

30 January 2018

Committee Secretary
Select Committee on the Future of Work and Workers
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT
By email: <futureofwork.sen@aph.gov.au>

Dear Mr Palethorpe

Inquiry into the future of work and workers in Australia

We refer to the above inquiry, and provide a submission to the Senate Select Committee on the Future of Work and Workers (the Committee) on behalf of the Institute of Public Affairs (IPA).

There is no doubt that technological changes present challenges for the modern workforce as it integrates advances like automation and digital work platforms. However, there are substantial opportunities. Advances in technology will enable a greater number of Australians to enjoy the dignity of work. Unleashing entrepreneurship is central to the task of taking advantage of these opportunities and paving the way for Australia's future prosperity. The IPA has a stream of research showing that current policy settings are a substantial impediment to individuals seeking work. Unless reforms are made to Australia's inflexible, outdated and cumbersome industrial relations regime – and to other regulation and red tape – an increasing number of Australians will be disadvantaged in a rapidly-changing labour market. This submission provides the Committee with a number of recent IPA research papers that we trust will be helpful in the course of this inquiry.

About the Institute of Public Affairs

The IPA is an independent, non-profit public policy think tank, dedicated to preserving and strengthening the foundations of economic and political freedom. The IPA supports the free market of ideas, the free flow of capital, a limited and efficient government, evidence-based public policy, the rule of law, and representative democracy. Throughout human history, these ideas have proven themselves to be the most dynamic, liberating and exciting. Our researchers apply these ideas to the public policy questions which matter today.

Response to the Committee's terms of reference

One of the IPA's principal areas of policy interest is the ways in which legislators can remove the regulatory barriers that are keeping thousands of Australians out of the labour force. Rapid changes in the labour market, driven largely by technological and other change, make it imperative that Australia engages in meaningful structural reform of the industrial relations system.

The IPA's research highlights a number of key areas that the Committee should consider. This research is summarised below, including an explanation of how the research relates to the issue of the future of work.

1. *Fair Work and Penalty Rates*

The *Fair Work Act 2009* (Cth) and related regulations have substantially reduced workplace flexibility. This will cause an unnecessary degree of friction against the dynamism needed in the future of work.

For instance, the ‘better-off overall’ test (as opposed to the previous ‘no disadvantage’ test) severely limits the scope for employers and employees to reach mutually-beneficial agreements at either an enterprise or individual level. This means that there is often no alternative to inflexible and outdated awards which prevent workers from taking on additional shifts or, in some cases, working at all. A concern is that productivity boosting arrangements will not be entered into with the risk that automation becomes comparatively more attractive for employers. The decision to move towards automation is not a simple one – but it is certainly a factor of cost, productivity, and the flexibility to manage inputs as demand changes.

The IPA’s research highlights that the Fair Work regime imposes barriers to employment along with structural disincentives for businesses to hire new staff. In particular, applications made to the Fair Work Commission and its predecessor bodies for reasons related to termination of employment has tripled since Fair Work’s introduction. The time and expense involved in defending against these claims will continue to make businesses highly reluctant to hire.

Another important aspect that limits the opportunities for work is penalty rates. Penalty rates for work on weekends are increasingly incompatible with Australian working patterns and consumption habits. In 2017, the Fair Work Commission made the decision to modestly reduce penalty rates in the Hospitality, Fast Food, Retail and Pharmacy Awards.¹ While this decision is controversial, it is not radical. Rather, it is part of an incremental recognition that work and consumption habits are changing. Originally, penalty rates were designed to penalise work – to deter employment on particular times during the day, and on certain days of the week. The Fair Work Commission now contends that weekend penalty rates exist solely for the purpose of compensating workers for the inconvenience of weekend work, and made a decision to reduce prohibitive penalty rates in some industries where there was evidence that circumstances had changed. Various legislative proposals before the Parliament that seek to wind back this decision undermine the compensatory approach and attempt to restore the deterrence effect and penalise work. Some proposals go further by attempting to put additional restrictions on the freedom to bargain between employees and employers. These legislative proposals should be resisted. Instead, the IPA’s research demonstrates that reforms are needed to allow for greater flexibility over penalty rates. Centrally mandated penalty rates will continue to be a tension in the future of work. This is because improved technology allows workers to take greater advantage of flexible working arrangements. Consumers also are increasingly demanding 24/7 service delivery. Both of these factors add up to an increased demand for work outside traditional business hours – something that simply does not fit within the current regime.

Technological advancements will continue to be disruptive to traditional industries. A consequence of in-built barriers and disincentives to employment may mean longer periods of structural unemployment in the future. Accordingly, Australia’s industrial relations laws and regulations are a threat to seizing the opportunities associated with technological change. More rigidity cannot be the

¹ *4 yearly review of modern awards – Penalty Rates* [2017] FWCFB 1001.

policy response – only liberalising the labour market will shift priorities in favour of unemployed people. Without reforms that emphasise that individuals are in the best position to make decisions about their own conditions, the Fair Work regime will continue to be a major barrier to opportunity in the future of work. The IPA’s 2017 research papers ‘Fair Work and the Right to Work’ (Attachment A) and ‘Penalising work – a historical account of penalty rates in Australia’ (Attachment B) are enclosed.

2. *Entrepreneurship*

Entrepreneurs are central to the dynamics of economic development – leading the “creative destruction” process of innovation by spotting new goods and services, new methods of production, new markets, new sources of supply and new forms of organisation.² By taking risks in an uncertain environment, entrepreneurs are able to create new possibilities for work. Of course, not all of these attempts will ultimately be successful – but a key policy question is how can we promote greater levels of innovation through entrepreneurship? This is important because IPA research shows that, unfortunately, Australian entrepreneurship is in a state of stagnation.

One way that the dynamism of entrepreneurship can be measured is through firm entry and exit. A recent IPA report shows that Australia’s firm entry and exit remains below 2003-04 levels, declining by 16.1 per cent and 19.1 per cent, respectively – with Tasmania and South Australia as the worst performing states on this measure. The data shows that there has been a reduction in firm growth across all firm sizes, and across all industries. One international comparison measure of entrepreneurship is the number of ‘high-growth enterprises’ as a proportion of employment in industry. Worryingly, on this measure, Australia has the lowest rate of growth in the OECD.

The IPA has proposed three ways of reigniting Australia’s entrepreneurial spirit: reducing red tape which costs the Australian economy \$176 billion of lost economic output each year; reforming the industrial relations system to reduce the risks of hiring additional staff and growing firm size; and reducing taxes from Australia’s current position of one of the highest taxing countries in the world – according to the World Economic Forum – to boost incentives for entrepreneurs.

The IPA’s 2017 research paper ‘Reigniting Australia’s Entrepreneurial Flame: Finding the Missing 275,000 Businesses’ is enclosed (Attachment C). The IPA has conducted extensive research on red tape, which we would be happy to provide to the Committee if requested.

3. *Digital Platform Economy*

In spite of the entrepreneurship figures outlined above, the digital platform economy is showing promise. Airtasker’s 2017 survey on the ‘Future of Work’ reported that 10 per cent of respondents earned income from sharing economy platforms, and 58 percent would consider earning income from a freelancing platform in the future.³ The same report shows that younger workers value the flexibility and autonomy that the future of work offers. However, there have been calls to increase labour market regulation for these platforms – particularly for delivery or ride-sharing services. This would involve extending the operation of the Fair Work regime to work that would not otherwise be classified as employment.

² See e.g. Joseph Schumpeter, 2013 [1942], *Capitalism, Socialism and Democracy*, Routledge.

³ Airtasker, 2017, ‘The Future of Work’. Available online: <<https://www.airtasker.com/future-work/2017/>>.

Although there are similarities between digital platforms, all of them have unique arrangements with their service delivery partners. Broad brush legislation removes the ability to cater to these differences. It must be noted that the current space is not unregulated – there is an existing common law framework for distinguishing between ‘employees’ and ‘independent contractors’ that is capable of being applied to digital economy platforms. The underlying success of the digital economy platforms lies in their capacity to create value through the exchange of labour and capital resources that would not be otherwise not be used. The IPA has consistently advocated for a deregulatory and ‘permissionless innovation’ approach in order to prevent barriers to entry, undue cost and other future distortions.⁴ Further, the Committee should not underestimate the capacity of bottom-up, self-regulating institutions. The 2017 *IPA Review* article ‘A Platform to Work’ is enclosed (Attachment D).

4. *Understanding inequality*

The Committee’s terms of reference imply that there is a concern that the impact of technological change may affect inequality. However, there have been vast advances in technology over the last 15 years and the most reliable measure of income inequality – the Gini coefficient – suggests that inequality in Australia is low and decreasing. Further, international comparison data indicates that Australia has one of the most equal distributions of net wealth in the developed world. Other metrics show that the proportion of Australians in poverty has reduced – and those that are in poverty are able to move out of poverty relatively quickly. Regardless of what is happening to inequality, the lives of those Australians at the bottom of the income distribution are far better than in the past – thanks, in large part, to advances in technology.

Accordingly, recent claims that inequality in Australia is “accelerating” are simply not borne out by the data and should not be given any weight in the context of this inquiry. Instead, the IPA considers that policy makers should be focused on giving all Australians the greatest opportunity to succeed based on their own work and merit – and this includes reinvigorating the foundations of civil society. The IPA’s 2017 research paper ‘Understanding inequality in Australia’ is enclosed (Attachment E).

Conclusion

The IPA would welcome the opportunity to speak to our submission and answer any questions at a public hearing of the Committee.

Yours faithfully



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Encl.

⁴ See e.g.: Institute of Public Affairs submission to the Victorian Parliamentary inquiry into Ride Sourcing Services, 5 August 2016. Available online: <<https://www.parliament.vic.gov.au/eic/inquiries/article/3037>>.