract. In popular parlance, what is labelled “gaming the system” can be interpreted as moral hazard.

Adverse Selection

The third insurance-risk facet is the well-known challenge of adverse selection, which is thought to be the other principal obstacle for the provision of insurance contracts for self-employed workers. Like the case of moral hazard, adverse selection can influence behaviour on both sides of the gig labour market. Workers, in particular, possess information that the would-be insurer lacks regarding their perceptions of how stable their work schedules and earnings will be and, therefore, how likely they are to file a claim. Those who evaluate the

8 In theory, the idleness must be involuntary. In practice, it is virtually impossible to determine that condition.

probability of loss as low are likely to opt out of insurance coverage, while those who evaluate it as high are likely to opt in. This tilts the pool of insured workers toward relatively high-risk workers, thus undermining the solvency of the special EI regime. This problem is obviated for public UI schemes, including standard EI, by mandatory participation for most workers and the firms that employ them. However, given the low amounts of remuneration that would typically be involved (as documented above), it seems likely that many gig workers, especially those who do not rely solely on gig work, would resist mandatory participation and opt to self-insure. Most of the potential insurees would also decline to contribute on a voluntary basis.

In the discussion above, I evaluated the feasibility of providing EI coverage to gig workers on the bases of efficiency and solvency. I have argued that an appeal to insurance theory suggests that it is quite problematic to underwrite income losses for many or perhaps most self-employed workers. As it constitutes an implicit subsidy to such work arrangements, EI could well encourage both shorter gig durations as well as higher incidences of gig work, thus undermining labour-market efficiency. This regime would likely be very insolvent and, therefore, require perpetual subsidization from other sources. I now turn to the real-world experience in order to validate those theoretical predictions.

What Is the Track Record in Practice?

Before discussing how other countries treat gig workers, I first mention a Canadian counterpart. Since 2010, self-employed workers have had the option of voluntarily contributing to the Special Benefits for Self-employed Workers scheme in order to become eligible for EI special benefits that consist of parental, sickness and care benefits for ill family members while remaining ineligible for regular EI. Special benefit entitlements and contribution rates are equal to those for dependent employees, as the federal government pays the part that would otherwise be the responsibility of the employer. However, a government evaluation of this provision uncovered evidence of adverse selection (Employment and Social Development Canada 2016). Over three-quarters of claims that were filed involved maternity and parental benefits and two-thirds of participants were women despite accounting for only 43 percent of all self-employed workers. Two-thirds of all such claims were from women between the (childbearing) ages of 25 and 44 compared to just one-third of all the self-employed.

Opt-ins to this plan also had significantly lower incomes than other self-employed workers. During the first year of benefit payments (2011), premiums covered less than one-third of benefit payments.⁹ As a precursor to that disappointingly low take-up rate, there was little support expressed among the self-employed for a mandatory contribution scheme, according to government surveys conducted between 2000 and 2006. In its 2006 *Interim Report on the Maternity and Parental Benefits Under Employment Insurance: the Exclusion of Self-Employed Workers*, the Liberal government of the day provided a detailed discussion of this issue, but the tone was noticeably unenthusiastic.¹⁰

9 In order to partially mitigate adverse selection problems, participants have to contribute for a full year before gaining any benefit entitlement.

10 See <https://www.ourcommons.ca/DocumentViewer/en/39-1/FEWO/report-5/response-8512-391-19>.

Meanwhile, according to the OECD's 2018 special report on non-standard work and workers, there are at least eight member countries who provide some semblance of UI to certain categories of self-employed workers: Spain, Ireland, France, Sweden, the Netherlands, Italy, Austria and Denmark. They appear to be so varied in terms of their access conditions, benefit and financing formulas, and governance regulations that it is difficult to compare the coverage levels.¹¹ The report notes that: "...unemployment is generally the least covered risk for self-employed workers: only 8 of all 28 European Union members fully cover self-employed workers, and 9 do not offer any form (even partial or voluntary) insurance...where the self-employed are covered by UI, they often face more stringent eligibility conditions... (p. 23)." In its 2019 Employment Report, the OECD authors point out that statutory access typically does not materialize into actual access.

The authors of both OECD reports conclude that UI schemes for the self-employed tend to be very problematic. While they mention the challenges that are discussed above, such as determining what constitutes an appropriate payment or assessment frequency and a suitable reference period for assessing contributions and earnings, they emphasize that voluntary contribution schemes have resulted in very low take-up rates. This is caused in part by the double-contribution problem whereby the employer contribution, which is a standard and critical feature of standard UI regimes, is typically shunted to the worker. The statutory contribution is greatly increased beyond the level that the worker is willing and/or able to pay, thus exacerbating the adverse selection challenge mentioned in the preceding section. Overall, such UI schemes for the self-employed tend to be undersubscribed such that high government subsidies are required, particularly for low-income workers. According to the 2018 OECD report, "The government could also heavily subsidize schemes for the self-employed, which raises concerns about equal treatment and may create adverse incentives for both employers and employees."

The observed contribution rates are also consistent with the evidence. The 2018 report states: "A recent survey among European non-standard workers also found a low willingness to pay for social protection... In designing effective voluntary contribution schemes, policy makers will have to accept substantial public subsidies if they want to achieve high coverage rates and avoid adverse selection."¹²

A Special Regime for Gig Workers: *the Intermittents de Spectacle*

Another approach to providing gig workers access to EI benefits is to create a separate, vertical regime – somewhat similar to the Canadian fishers program – with its own set of parameters and regulations. Here, I provide a well-known unique case that is an arm of the French UI system, *Intermittents de Spectacle*, which is pertinent for several reasons. First, aside from platform-based workers such as Uber drivers and Doordash

11 To provide just a few illustrations, in Sweden, a country that is known for its highly developed and generous UI and retraining benefits afforded to dependent workers, gig workers are not covered because, in effect, there is no employer who can verify that a layoff occurred. There is a special fund for independent contractors and small business owners. However, claimants have to close down their firm and are prohibited from reopening for five years. Italy passed new laws in 2019 with funds to aid gig and self-employed workers, but the interventions do not resemble a UI scheme, and the funds are available only in certain geographical regions.

12 The survey is drawn from Codagnone et al. (2018).

food deliverers, live entertainers are viewed by the public as quintessential gig workers. The UI scheme is very aptly labelled, as the beneficiaries – comprised of performers and accompanying technicians – play major roles in *spectacles* (shows) while employed on a literally intermittent basis. They typically work on a performance for a few days a week, then are unemployed and indemnified, and then repeat that pattern. Second, all of the theoretical predictions of the UI literature, i.e., those behavioural effects that can undermine solvency and efficiency, are validated. Third, the level of generosity of coverage that is afforded to these workers generates an extreme, glaring inequity among other French unemployed workers.

While this special regime dates to 1968, take-up remained low compared to today's levels until the 1980s. Originally, only live performers were eligible, but eligibility was extended to their technicians as well as to both performers and technicians in the audio/visual media. In 2013, there were approximately 93,000 beneficiaries out of a labour force of some 30.6 million. The first round of major reforms did not occur until 2003, and they were so controversial that the beneficiaries themselves went on strike, forcing the cancellation of famous festivals. In the words of one observer, "...the crisis reveals the complex imbrications of economic, social, and political factors that reside at the heart of cultural policy in France...the theatre is given exceptional support in France (materially and ideologically)... (Leon 2004)."

From an economic perspective, however, there is little that is anomalous about the functioning of this regime. Its outcomes regarding take-up patterns, expenditures, financing and the impact of employment practices conform closely with the predictions of the theory of economic incentives, all of which constitute a cautionary lesson to be learned for EI policy in Canada. Furthermore, from a political economy perspective, proposals for reforming this aspect of the French UI system, which were implemented in 2003, 2006, 2014 and 2016, provoked vociferous opposition.

As is the case for the standard French and Canadian UI regimes, contributions to the *Intermittents de Spectacle* scheme are mandatory for both workers and firms, which mitigates potential adverse selection problems. However, the contributions are not experience rated, as heavy use is not penalized, nor is light use rewarded, through the premium structure. This major feature of private insurance regimes designed to discourage moral hazard behaviour is absent. In order to limit non-legitimate entry effects, the firms and occupations that qualify are restricted and specified in great detail. The qualification criteria are slightly looser than is the case for the standard UI regime, and they are not too complicated (507 hours worked over the past 10.5 months for artists, 507 hours in past 10 months for supporting technicians).

On the other hand, the mechanism for calculating the monthly benefits is an enormously complex process that converts the tasks that the workers execute into a) the number of hours applied toward qualification and b) the number of days of payable benefits to which the recipient is entitled. The length of entitlement is longer for the "intermittents" than it is for the recipients of regular UI. The monthly benefit amount is determined by the daily benefit rate and the number of non-working days occurring in a given month; it is subject to an absolute ceiling. The days that are worked count toward re-qualifying for the next claim period. The administration is arcane, complicated and requires cumbersome monitoring to the point of appearing as Kafkaesque. As such, it lacks another desirable feature of a social insurance program, namely simplicity. While claims do have to be renewed annually, there are no provisions limiting repeat use. Approximately 80 percent of the recipients are continually dependent on the regime on a quasi-permanent basis.

The fiscal track record for *Intermittents de Spectacle* is dismal. According to the French equivalent to Canada's Auditor General, les Cours des Comptes, 105,826 beneficiaries in 2009 received 1.3 billion euros in benefits while contributing only 223 million euros. The resulting 1.05-billion-euro deficit was slightly less than the 1.2-billion-euro deficit reported for the remaining UI account. This deficit grew at a fairly even pace between 2002 and 2009 from 866 million euros to 1.05 billion euros, while the number of beneficiaries grew by about 1 percent per year (implying rising payments per claimant).¹³

In 2011, according to the Cours des Comptes, this special regime's approximately one-billion-euro deficit accounted for about one-third of the total UI shortfall while accounting for only 3 percent of the beneficiaries. Its ratio of contributions to benefits was 1:5.5 euros compared to 1:1.03 for the regular UI regime, 1:1.25 for temporary workers and 1:3.6 for workers laid off from determined duration contracts.¹⁴ Commenting in 2013 on the inequities that are reflected in these ratios, the Cours des Comptes concluded that the *intermittents de spectacle* is, "The category of indemnified job seekers who face by far the most favourable rules." It also found that all three of the other groups are also in a precarious situation regarding their employment positions. This gaping inequality in coverage undermines the cherished French ideal of inter-professional/occupational solidarity.¹⁵

With respect to the incentive structure, the Cours des Comptes claimed that ". . . for the most part, they (the beneficiaries) quit their jobs a few days after having accumulated the number of days necessary to gain entitlement and resume their activity as soon as they have exhausted their benefits." It recommended a significant general hike in premiums and introducing experience rating to partially remedy this gaming of the system.

In a 2014 article, policy analyst Agnès Verdier-Molinié (2014) explained the exploitation on the part of some beneficiaries of an infamous loophole of the special regime called 'la permittance,' which constitutes an extremely distortive case of moral hazard. Verdier-Molinié found that a full-time, full-year technician position that would normally be governed by a standard indefinite duration contract is often by mutual agreement converted into an intermittent position held by the same worker. This transformation allows both parties to drastically reduce the number of statutory paid days from about 20 to eight per month that are actually worked. In the counterfactual case, no UI benefits would be paid, while in the actual case, UI benefits are paid for all 20 (or so) days that are non-paid in that month. A major portion of the firm's payroll expenses is thus shunted onto the UI regime. It was estimated that about 15 percent of the participants were involved in this practice that was long considered to be abusive but has nonetheless proven to be quite resilient to administrative controls. It was only curtailed in 2014 by a regulation imposing a lower ceiling on UI benefits paid.

Concluding Discussion

Over the past 20 years or so, calls for expanding access to EI and raising the generosity of its provisions have become louder and more frequent, culminating in the lengthy list of costly recommendations contained in the parliamentary committee charged with "modernizing the Employment Insurance Program" (HUMA 2021). In the

13 "Le régime des intermittents plombe les comptes de l'Unedic » <http://www.lesechos.fr/economie-politique/france/actu/0201106049683-le-regime-des-intermittents-plombe-les-comptes-de-l-unedic.htm>

14 "Le régime des intermittents plombe les comptes de l'Unedic » <http://www.lesechos.fr/economie-politique/france/actu/0201106049683-le-regime-des-intermittents-plombe-les-comptes-de-l-unedic.htm>

15 « Vers une refonte des indemnités chômage des salariés précaires (CDD, intérim, intermittents du spectacle) »

discussion above, I considered two possibilities for providing EI coverage to gig workers or other incorporated self-employed workers without employees. The first consisted of integrating them into the standard, regular-benefit EI regime along the lines of the Special Benefits for Self-employed Workers program, which involves voluntary participation. The second involved the creation of a special, separate boutique regime for gig workers.

I provided theoretical explanations and real-world examples suggesting that both are economically unfeasible. The most prominent drawback of the first option is that take-up rates have proven to be so low that the programs do not develop. Participation can be increased only at the cost of substantial government subsidies. I argue that even if such provisions were implemented outside of the standard delivery apparatus of the EI entitlement matrix, no amount of modification of the eligibility and entitlement formulas could mitigate the severity of the shortcomings that I have discussed above. These disappointing outcomes are inherent to more generic UI frameworks as well as the Canadian EI program due to the contravention of all basic insurance principles. The flaws of the second option include the generation of marked inequities among the unemployed, long-term dependence among the select group, the tailoring of employment patterns (e.g., hires, layoffs and quits) to the parameters of the system, perpetual insolvency, and unduly high administration costs.

Are there other policy responses to the challenge of assisting unemployed gig workers? There are three options that merit consideration. For gig workers who seek to transition to more stable employment, it is possible to obtain retraining benefits and employment assistance through existing provincial workforce development agreements.¹⁶ The second option is contained and described in the Mowat Centre EI Task Force released in 2011. It proposed a program designed for unemployed workers that might be suitable for gig workers who seek to transition to more stable employment. As presented and discussed in Davis (2012), such a Temporary Unemployment Assistance (TUA) provision would provide income assistance for the unemployed who cannot access EI and who should not be required to turn to social assistance. The benefits consist of forgivable loans in the form of a flat weekly benefit for a limited duration of time. Although the details are beyond the scope of this report, initial access to the TUA would be relatively unrestricted, but repeat use would be restricted. It would be financed through general revenues as opposed to earmarked contributions, thereby separating it totally from the EI regime. It is designed expressly to avoid many of the disincentives inherent in the existing EI program. The beneficiaries would not be bound to retraining, but they would be indemnified with an eye toward facilitating adjustment and repaying the loan.

The third option consists of a quite different approach than indemnification of gig workers who suffer unemployment. Instead, it takes a regulatory or legal approach involving changes to the labour code. More specifically, the objective is to transform these gig employment relationships and the status of its workers such that they become dependent workers rather than independent contractors. In so doing, the employers' obligations are increased, and gig workers would have greater opportunities of being eligible for EI benefits. This is the spirit of California Assembly Bill 5 passed in 2019, which spells out specific legal conditions under which

16 These federally funded (yet provincially delivered) programs are distinct from the Employment Benefit and Support Measures contained in the EI Part 2 regime. Most gig workers would not qualify for the latter unless they had a sufficient contribution history in EI.

a worker can be treated as truly independent. These initiatives have met with mixed success, however. Employers such as Uber and other firms utilizing platforms have resisted them, arguing strenuously that engaging gig workers as independent contractors is their only feasible business model.¹⁷ The results of a popular referendum in California also went against the wishes of the gig workers. However, this approach might eventually be successfully and gradually implemented for specific occupations and sectors.

Finally, it is likely that the status quo of the self-insurance option might be suitable for some gig workers. For those who prefer the flexibility and/or have adequate skill sets, the costs of potential interventions might outweigh the hoped-for benefits, and thus the laissez-faire option should not be excluded for all gig workers. When pandemic-related public health restrictions are loosened such that those sectors adversely affected can resume normal employment levels, not all gig workers will desire EI coverage. Furthermore, a broader recovery in the labour market should be accompanied by vacancies for more standard positions to which some of the current group of gig workers could aspire.

17 In the *Wage Indicator* website newsletter “Theory and Practice In the Global World of Platforms: Innovations and Regulation,” a series of case studies are summarized. Only some of the new laws and regulations met their objectives. See <https://wageindicator.org/documents/20210326-gigbag-wageindicator-gig-conference-bag.pdf>

References

- Abraham, K.G., et al. 2018. "Measuring the Gig Economy: Current Knowledge and Open Issues." NBER WP No. 24950.
- Busby, C., and D. Gray. 2021. "A New Voluntary EI Program Would Bring More Workers Under the Safety Net." *Policy Options*. Montreal: Institute for Research on Public Policy. March. Available at <https://policyoptions.irpp.org/magazines/march-2021/a-new-voluntary-ei-program-would-bring-more-workers-under-safety-net>.
- Canada. 2021. Department of Finance. Budget 2021. Ottawa: Department of Finance.
- Codagnone, C., et al. 2018. *Behavioural Study on the Effects of an Extension of Access to Social Protection for People in All Forms of Employment*. European Commission. Available at: <http://dx.doi.org/10.2767/180611>.
- Davis, Mary. 2012. "Workers left outside the EI umbrella: Explanations and a simple solution." University of Toronto: School of Public Policy and Governance. Online ISBN: 978-1-927350-23-2.
- Employment and Social Development Canada. 2016. *Evaluation of the Employment Insurance Special Benefits for Self-employed Worker*. Available at: <http://canada.ca/publiccentre-ESDC>.
- Human Resources, Skills and Social Development and the Status of Persons with Disabilities Standing Committee (HUMA). 2021. *Modernizing the Employment Insurance Program*. Sixth Report. June.
- Jeon, S., H. Liu, and Y. Ostrovsky. 2019. "Measuring the Gig Economy in Canada Using Administrative Data." Statistics Canada, Social Analysis and Modeling Division. 11F0019M No. 437.
- Leon, Mechele. 2004. "Culture versus Politics? Strikes in the Entertainment Industry in France." Paper for National Culture / National Identity Research Group. ASTR Annual Conference: Las Vegas. November 18-21.
- Morissette, René. 2018. "Changing Characteristics of Canadian Jobs, 1981 to 2018." Economic Insights. No. 086. Statistics Canada, Catalogue no. 11-626-X. November.
- Mowat Centre EI Task Force. 2011. *Making it Work: Final Recommendations of the Mowat Centre Employment Insurance Task Force*. Toronto: Mowat Centre for Policy Innovation.
- OECD. 2018. *The Future of Social Protection: What Works for Non-standard Workers?* Paris: OECD Publishing. Available at: <https://doi.org/10.1787/9789264306943-en>.
- _____. 2019. *The Future of Work*: "Left on your own? Social protection when labour markets are in flux." Paris: OECD Publishing. Available at: <https://www.oecd-ilibrary.org/sites/bfb2fb55-en/index.html?itemId=/content/component/bfb2fb55-en>.
- Verdier-Molinié, Agnès. 2014. "Les 1001 vices du système d'indemnisation des intermittents du spectacle." *Atlantico*. Available at: http://www.ifrap.org/Atlantico-Les-1001-vices-du-systeme-d-indemnisation-des-intermittents-du-spectacle.13956.html?utm_source=Newsletter6articles&utm_medium=e-mail&utm_content=Média&utm_campaign=Newsletterdu06-03-2014.

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