

Intelligence MEMOS



From: David Gray

To: Employment Minister Carla Qualtrough

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Re: **GIG WORKERS AND EMPLOYMENT INSURANCE: NO EASY ANSWERS**

COVID-19 has laid bare the important shortfalls of Canada's rigid 1970s-vintage Employment Insurance 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, and was extended in the early 1970s to provide benefits to seasonal workers. The Liberal government has pledged modernization, especially around gig workers, but the promises contained in the Speech from the Throne were missing in the 2021 Federal Budget, replaced by consultation funding for the federal employment and social development department to explore the idea.

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.

In my new C.D. Howe Institute [E-brief](#), 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.

I begin with the theory of unemployment insurance (UI) as applied to the risk of income loss by self-employed workers. Since it turns out to be extremely problematic to cover this risk within the standard EI regime, I looked at the real-world track record for providing coverage to self-employed workers. 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 benefit levels are low.

I also looked at 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.

So, 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 currently possible to obtain retraining benefits and employment assistance through existing provincial workforce development agreements.

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. 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.

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 becoming eligible for EI benefits. This is the spirit of California Assembly Bill 5 passed in 2019, which spells out specific legal conditions under which 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.

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.

David Gray is a professor of economics at the University of Ottawa.

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