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September 26, 2016

SENT BY EMAIL: CWR.SpecialAdvisors@ontario.ca

Changing Workplaces Review
ELCPB
400 University Ave., 12th Floor
Toronto, ON M7A 1T7

Dear C. Michael Mitchell and The Honourable John C. Murray, Special Advisors,

RE: ONTARIO MINISTRY OF LABOUR - CHANGING WORKPLACES REVIEW: SPECIAL ADVISORS' INTERIM REPORT

In their Interim Report, the Special Advisors state that, "The growth of 'the sharing economy' continues to challenge business, [and present a challenge] to lawmakers and to regulators".¹ While this is no doubt true, the sharing economy also presents an opportunity.

As part of the initial consultative phase of the Changing Workplaces Review, Uber Canada provided a written submission dated September 17, 2015. The labour market analysis of Uber driver-partners outlined in that submission demonstrated how the contractual nature of work as an Uber driver-partner enables Ontarians to tap into the sharing economy to earn extra income with the added benefit of flexibility to set their own schedule and work around other part- and full-time jobs and family commitments.

This second submission, in response to the Interim Report, outlines how independent contracting through the sharing economy, long the norm in the traditional taxi industry prior to the existence of Uber, is providing Ontarians with new opportunities and ways to earn money, especially in light of the challenging financial circumstances for a growing number of Ontario families.

The Contingent Labour Market

According to the Changing Workplaces Review Special Advisors' Interim Report, some of the growth in self-employment is "highly controversial with changes in industry practice (such as the change from employed taxi drivers to allegedly independent providers who provide services to Uber)".² However, as Hall and Krueger point out, "at least insofar as the advent of ride sharing

¹ Ministry of Labour, "Changing Workplaces Review Special Advisors' Interim Report" (2016: The Ministry of Labour) at pg. 19. Online: <https://www.labour.gov.on.ca/english/about/cwr_interim/index.php>.

² Ministry of Labour, "Changing Workplaces Review Special Advisors' Interim Report" (2016: The Ministry of Labour) at pg. 42. Online: <https://www.labour.gov.on.ca/english/about/cwr_interim/index.php>. It should be noted that the quote referenced here from the Special Advisors is inaccurate in that Uber driver-partners do

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services like Uber is concerned, the relevant market comparison is to other for-hire drivers, many of whom were independent contractors prior to the launch of Uber".³

Today, there is near universal use of independent contractor taxi drivers in the United States⁴ as well as Ontario and Canada. The independent contractor model for taxi drivers was long the norm prior to the existence of the sharing economy and Uber. In fact, "Independent

contractor drivers became the norm for both the taxi company owned taxis and later for owner-operated taxis"⁵ as the

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fragmentation of the taxi industry historically over time into a larger number of smaller and even single vehicle taxi companies occurred in order to remain competitive. Historical U.S. Department of Transportation (DOT) data from 1988 finds that 74.1 percent of taxi drivers were independent contractors as of 1986.⁶

Despite the fact that the taxi industry in North America has long been based on the independent contractor model for decades prior to the advent of Uber, conventional wisdom suggests that the nature of work across the economy has fundamentally changed towards a contingent model of work, leading to a lowering of labour standards in Ontario and across North America.

The Special Advisors' Interim Report notes that they have heard and read contradictory information about the nature of changes in the Ontario economy at large, including the workforce and workplace.⁷ An examination of the data indicates there is no evidence that a rise in the percentage of workers who are self-employed, independent contractors, or part-time, let alone that the sharing economy is responsible for weakening worker bargaining power and inequality. According to Bernhardt:

[W]e all share a strong intuition that the nature of work has fundamentally changed, contributing to the deterioration of labor standards. Yet at least with aggregate national data, it has been hard to find evidence of a strong, unambiguous shift

not provide services to Uber as independent contractors, and instead provide services to riders as independent contractors.

³ J. Hall & A. Krueger, "An Analysis of the Labor Market for Uber's Driver-Partners in the United States" (2015: Working Papers, Princeton University: Industrial Relations Section) at pg. 25. Online: <<https://newsroom.uber.com/2015/01/in-the-drivers-seat-understanding-the-uber-partner-experience/>>.

⁴ Ray A. Mundy et al., "Using Independent Contractor Drivers" (2005: Center for Transportation Studies) at pg. 5.

⁵ James Cooper & Ray Mundy, "Taxi! Urban Economies and the Social and Transport Impacts of the Taxicab" (2016: Routledge) at ch. 7. See also, Jeffrey A. Eisenach, "The Role of Independent Contractors in the U.S. Economy" (2010: Navigant Economics). Online: <<http://ssrn.com/abstract=1717932>>.

⁶ U.S. Department of Transportation, "A Statistical Profile of the Private Taxicab and Paratransit Industry" (1988: Department of Transportation) at pg. 16.

⁷ Ministry of Labour, "Changing Workplaces Review Special Advisors' Interim Report" (2016: The Ministry of Labour) at pg. 6. Online: <https://www.labour.gov.on.ca/english/about/cwr_interim/index.php>.

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toward nonstandard or contingent forms of work...⁸

Similarly, as Uber's previous submission outlined, while there are estimates that suggest that the non-traditional workforce will expand to encompass more of the workforce in the coming decades, like the U.S. data noted above, Canada has not moved to a contingent workforce in recent years in terms of increases in self-employment, part-time work, or temporary work during the 2008-09 recession.

While it is commonly accepted that the nature of work has changed, Canada has not moved to a contingent workforce in recent years in terms of increases in self-employment, part-time work, or temporary work.

According to Philip Cross and the Statistics Canada data he analyzed:

The upward trend of part-time work ended in 1992, after which it oscillated between 18 and 19 per cent of total employment. Meanwhile, the share of self-employment peaked in 1997, followed by a slight downward trend.

Data on temporary workers only begin in 2000, but the small increase shown does not change the overall conclusion that Canada has not moved to a contingent labour force in recent years, with no increase in these types of jobs during the 2008-09 recession.⁹

What available labour market data does tell us, which corresponds with what we observe in the data outlined in our first submission and highlighted later in this submission with respect to Uber driver-partners, is that:

- More than half of part-time workers are students or people 55 years of age or older who clearly express a preference for this type of work. Two-thirds of older part-time workers and more than 70 percent of part-time student workers do so by choice. In addition, half of temporary jobs are held by youths and persons over the age of 55.
- Self-employment is increasingly the choice of older workers starting a new career or business. More than one-third of the self-employed are people 55 years and older.
- Self-employment among older workers rose faster in provinces with tight labour markets, which suggests it is the "pull" of the benefits of working for yourself, and not the "push" of an absence of paid employment, which motivates self-employment.

⁸ Annette Bernhardt, "Labor Standards and the Reorganization of Work: Gaps in Data and Research" (2014: UC Berkeley, #100-14) at pg. 15. Online: <<http://www.irl.berkeley.edu/workingpapers/100-14.pdf>>.

⁹ Philip Cross, "Part-time work is not an evil that is harming social well-being" (2015: Globe and Mail). Online: <<http://www.theglobeandmail.com/report-on-business/rob-commentary/part-time-work-is-not-an-evil-that-is-harming-social-well-being/article25536404/>>.

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- Only a small fraction of the “contingent” labour market are those between 25-54 years old, which is also the group most likely to be starting and/or raising families. Contingent jobs are held by both younger and older workers because they place a premium on flexibility, which allows them to study or enjoy other leisure based activities in semi-retirement.¹⁰

Nevertheless, the Special Advisors' Interim Report notes that, “Without equating the concept of non-standard jobs to precarious jobs, our Terms of Reference recognize a correlation -- that is, that the growth of non-standard work has put many workers in more precarious circumstances”¹¹ Even if it is accepted that there has been a growth in non-standard work, which the Cross data outlined above refutes at length, the sharing economy and Uber are far from being the main drivers of “precarious” work.

The precarious jobs debate should not be fought on the sharing economy vs. traditional economy or Uber vs. taxi field. It's a false dichotomy. This is because on-demand platforms like Uber are providing new opportunities for people wanting work and to top up income from other part- or full-time jobs, which is especially important given the tough economic realities facing many Ontario families today.

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Challenging Financial Circumstances for Ontario Families

The Conference Board of Canada estimates that Ontario's GDP will rise by 2.8 per cent in 2016 and by 2.6 per cent in 2017, primarily due to export growth in the automotive sector, in addition to the the low Canadian dollar and Toronto's housing market.¹² Nevertheless, the improving Ontario economy masks a weaker underlying financial and economic reality for a significant number of Ontario families.

A Bank of America Merrill Lynch study based on a new composite measure of wage growth from three separate Statistics Canada indicators, found that wage growth in Canada is stagnating and that nominal wage growth hasn't budged much since the recent recession.¹³ This means

¹⁰ Philip Cross, “The Recession's Impact on Canada's Labour Market” (2015: University of Calgary, The School of Public Policy, SPP Research Papers, Vol. 8, Iss. 28). Online: <<http://www.policyschool.ucalgary.ca/sites/default/files/research/canadas-labour-market-crossfinal.pdf>>.

¹¹ Ministry of Labour, “Changing Workplaces Review Special Advisors' Interim Report” (2016: The Ministry of Labour) at pg. 23. Online: <https://www.labour.gov.on.ca/english/about/cwr_interim/index.php>.

¹² CBC News, “4 provinces to power Canadian economy - B.C., Manitoba, Ontario, P.E.I.” (2016: CBC News). Online: <<http://www.cbc.ca/news/business/conference-board-canadian-growth-1.3633173>>.

¹³ Michael Babad, “Pain in the wallet: Canada's wage growth has been sick for years” (2016: The Globe and Mail). Online: <<http://www.theglobeandmail.com/report-on-business/top-business-stories/>>

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that as inflation increases continue while wage growth remains stagnant, consumer purchasing power is negatively impacted. Rising unemployment (up from 6.85% to 7% in Ontario based on recent Statistics Canada data)¹⁴ and the falling Canadian dollar is not helping circumstances for Ontarians.

Not surprisingly, Statistics Canada reports that the ratio of household credit-market debt to disposable income, a key measure of the debt load, rose to 165.4 percent in the final quarter of 2015, which means that Canadian households held more than \$1.65 in debt for every dollar of annual disposable income.¹⁵ In addition, Statistics Canada's National Household Survey found that more than 25.2 percent of households are spending more than 30 per cent of their income on shelter, thus surpassing the standard measure for having an affordable home, which was up slightly from 24.9 percent in 2006 as compared to 2011.¹⁶

"Many Ontarians living pay cheque to pay cheque, not saving enough for retirement" ~ The Canadian Payroll Association

Headlines like "Many Ontarians living pay cheque to pay cheque, not saving enough for retirement" are unfortunately commonplace. In Ontario, The Canadian Payroll Association reports that:

- Almost half of all citizens report it would be difficult to meet their financial obligations if their paycheque was delayed by even a single week.
- Just 20% in Ontario say they could come up with \$2,000 if an emergency arose within the next month. This, the Canadian Payroll Association reports, makes Ontarians the least financially prepared for an emergency in all of Canada.
- 38% of employees in Ontario say they spend all or more than their net pay.
- Nearly one-half of working Ontarians (42%) feel overwhelmed by their debt level and debt levels have risen over the past year for 32% of Ontario respondents.¹⁷

[wage-growth-in-canada-has-stagnated-for-years-new-measure-finds/article29216591/>](#)

¹⁴ Daniel Tencer, "Canada's Unemployment Rate Steady at 7.1% As B.C. Leads, Alberta Lags" (2016: The Huffington Post). Online: <http://www.huffingtonpost.ca/2016/05/06/unemployment-canada-april-2016_n_9856130.html>.

¹⁵ David Parkinson, "Canadian household debt soars to yet another record" (2016: The Globe and Mail). Online: <<http://www.theglobeandmail.com/report-on-business/economy/canadians-debt-burden-still-growing-hits-record-in-fourth-quarter/article29172712/>>.

¹⁶ Heather Scofield, "Median family income in Canada is \$76,000, Statscan survey shows" (2013: CTV News). Online: <<http://www.ctvnews.ca/canada/median-family-income-in-canada-is-76-000-statscan-survey-shows-1.1449641>> .

¹⁷ The Canadian Payroll Association, "Many Ontarians living pay cheque to pay cheque, not saving enough for retirement" (2016: The Canadian Payroll Association). Online: <http://www.payroll.ca/cpadocs/npw/2016/Ontario_FINAL_EN.pdf>.

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Of course on top of these challenges is the fact that youth unemployment remains high across Canada and Ontario and the average Canadian student debt is estimated at the mid- to high \$20,000 range, with the Canadian Federation of Students pegging it at \$27,000.¹⁸

Thus, the reality is that today, more and more Ontarians are looking to earn more income, which is crucial given the personal financial and economic realities they and their families face. It should come as no surprise then that a growing number of Ontarians are engaging in flexible freelance work through the sharing economy and on-demand platforms like Uber.

Tapping the Sharing Economy to Make Ends Meet

While only a small percentage of Ontario workers find work through online platforms such as Uber and "Ask For Task"¹⁹ (Ontario has over 20,000 Uber driver-partners and growing), these platforms are important not so much as a primary source of income for most people, but for the flexibility they provide for changing family structures and as a buffer against volatility in income and unexpected expenses.²⁰

"Tap a button, get work". Uber is providing new opportunities for people wanting work and to top up employment income from other part- or full-time employment.

As such, the sharing economy adds an important new aspect to the existing labour market. "Push a button, get work" is core to the Uber value proposition. Through the advent of technology, sharing economy companies like Uber have created peer-to-peer platforms that connect Uber driver-partners and riders with peer-to-peer transportation, which makes securing work easier and quicker. This enables Ontarians to generate additional income in a more expedient manner than was ever possible before in traditional labour markets with high initial transaction costs and effort required. This is no doubt preferential to the alternative of taking on additional credit and debt, or constraining already tight family budgets further.

Driving with Uber is more flexible and gives workers in Ontario more control over their personal lives and schedules. Drivers with Uber decide when, where and for how long to drive. This helps

¹⁸ Brittany Verge, "Average student debt difficult to pay off, delays life milestones" (2014: CBC News). Online: <<http://www.cbc.ca/news/canada/average-student-debt-difficult-to-pay-off-delays-life-milestones-1.2534974>>.

¹⁹ 0.5% of the U.S. labour force in the U.S. (0.75M Americans) work through online platforms. See Lawrence F. Katz & Alan B. Krueger, "The Rise and Nature of Alternative Work Arrangements in the United States, 1995-2015" (2016: RAND). Online: <http://krueger.princeton.edu/sites/default/files/akrueger/files/katz_krueger_cws_-_march_29_20165.pdf>.

²⁰ The Special Advisors' Interim Report notes as much when it points out that, "Part-time work is often sought by those who need to balance work with family responsibilities, or students going to school or older workers who want to remain active labour force participants or may not have enough money to live comfortably in retirement." See Ministry of Labour, "Changing Workplaces Review Special Advisors' Interim Report" (2016: The Ministry of Labour) at pg. 38. Online: <https://www.labour.gov.on.ca/english/about/cwr_interim/index.php>.

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families get more value out of an expensive asset, the family car, which sits idle for most hours in a day. Driver-partners can turn the Uber app on and off as desired, starting or stopping work to address family needs like picking children up from school, tending to an elderly parent, or going to a job interview.

This is particularly important for younger students and those entering the workforce, stay-at-home parents, deaf and hard of hearing persons²¹, recent immigrants and refugees, and retired baby boomers, and especially when an unexpected bill or sudden job loss or income change occurs, or new obligations or caregiving responsibilities arise. Unemployment and underemployment among the deaf and hard of hearing is very high. Uber's platform has unique product features which enable them to participate.²² Similarly, immigrants and refugees often struggle to find suitable work due to language, skill and/or cultural barriers. What's needed, and provided for by Uber, are work opportunities that require no specialized skills, have low start-up costs, are flexible, provide reliable income and facilitate local social integration and social mobility.

In circumstances where a job is lost or hours at work are reduced, yet housing, car and other payments continue, families can put their car to work on the road earning money in a matter of days. Low fares on the uberX peer-to-peer ridesharing platform means more riders use the Uber app more frequently, which keeps Uber driver-partners busier and helps to maximize earnings. Tech based product improvements to the Uber app for drivers, such as "back-to-back trips" means that driver-partners are often sent their next trip request a few minutes before their current trip is completed, which reduces unpaid down time.²³ In this way, Uber is making a real difference when it comes to the challenges of income volatility, unemployment or underemployment, and wage stagnation.

This was confirmed by a first-of-its-kind study of the impact of the online platform economy, which concluded that:

Rapidly growing online platforms, such as Uber, Airbnb, and eBay, have created a new marketplace for work by unpundling a job into discrete tasks and directly connecting individual sellers with consumers. These flexible, highly accessible opportunities to work generate earnings that are volatile by choice. But they have the potential to help people buffer against income and expense shocks. The flexibility offered by the platform economy also suits the youngest cohort of workers,

²¹ Uber Canada and the Canadian Hearing Society recently announced a partnership. See, online: <<https://www.chs.ca/blog/uber-canada-teams-canadian-hearing-society-expand-work-opportunities-deaf-drivers>>.

²² Chantal Da Silva, "Uber's in-app features create job opportunities for deaf drivers" (2016: CBC News). Online: <<http://www.cbc.ca/news/canada/toronto/uber-for-deaf-and-hard-of-hearing-drivers-1.3546018>>.

²³ For example, In New York, Uber driver-partners are now spending more than half their time on-trip, compared to just a quarter of their time three years ago, making hourly earnings higher.

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who prioritize autonomy and work-life balance more than previous generations.²⁴

This study also showed that the online platform economy was a secondary source of income for a majority of people as they cycled on and off online sharing economy platforms and reliance on earnings from the online platform did not increase over time for individuals. Lastly, in this study earnings from platforms like Uber offset drops in traditional non-platform income or for when individuals were between jobs.

The above findings were echoed in an earlier study of Uber driver-partners in the United States, which our first submission outlined. While the findings below are from the U.S. Uber driver-partner pool, we believe they are generally consistent with Ontario Uber driver-partners:

- 87% want to be their own boss and set their own schedule. 65% of Uber driver-partners changed the number of hours worked per week by more than 25% from one week to the next.
- 85% want to have more flexibility in their schedule and balance their work with their life and family for better work-life balance. 51% of Uber driver-partners use the app 15 hours or less a week, when they decided to use it at all.
- Only 8% of active Uber driver-partners were unemployed before they joined the Uber platform. In contrast, 80% of Uber driver-partners were working full- or part-time just before they signed up with Uber, with as many as two thirds of them having a full-time job.

The importance of work-life balance to Ontarians was also noted in The Canadian Payroll Association research cited earlier: "Despite employees' challenging financial situations, only 28% of respondents nationally (and in Ontario) cite higher wages as a top priority. Instead, an overwhelming 46% in Ontario, and 48% nationally, are most interested in better work-life balance and a healthy work environment".²⁵

Recall as well from Uber's previous submission that in Toronto, 50% of uberX driver-partners drive less than ten hours per week, with over 30% driving five or fewer hours per week and less

"Some approach the on-demand economy as if it's a problem that needs solving. But when you look at the full picture of how people are truly using these platforms, it's clear that this is much more of an opportunity to be seized than a problem to be solved" ~ Uber Chief Advisor and Board Member David Plouffe

²⁴ Diana Farrell & Finoa Greig, "Paychecks, Paydays, and the Online Platform Economy" (2016: JP Morgan Chase & Co Institute) at pg. 8. Online: <<https://www.jpmorganchase.com/corporate/institute/document/jpmc-institute-volatility-2-report.pdf>>.

²⁵ Canadian Payroll Association, "Many Ontarians living pay cheque to pay cheque, not saving enough for retirement" (2016: The Canadian Payroll Association). Online: <http://www.payroll.ca/cpadocs/npw/2016/Ontario_FINAL_EN.pdf>.

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than 10% driving 35 hours or more hours a week, which is consistent across various cities in Ontario. A majority of driver-partners also vary their hours spent driving on the Uber platform from week to week.

As such, most Uber driver-partners are not driving for a lifetime, "full-time" or even "part-time". One of the main attractions of the Uber platform and online sharing economy platforms, is that Ontarians do not need to make a long term commitment. Driving an hour or two a day, on one own's schedule, can help pay monthly bills.

According to Uber Chief Advisor and Board Member David Plouffe, "Some approach the on-demand economy as if it's a problem that needs solving. But when you look at the full picture of how people are truly using these platforms, it's clear that this is much more of an opportunity to be seized than a problem to be solved".²⁶

Conclusion

In his report prepared for the Changing Workplaces Review, Gunderson notes that, "The challenge for employment standards and labour relations legislation is to recognize the diverse nature of non-standard employment and that a "one-size-fits-all" legislative and regulatory policy response is unlikely to be appropriate".²⁷ We agree.

The labour movement emerged from a particular labour environment -- the industrial age -- to solve the problems of that time. However, that's the past, and platforms like Uber operate in a new economic reality. Uber driver-partners have different objectives and needs today than workers fifty years ago. On the Uber platform, there is a wide range of driver-partner activity, with some people choosing to drive just a few hours a week or only during rush hour, while others drive every day in a more "full-time" capacity. With such diversity, there is truly no typical Uber driver-partner.

At the same time, the sharing economy itself is rapidly maturing and startups are stepping up to address shortcomings. For example, JobBliss is a new company working to address challenges of the freelance economy. The JobBliss platform is a matchmaking service for freelancers and companies. The platform is built on management tools to connect employers directly with local reputable freelance workers. The platform helps freelancers manage time between multiple employers and establish long-term relationships with hiring managers. JobBliss recently announced the addition of new features, such as time tracking invoicing for paycheques and benefits. Other sharing economy companies are springing up to more efficiently connect

²⁶ David Plouffe, "Uber and the American Worker" (2015: Uber). Online: <<https://medium.com/@davidplouffe/uber-and-the-american-worker-bdd499ec5323#.alp84rfy7>>.

²⁷ Morley Gunderson, "Changing Pressures Affecting the Workplace and Implications for Employment Standards and Labour Relations Legislation" (2015: Ontario Ministry of Labour, Changing Workplaces Review) at pg. 31. Online: <<https://cirhr.library.utoronto.ca/sites/cirhr.library.utoronto.ca/files/research-projects/Gunderson-7-Expected%26Actual%20Impact%20Emp%20Standards.pdf>>.

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freelancers and traditional companies through various technologies like artificial intelligence, to fill hourly paid shift work, on demand, while taking proceeds of profits earned, and pooling it for workplace benefits for independent contractors such as vacation pay, workers' compensation, etc.

Given this reality, the independent contractor model works well for Uber driver-partners. Without it, they would lose the necessary independence, control, and flexibility that enables them to tap easily into the sharing economy as needed, to make more money on their own schedule and work around other part- and full-time jobs and family commitments to make ends meet in otherwise challenging financial and economic times for families in this province.