

Platform Mediated Working: Employment & Welfare Issues

Dr. Damian Thomas

Nevin Economic Research Institute

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Overview

1. The Platform Economy
 2. Digital Labour Service Platforms
 3. Employment and Welfare implications
 4. Responding to the rise of platform based working
 5. Ireland: responding to 'similar' employment and welfare issues
 6. Social Dialogue and Problem-solving – Good Work
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The Platform Economy

The (digital) platform economy encompasses the growing number of digitally-enabled economic and business activities across a range of sectors. Platforms are digital networks that coordinate economic and social activity and their expansion has been driven by a combination of the growth of the internet, advances in cloud computing, big data analytics, the algorithmic revolution and the proliferation of mobile digital devices and associated applications.

(Kenney and Zysman 2016:

Digital Platforms

- Platforms are an emblem and embodiment of the digital era just as factories were for the industrial revolution
- Use of advanced algorithmic technology to create marketplaces
- **Virtual Retail Markets:** Airbnb, Amazon, Ebay
- **Financial Platforms:** Funding Circle, Stripe, Angelist
- **Platforms for Platforms :** Amazon Web Services, Microsoft Azure
- **Digital Tools and Software:** – Zenefits, Job Rooster,
- **Labour Service Platforms:** Uber, Upwork, Freelancer
- Digital ecosystems: Transcending industrial boundaries & entering new sectors

The Platform Economy Matures

“Digital platforms, through their power in their respective ecosystems are intermediating and contributing to the reorganisation of ever-greater segments of the economy and society. As this occurs existing firms, jobs and labor relationships are being displaced or transformed, even while new tasks and enterprises are emerging, and existing firms are adjusting “ (Kenney et al., 2019:1)

“They are present in diverse sectors...in the case of mega platforms shaping the terms of competition and, indeed the marketplace. In many sectors, these platforms have become powerful private regulators shaping the rules of the market & society within their ecosystems.” (Kenney et al., 2019:37

Digital Labour Service Platforms

- Digital labour service platforms are business models that use sophisticated algorithms and related digital technology to facilitate new and highly efficient ways of matching the demand for and supply of labour within local and/or trans-local labour pools
- ‘Digital’ intermediation of labour; platforms sitting between service provider (individual) and client (individual;company)_
- ‘Gig’ economy
- Platform-based working

clickworker



taskrabbit

foodora

Uber

upwork

amazon
mechanical turk

Care.com

CATALANT The best people, on demand

listminut'
listminut.be

deliveroo

CitySprint

freelancer

Digital Labour Service Platforms

- Service Providing Platforms (physical; on location)
- Crowdbased Platforms (on-line)
- Virtual Labour Exchanges for Professional Services
- Micro and Macro Tasks
- Key factors in considering impact on employment and wages:
- Sector Specific
- Low, medium and high-skilled work
- End user; individual or business
- Assignment of work

Key Characteristics

- Labour market intermediaries: Powerful algorithms to efficiently match service providers with clients and reduced transaction costs
- Business model – not employers of service providers;
 - Self employed; independent contractors; partners; micro-entrepreneurs
- Seamless on line payment and multiple transactions
- Rapidly collect, aggregate and analyse market rich information
- Rating systems & user reviews
- Monitor performance, set targets and disengage contractors
- Algorithms have taken over the traditional functions of management
- Intermediaries or market makers:
- Innovation & disruption
- Regulatory Arbitrage

Platform	Tasks / Jobs
Uber	Taxi drivers
Catalant	Business Consultants – finance, sales, strategy, HR, etc.,
Care.com	Care sector
TakeLessons	Teachers and Instructors
Clickworker and Amazon Mechanical Turk	Low to medium skilled routine tasks; online click work
Deliveroo; CitySprint	Food Delivery ; Courier Service
CoContest	Interior/ Graphic designers
UpWork	Web designers, marketing and sales, accounting, writes, software development, architects, interior design
Listminut	Trades people, chefs, translators,; low skilled routine tasks
Taskrabbit,	Repair, maintenance, trades
Freelancer	IT and Software; design media and architecture and writing and content provision.

Scale of Platform Based Working

- Difficult to accurately gauge the scale of platform based working
- 10% of working age had used a platform to provide some type of labour service
- 1-3% of total employment is platform base working
 - Intermittent & additional form of work
 - 6% worked >10hrs or earned at least 25% of income from platform work
 - CIPD 4% working in 'gig' economy; majority in addition to their main job
- Expected to continue to grow rapidly: platformisation of the labour market
- Intermeshed with 'traditional' businesses
- Bringing to the fore key issue about changing nature of work, labour market and social models
 - sharing of risks

- New and exciting business model that increases productivity, generates additional and flexible employment and benefits for consumers
 - Use of leading edge technology to exploit regulatory and legal loopholes, imposes additional risks on employees and undermines employment standards and the prevailing social insurance model
 - Evidence of both narratives at play within and across sectors
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Employment & Welfare Implications

Undermining/Blurring of Employee Status

- Categorisation of individuals as independent contractors, self-employed etc., contractual denial of employee/worker status is prominent feature of the platform economy (Prassl, 2018)
- Blurring of the distinction between employee and self-employed
- Employment status confers protection under national and EU employment regulation
- Employer and employee contributions provide access to a range of social insurance based benefits

Undermining/Blurring of Employee Status

- “*Platform Paradox*” (Prassl, 2015)
- Disproportionate share of risks imposed on individual
- Uber contracts categorised them as independent contractors, UK Employment Tribunal classified them as ‘*workers*’
- Disguised employment
- Self-employment can be a matter of choice
- Platform based working most pronounced in sectors with high proportion of owner-account workers; to date primarily a substitute for traditional self-employed rather than dependent employees (Schwellnus et al.,)
- Double disadvantage
- Capacity to penetrate other sectors/business models

New employment opportunities and easier access to the labour market

- 1-3% of EU workforce it is their main source of employment; higher number engage intermittently
- Source of additional income; flexible nature of work affords individuals the capacity to combine PBW with other commitments
- 'on-line' employment opening up opportunities to in peripheral regions;
- Lower barriers to labour market entry for groups who may have weaker links to the labour market
 - Reaction of incumbents!!
- Regularising informal work (legitimising it!)
- Quality of work

Undermining Social Protection Model

- Reconfiguring traditional employment relationships can serve to reduce employer and employee social contributions to social insurance funds
- Platform workers who are most reliant on platform based work less likely to have access to key social protections
- Nature of platform working can also limit effective entitlement to insurance benefits
 - Difficulty in determining the ‘employer’
 - Uncertain and temporary nature of work can also result in individuals not meeting administrative requirements or thresholds

Low paid, precarious work

- Crowdbased online route work characterised by low pay; income and employment insecurity
- UBER drivers UK) take home pay less than third of national living wage (long hours)
- Evidence does not suggest that at given task characteristics hourly pay for physically provided services is lower for platform workers than non platform workers
- SF services provided online (computer support) wages of 'gig' workers lower than non-platform workers; reverse true for physically provided
- Significant share of PW in Europe provide skill-intensive professional services such as legal & accountancy; software; translations

Low paid, precarious work

- Large dispersion of hourly pay of platform workers which partly reflects large differences in task characteristics within and between platforms
- Additional or supplementary income
- Demand led nature of work – insecurity
 - Pay levels and nature of the task
- Professional and project based mitigate negative impact on insecurity
- Evidence of increased levels of non-permanent work in professional sectors (HE; media; financial services) choice is the key issue
- Platform based working may be intensifying such trends

Flexibility, Autonomy & Control

- Flexible, tailored to individual needs
- Platforms exercising considerable control over pace of work, schedules, pay, way carried out etc.,
- Rating Systems
- Long hours, intensive working
- ‘business model’ and nature of the tasks

Digital Labour Service Provision

Opportunities

- Employment opportunities
- Lower barriers to labour market participation
- Increased flexibility and autonomy
- Fair pay rates; supplement income

Challenges

- Erosion of employment standards
- Lack of social protection coverage
- Difficulty in accessing social protection entitlements
- Reduced contributions to social insurance fund
- Low pay and increased insecurity

- **In other words, the conditions of platform work are diverse and perhaps even somewhat polarised (Pesole et al., 2017).**
- The heterogeneous nature of the population makes a single characterisation of gig worker impossible (Base de Ter, 2015)
- Replicating wider diversity and polarisation

Responding to the Employment & Welfare Implications

Regulating Digital Labour Service Platforms

- Long established challenge of providing adequate employment protection and social security to individuals working in sectors with atypical employment relations/work
- Nature and pace of change challenging existing statutory and regulatory regimes across the EU; playing catch up
- Legal classification of work: “*war of the statuses*”;
- Consistent and Effective enforcement; adaptation and less ambiguity
 - Functional rather than contractual approach (Prassl)
- Use existing regulatory architecture (UK)
 - EAT & Central Arbitration Committee
- Protracted and costly process; strong resistance from platforms; burden on the employee/individual; uncertain outcome
- Enforcement can be weak and uneven

Regulating Digital Labour Service Platforms

- France: El Khomri Act – regulation of platform work; same footing as SE to whom it has accorded collective rights;
 - Social security; based on social responsibility or the organisation not on its statutory responsibility as an employer
- Training reform: Compte personnel d'activité
- Spain new 'third category' – TRADE
- CJEU Ruling on Uber; London Transport Regulator)
- NMW / National Living Wage to address income inadequacy
 - Input/output: 'piece rate'
 - Richness of transaction data – support application
- Tax Compliance
- Technology = Regulatory Arbitrage; operating outside ER norms and conventions

EU Regulation

- EU Directive on Transparent and Predictable Working Conditions
 - European Pillar of Social Rights
 - First EU legislation to directly address risks of variable working schedules
- Better working conditions as a result of more predictable work; minimum rights and new rules on information provision
- ETUI: positive step but does not adequately address the risks of precarious working; paradox of EU employment policy
- Marginality and collective representation
- Business Europe; avoid regulation that constrains employment creation and labour market flexibility

Social Insurance / Protection

- Premised on standard employment relationship; status was key to accessing benefits
- Reform / simplify administrative procedures ; use of technology to collect revenue and data
- Extend social insurance benefits to self-employed;
- Decouple social protection/insurance from employment status – rights linked to the individual and are portable
- How is this to be funded ?

Increasing Relevance of Social Security Law

- The future of work requires a strong and responsive social protection system based on the principles of solidarity and risk sharing, which provide support to meet people's needs over the life cycle. Governments need to guarantee universal social protection from birth to old age.....**To ensure effective protection for all, societies need to fill the gaps and adapt systems to the evolving world of work by extending adequate social protection coverage to workers in all forms of work, including self-employment.** (ILO Future of Work 2015)_

Trade Unions

- Increased efforts to organise and mobilise platform
 - Awareness raising and voluntary regulation (G);
 - Foodora works council (A);
 - Extending membership (B, I);
 - Online portal providing support and advice (Sp); Cooperating with new groups (Sp; It);
 - Strike action; social media; individual/collective representation IWUGB (UK);
 - Frankfurt Declaration on Platform based working
- ETUC
- Hermes-Parcelnet / GMB recognition deal (UK)
 - Ruling in the EAT on worker status of drivers
 - Self-employed plus opt in model
 - holiday pay and individually negotiated pay rate
 - Union representation
 - Individuals can choose to remain self employed

- *we are proud to be leading the way with this pioneering development which we hope will encourage other companies to reflect on the employment models they use...we have listened to our couriers and are committed to offering innovative ways of meeting peoples needs” (M de Lagne CEO Hermes Parcelnet)*
- *“looking after the people who work for you on the ground day in day out, is not only good for business but the right thing to do...showing the gig economy doesn’t have to be an exploitative economy” (T. Roche, Gen. Secretary GMB)*

Collective agreement: good for platforms and employees

- 3Fservices and Hilfr; ground breaking collective agreement
- Range of employment benefits for cleaners and access to social protections
- New hourly rate: includes welfare supplement
- Tarnished reputation of platforms...digitalising tax avoidance and poor working conditions under the banner of innovation (Hilfr co-founder)
- Bridge between existing labour market and digital platforms
- Harness potential of technology and provide good employment
- Productivity increased; branding and marketing
- Provide access to social insurance/protection
- Collective agreements tailored for 21st century labour market/employee

New Forms of Collectivism

- **New cooperatives;** SMart & Coopcycle
- **Solidarity Movements:** Broodfonds
- **Workers collectives and Informal Associations**
- **Collective Action;** strikes, flash-mobs, disconnection

Employers

- Business model based on not having direct employees –
- Disruptors
- Regulatory arbitrage
- New business associations for the platform economy; Business voice(s)
- Crowdsourcing Code of Conduct 2.0 (G)
- Collective agreements; TEMPER – FNV Horeca negotiations
- ‘Ethical’ issues; reputation branding
- Deliveroo ‘new charter’
- Level playing field; DE/TE intertwined

- Fully reaping the potential of digital platforms while improving working conditions will require adapting product and labour market policies; rules on collective bargaining social protection and training (Schwellnus et al., 2019)
- Social Dialogue and changing world of work – customised solutions (OECD, 2019)

Ireland: Addressing Employment & Welfare Challenges in New(ish) World of Work

- No formal data on numbers engaged in platform-based working
- Similar employment and welfare issues evident (not all new)
- Not about the digital technology per se but rather the policy dialogue should be around what type of institutional and policy response are required to secure 'good' work and a productive, inclusive and adaptable labour market
- Burden of risks are shared (just transition)

Precarious & Contingent Employment

- Precarious work in Ireland
 - ESRI 'contingent' employment is not rising
 - TASC/FEPS precarious work is a mainstream feature of the labour mkt.
 - University of Limerick 'Zero Hours Study'
 - Low and variable hours in particular sectors (CSO)
- NERI – aggregate employment growth masking increased levels of precariousness
 - Younger workers experiencing higher levels of atypical/precarious work
 - PTW; underemployment and rise in marginal part-time work
 - Temporary contracts of short duration
 - Precarious work associated with in work poverty/deprivation
- Polarised and segmented labour market

Precarious & Contingent Employment

- Employment Miscellaneous Provisions Act 2018
 - Aim of improving the security and predictability of working hours for employees on insecure contracts and those working variable hours
- *“addresses challenges of casualisation and strengthen the regulation of precarious employment....is rooted in the foundation of extensive consultation and is a balanced and fair measure for both employees and employers (Minister Doherty, T.D.)*
 - Prohibit zero hour contracts;
 - Written terms of employment
 - Minimum payment if work not provided
 - Guaranteed hours (reflect normal working week)
- One of the most significant pieces of employment law in twenty years; (ICTU)

Extending Collective Bargaining Rights

- Competition (Amendment) Act 2017; gives collective bargaining rights to
 - Voice over actors, session musicians, freelance journalists
 - False self-employed; Fully dependent self-employed workers
- The 2017 Act “sets out a principle that collective representation should not automatically be denied to people who are not classically employees” (Doherty, 2018)
- Innovative example of how to extend CB protections to platform-based service providers (Prassl, 2018)
- Principles in legislation are important
- The social and employment impact of ‘gig work’ collective representation is a more fitting solution to new forms of working (Doherty, 2018)

Bogus Self-Employment / Disguised Employment

- ICTU have consistently raised this issue way before PBW: construction; Extent of this activity is contested (DEASP; IBEC; CIF)
- Revenue Commissioners Code of Practice for Determining Employment or Self-Employment Status of Individuals
 - Sets the criteria that should be considered in determining employment status; guidance, clarity
- Policy focus has been on augmenting and building upon existing measures
 - DEASP awareness campaign
 - Additional resources to SCOPE section;
 - Employment Status Inspection Unit
 - Increased inspections; joint DEASP/Revenue
 - New Guidance on Determining Employment Status (statutory footing)

- *“it is necessary to go beyond the title of the contract...to discover the constituent elements their proximity to definitions of contract of service as set out in case law and other authorities”* (Justice Keane,)
- “the importance of how contracts are worked and that the wording is not definitive of the nature of the work (Tax Appeals Commissioner);
- Judge O’Connor referred to the need to adapt to modern means of engaging workers
- Mutuality of obligation; level of control and ability to appoint substitutes (MCFG)
- IBEC – compliance framework is working and can be enhanced
- ICTU not robust enough, too slow, onus on employee
- Two attempts to introduce legislation to regulate bogus self-employment in the last Dail

Legislation & Changing World of Work

- Legislation confers core rights and protections; key principles
- Employment law playing 'catch up'
- one employer and one employee is not always the case
- this binary system of employee and self-employed doesn't quite work (L. Cox Deliveroo)
- Introducing third or intermediate category would increase complexity and litigation
- Better for both sides of industry to deal with changing world of work in a non-legal way (Doherty)
- Tailored and more flexible than legislation
- Legislation and employment relations can't do all heavy lifting

Self Employed and Social Protection

- Self-employed insured under class S PRSI
- Government policy has focused on continuing to extend benefits to the self-employed without any associated increase in their level of PRSI contributions.
- Number of reports have indicated the need to increase contribution rates for SE given access to wider range of benefits
- Implications for sustainability of Social Insurance fund; part of wider debate on our social/welfare model and labour market model
- how we fund it going forward

Standard Setting Instruments

- Taylor Report UK; LPC's remit widen to quality of work:
 - work with employers and worker reps to develop sector specific codes of practice and guidance to support provision of quality work
- Sectoral Employment Order (SEO);
- Joint Labour Committees/ EROs
- Registered Employment Agreements (REAs)
- Private Security Industry
- Deliveroo – 'new employment charter'
- Willingness to engage
- Adapted to new world of work
- Government – honest broker; shadow of authority

Social Dialogue and Problem Solving Deliberation

- Strong tradition of social dialogue and problem solving deliberation: less influence and presence in certain sectors
- Limitations of static legislation
- Reframe the debate around 'good work' and fostering an inclusive, dynamic and adaptable labour market
- What type of institutions and policies are required
- Range of instruments and mechanisms required; adapted to changing nature of work

- Employment Relations +
 - Development Welfare State
 - Flexible, tailored and universal social insurance system to foster a flexible, dynamic and adaptable labour market
 - Workforce development
 - Supporting (just) transitions
 - State must play an active and enabling role
 - Social Dialogue is key; political, economic and social choices to be made
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Thank you

damian.thomas@nesc.ie