

Uber and the Future of Work

*Formal rights, collective action and experiences of
work within the platform economy*

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Declaration of Originality

This work contains no material which has been accepted for the award of another degree or diploma in any university, and to the best of my knowledge and belief, this thesis contains no material previously published or written by another person except where due reference is made in the text of the thesis.

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Introduction

Research focus

This thesis addresses itself to the question, ‘To what extent does the current regulatory environment allow for decent work within the platform economy?’ Despite definitional difficulties, this thesis will be guided by the conceptualisation of decent work provided by the International Labour Organisation (ILO) (2017), revolving around work that is “productive and delivers:

1. A fair income;
2. Security in the workplace and social protection for families;
3. Better prospects for personal development and social integration;
4. Freedom for people to express their concerns, organise and participate in the decisions that affect their lives and;
5. Equality of opportunity and treatment for all women and men”.

Platform work has been widely heralded as a liberating, progressive force which provides workers with the opportunity to become micro-entrepreneurs and enjoy the freedom and autonomy of ‘being their own boss’. This thesis aims to transcend the entrepreneurial image of platform work and explore the nature of the relationship between workers and platform firms, the role of digital communication in building and maintaining this relationship, and the role of labour regulations in shaping the experiences of platform workers. The importance of the worker-employer relationship has been highlighted by the Taylor Review into modern working practices in the United Kingdom and has been described as an integral factor in shaping experiences of work (Taylor et al. 2017). However, in the context of platform work, relations between workers and digital businesses is shrouded in uncertainty, secrecy and laden with tenuous promises of opportunity that hitherto have gone largely untested. Critically, this informational vacuum and lack of clarity impacts on the security and predictability of work. These issues will be explored through a case study focusing on the first-hand experiences of Uber drivers operating in the Sydney metropolitan area.

Definition of key terms

To provide this thesis with conceptual clarity, it is necessary to firstly define and explain key terms that will be used throughout. As will be discussed in Chapter One, scholarly literature in this area is characterised by definitional controversies and heated debate. Within academic and popular discourse, the ‘sharing economy’ has been the most prominent term used to describe this emerging economic sector, however it has become an increasingly incoherent analytic category. The label adopted to describe this phenomenon has ramifications for the ways in which digital platforms are analysed, used and regulated. This thesis therefore adopts a broader and more neutral term, namely the platform economy. There is no agreed definition of the platform economy and its boundaries are difficult to delineate. This thesis will adopt the conceptualisation offered by Srnicek (2017) and Kenney and Zysman (2016) revolving around digital intermediation.

Platforms can be broadly defined as “digital infrastructures that enable two or more groups to interact” (Srnicek 2017, p. 43). They are a set of digital frameworks that “serve to organise and structure economic and social activity” (Kenney & Zysman 2016, p. 65) and are built upon a complex combination of algorithms, software, hardware, networks and cloud computing. Some platforms provide users with the tools to create their own products or marketplaces (Srnicek 2017, p. 43). Digital platforms mediate interactions between different groups of users including producers, consumers, suppliers, service providers and advertisers. Platforms are “extractive apparatus” (Srnicek 2017, p. 48) for the collection of data which is refined and sold to other companies. Data is therefore the raw material and vital resource on which the platform business model hinges (Srnicek 2017, p. 42). Platform firms are the companies that own and operate these digital infrastructures and depend on the “digitization of value-creating human activities” (Kenney & Zysman 2016, p. 62). These include Google, Facebook, Amazon, Uber and Airbnb. The latter two firms are examples of what Srnicek (2017, pp. 49-50) terms on-demand or lean platforms that attempt to stream-line operations, minimise asset ownership and reduce labour costs to maximise profits. These firms operate within the broader ‘platform economy’.

Similarly, there is no consensus among scholars as to the definition of platform work or platform workers. In the context of this thesis, platform work will be used to describe productive labour performed through digital platforms. Stanford (2017, p. 3) identifies five broad organisational features of platform work: (1) Work is performed on an on-demand or as needed basis; (2) Work is compensated on a piece-work basis; (3) Workers are required to supply their own capital equipment; (4) A triangular relationship exists between end-user (consumer), worker and platform firm; (5) Digital intermediation facilitates the commissioning, supervision, delivery and remuneration of work. A platform worker is somebody who engages in platform work and conceptualised collectively, platform workers will be termed on-demand labour.

Thesis structure

This thesis will analyse experiences of platform work and the regulatory environment in which it is performed in four sections. Chapter One will explore the emergence of the platform economy and situate it within broader historical and economic change. It will illustrate the presence of key organisational features of platform work since early capitalism and thereby undermine approaches that valorise its innovative nature. The rise of work that is mediated by digital platforms will be positioned as an extension of the resurgence of flexible employment relations during the post-Fordist era. After historically contextualising platform work, this chapter will then trace the conceptual development of the platform economy within academic literature. Existing empirical research into the platform economy will be explored according to its economic, environmental and social impacts. The lack of definitional consensus in this area will be highlighted and demonstrated as illustrative of the growing influence of digital platforms as well as a lack of scholarly understanding about the mechanisms underpinning their operation. This chapter will conclude by introducing my case study focusing on Uber and the experiences of thirteen drivers operating in the Sydney area.

Chapter Two will provide an in-depth analysis of the regulatory environment in which platform work is performed in Australia. Three areas of law will be examined in this chapter, namely taxation, insurance and labour law and uncertainty will be shown to characterise their operation

in the context of platform work. This chapter will illustrate the importance of employment classification in determining the benefits and protections extended to workers despite growth in non-standard forms of work. In general, classification as an independent contractor limits access to legal protections and collective bargaining for platform workers, undermining their capacity to improve working conditions and redress power imbalances in relation to platform firms. The application of existing regulations and labour standards is further complicated by the triangular relationship that exists between end-user, platform worker and platform firm. This chapter will then examine recent and ongoing legal challenges of the employment status of platform workers occurring overseas and assess their applicability to on-demand labour in Australia. The capacity for reform through common law channels will be explored in addition to examining the effectiveness of the courts' flexible response to the rise of non-standard working arrangements. The scope for collective action among independent contractors will be assessed and shown to be limited due to the restrictive application of commercial rather than employment law. Anti-competitive implications exist for the organisation of industrial action among platform workers and these serve to hinder the ability of workers to collectivise. This chapter will conclude by pointing to the need for legislative reform to address regulatory weaknesses with possible strategies for reform later evaluated in Chapter Four.

Having highlighted the extent and nature of regulatory gaps, their impact on experiences of work and the nature of the relationship between platform workers and firms will then be explored in Chapter Three. This chapter will challenge the entrepreneurial image of platform work and investigate the realities of work in this sector. Firstly, it will outline the findings of previous studies into the experiences of platform workers. Regional variability has been a key finding of many studies that have largely focused on the experiences of platform workers in the United States and Global South. There is therefore a lack of research into experiences of platform workers in an Oceanic or Australian context. Findings from semi-structured interviews with Sydney Uber drivers will then be presented in accordance with key themes that emerged through the analysis of qualitative interview data. These include the extent of choice and flexibility exercised by workers, poor communication between platform workers and platform firms, a lack of transparency by platform firms and its role in fostering regulatory confusion among platform workers, unrealistic expectations for platform work and associated income insecurity. These findings will suggest that the relationship between workers and platform firms is characterised by asymmetrical information and power relations.

The implications of interview findings for theoretical understandings of platform work will then be explored in Chapter Four. The precariousness of platform work hinges on the asymmetrical relationship between on-demand labour and platform firms. Power and information asymmetries manifest in regulatory confusion among workers and are maintained through platform design and detached styles of digital communication by firms. The capacity for this disparity to be corrected through collective organising by workers will then be assessed. Unions and worker associations have the potential to assist in filling informational gaps and advocating for worker's rights, however labour-driven negotiations with platform firms are considerably hindered by the current regulatory environment. Chapter Four will then consider the implications of this analysis for the development of regulatory strategies to respond to the precariousness and inequities of platform work. It will be argued that robust legislative reform is the most effective means through which to strengthen formal protections for platform workers. In the absence of government information, platform work will maintain its precarious quality and decent working conditions will be out of grasp for a growing number of individuals.

Why does this research matter?

Platform work represents a rupturing of traditional employment relations, shifting the risks and costs associated with work away from firms and onto workers. Platform workers are engaged by firms as independent contractors that do not possess the same legal protections as employees, despite generally engaging in similar forms of work and suffering from comparable vulnerabilities. The true extent of this shift is difficult to determine while this sector remains in its early stages of development. The value of the platform economy in Australia today is estimated to be \$15.1 billion and this figure is expected to expand to \$55 billion over the course of the next five years (Baldassarre 2017). As the platform economy continues to grow across industries, more workers will inevitably turn to digital platforms to make ends meet. It has been estimated that the number of people earning income through digital platforms in New South Wales has doubled since 2016 to 92,400 (Department of Finance, Services & Innovation (NSW) 2017). As this number grows, the attention of policy-makers needs to be directed at promoting decent work and ensuring fair working conditions within this sector. Labour law

coverage must constitute a core protective aim of the legal regime. Fundamentally, major reform of the existing regulatory framework is required and governments need to play a more proactive role in mediating the asymmetrical relationship between on-demand labour and platform firms. A more accurate account of the platform worker experience will be critical in generating an appetite for reform.

Chapter One:

Situating the Platform Economy

Introduction

The aim of this chapter is to provide a broad overview of the emergent scholarly literature relating to platform work and the platform economy, whilst also situating these concepts within the context of broader political, historical and economic change. Firstly, the rise of the platform economy will be contextualised in the historical era of post-Fordism and structural change in the labour markets of the Global North. It will be argued that platform work serves as an extension of an observable shift towards the flexibilisation of the workforce that has been facilitated in large part by neoliberal market-oriented state policies since the 1970's. This chapter will then outline the differing conceptualisations of the platform economy as well as definitional debates that exist among academics and commentators. An overview of empirical research in this area will be provided according to the economic, social and environmental impacts of the platform economy. The scope of investigation will then be narrowed to the operation of platforms within the transport sector. Finally, my case study focusing on the experiences of Uber drivers will be introduced. Currently, there is a lack of scholarly research relating to labour and experiences of work within the platform economy. While this research has the potential to make a valuable contribution to scholarly understandings of platform work, ultimately more attention needs to be directed at this emerging economic sector.

Historical origins of the platform economy

The platform economy emerged in the aftermath of the Global Financial Crisis in 2008 (Schor & Fitzmaurice 2015). Platform work signals an extension of a broader shift towards flexible labour during the post-Fordist era in the Global North. This structural change in the labour market stems from mutually constitutive processes of financialisation and globalisation and a perceived shift in government policies towards neoliberal market-oriented strategies (Quiggin 1999). The increased prominence of neoliberal ideology also extends to the domain of corporate leadership (Harvey 2005; Frank 2000), though the extent of this influence should not be overstated (Doogan 2009, p. 39).

In the Global North, the flexibilisation of the workforce has entailed a move away from the stability and continuity of the Standard Employment Relationship (SER) that prevailed during the post-WWII golden era of economic growth. During this period of industrial history, productivity and real wages rose, in part due to effective collective bargaining by trade unions and the pursuit of Keynesian economic policies by governments (Silver 2014, p. 55). Breman and van der Linden (2014, p. 923) usefully identify five key features of the SER:

1. Continuity and stability of employment;
2. Full-time job with one employer only at the employer's site of business;
3. A wage that enabled an employee to support a small nuclear family without falling below acceptable living standard;
4. Legal rights to representation, protection and participation/codetermination;
5. Social insurance provisions based on the length of employment and the level of previously earned income.

Following the demise of the Bretton Woods system and a crisis of profitability in the 1970's, corporations began to outsource tasks and reduce labour costs in an effort to maintain market competitiveness (Harvey 1990, p. 145). The strength of the flexible labour regime lies in its capacity to cater to specific firm needs and allow for quick adaptation to changes in production according to market fluctuations (Harvey 1990, p. 150). Munck (2002, p. 73) has described flexibility in its various forms as "the defining characteristic of labour" in the post-Fordist era. This process of workforce flexibilisation has not been homogenous due to the embeddedness of labour markets within institutions and social relations (Polanyi 2001, p. 250). Despite national variation, labour flexibility consists of five key elements according to the OECD:

1. External numerical flexibility – number of employees adjusted in accordance with employers' needs.
2. Externalisation – part of the firm's work is put out through sub-contracting.
3. Internal numerical flexibility – working hours and their 'delivery' adjusted according to employers' needs.
4. Functional flexibility – workers' jobs modified according to employers' needs.

5. Wages flexibility – labour’s reward according to productivity and market conditions (cited in Munck 2002, p. 72).

In practice, this process of flexibilisation has involved a decline in the number of full-time and permanent jobs, prolonged stagnation in real wages, increasing irregularity in the length of the working day, a rise in non-standard (particularly casual, temporary and part-time) forms of work and growth in labour outsourcing and subcontracting by firms (Breman & van der Linden 2014, p. 925). In addition, labour market restructuring has disempowered workers and increased the bargaining power exercised by employers (Harvey 1990, p.150).

While mourning the demise of full-time employment would be premature, there has been a trend of growth in flexible work arrangements throughout the OECD since the 1980’s. Research conducted by the Independent Inquiry into Insecure Work (2012) indicates that only half of paid work carried out in developed Anglo-Saxon nations such as Australia, the UK and the US adheres to the SER model of employment and this proportion is diminishing. In Australia, the number of part-time employees as a proportion of the workforce increased from 16 to 30 per cent between 1979 and 2009 (ABS 2009) and by 2016 casual employees constituted one-fifth of the employed workforce (ABS 2017). Growth in labour-hire and independent contractor arrangements also illustrates a rise in non-standard forms of work, accounting for a combined 10.1 per cent of the Australian labour force in 2014 (ABS 2015). Similarly, the US labour market has also experienced growth in alternate employment relations such as on-call workers, independent contractors and those employed through labour-hire arrangements. According to Katz and Krueger (2016), this segment of the workforce increased by 5.7 per cent between 2005 and 2015 in part due to the rise of the platform economy.

Radical restructuring to enhance labour market flexibility has involved the substitution of waged work with self-employment (Breman & van der Linden 2014, p. 925). This is the foundation of the business model adopted by platform firms that engage workers solely as independent contractors. A report commissioned by Uber found that almost one per cent of the US labour force used digital platforms to earn income in 2015 (Harris & Krueger 2015). Platform work is promoted by firms as an innovative opportunity for workers to ‘become their

own boss' and earn copious amounts of money. Workers can decide when, how long and in what manner they work. They are encouraged to assume the role of micro-entrepreneurs and take control of their financial destinies. The principles underpinning these marketing strategies reflect neoliberal ideals that valorise individual freedom and responsibility. However, as this thesis will demonstrate, the precarious reality of worker experiences within the platform economy starkly contrasts this glamorous facade.

As contended by several scholars including Quinlan (2012) and Stanford (2017), the main organisational characteristics of platform work are not novel or innovative but rather signal a return to earlier periods of capitalism. When viewed in the context of capitalist development, the SER model of work represents a deviation from the historical norm of contingent employment. The features of platform work closely resemble the 'putting-out' system evident during merchant capitalism in Europe whereby workers were allocated production tasks that they completed in their homes. No guarantee of further work existed and merchant capitalists on-sold the finished product to third-party consumers (Stanford 2017, p. 386). Parallels with the organisational features of platform work include the need for workers to supply their own tools and equipment, compensation on a piece-work basis and the requirement for labour to be available on a contingent or on-demand basis (Stanford 2017, p. 383). This business model shares similarities with the triangular relationship between workers, firms and end-users in the platform economy and obfuscates the arrangement between workers and platform firms.

Thus, the key features of labour extraction by platform firms are not new but rather a reversion to more contingent forms of employment that have been adopted by employers throughout the history of capitalism. Outsourcing labour and subcontracting arrangements have consistently played a role in management strategies across diverse industries (Stanford 2017, p. 5). The main innovation of platform work lies in the role played by digital technologies in enabling the supervision, performance and remuneration of work (Stanford 2017, pp. 3-4). The work practices and obscured relationships between workers and platform firms are a "response by employers to changed economic and social conditions within which their labour extraction function is performed" (Stanford 2017, pp. 2-3) and represent a mechanism through which businesses can maximise profit in a contemporary digital context whilst minimising capital investment and labour costs.

Conceptualising the platform economy

Most scholarly accounts focus on the novelty of the platform economy instead of analysing it in the historical context in which it has arisen (though Stanford (2017) is a notable exception to this trend). Academic and popular discourse in this area has been plagued by definitional controversies. Various concepts such as the ‘sharing economy’ (Schor 2014, 2015, 2017; Stephany 2015; Sundarajan 2016), the ‘collaborative economy’ (Botsman & Rogers 2010), the ‘gig economy’ (Minter 2017; Stewart & Stanford 2017), the ‘on-demand economy’ (Frenken & Schor 2017), the ‘mesh’ (Gansky 2010) and ‘platform capitalism’ (Srnicek 2017) all function as metaphors deployed by scholars and commentators to describe essentially the same phenomenon. Significant scholarly attention has been directed at providing definitional clarity in this area (Schor & Attwood-Charles 2017; Richardson 2015; Frenken & Schor 2017; Gruszka 2016). However, the proliferation of conflicting terms illustrates the impact of platforms on markets, governments and society, as well as the extent to which their dynamics and operation are not clearly understood (Kenney & Zysman 2016, pp. 62-3).

Botsman & Rogers (2010) provided the first account of the platform economy, terming the phenomenon ‘collaborative consumption’ and highlighting its potential to increase the utilisation of idle assets. It was argued that this would simultaneously increase economic efficiency, environmental sustainability and community connectedness. The ‘sharing economy’ has become a more popular term and functions as an umbrella concept that encompasses an increasingly broad range of markets and activities (Frenken & Schor 2017, p. 4). These include large for-profit platforms such as Uber and Airbnb as well as non-profit community-based initiatives such as time banks and tool libraries (Schor 2014, p. 1). There has been no widespread agreement among scholars about where the boundaries of the sharing economy should be drawn and over time its definition has become “a matter of self-selection by participating entities” (Schor & Attwood-Charles 2017, p. 3). During 2012, several “share” conferences were held by platform founders, consultants and supporters to celebrate the emergence of the sector (Frenken & Schor 2017, p. 3). It has been advantageous for large for-profit platforms to associate themselves with these non-profit initiatives due to the positive symbolism and connotations of the term “sharing” (Schor 2014). Inclusion in this discourse has allowed for-profit platforms to build on goodwill and make largely false assertions

regarding their contribution to ecological sustainability, community connectedness and economic efficiency (Schor & Attwood-Charles 2017, p. 3). The sharing economy has therefore become a largely performative term (Frenken & Schor 2017; Richardson 2015) and also a target for mockery by some commentators who have termed it the ‘share-the-scrap economy’ (Slee 2015; Reich 2015; Hill 2015).

In an effort to avoid these issues, Frenken et al. (2015) return to the concept of collaborative consumption within which the sharing economy is one aspect, along with the second-hand, on-demand and product-service economies. They define the sharing economy as “consumers granting each other temporary access to underutilized physical assets (idle capacity), possibly for money”. This segmented view differs from the approach adopted by economists such as Gawer (2014) who conceptualise these as multi-sided markets in that platforms mediate interactions between workers and consumers. Similarly, in identifying the defining features of the sharing economy Schor and Fitzmaurice (2015) emphasise the contrast between for-profit and non-profit platforms and peer-to-peer as opposed to person-to-person structure. However, none of these approaches fully encapsulate the complexity of the platform economy and fail to recognise the rising levels of control that platform firms exercise over their workers.

The most satisfactory approach to analysing this emerging economic sector positions the platform economy in the context of broader technological change and value creation strategies adopted by businesses. This interpretation is utilised by Srnicek (2017) as well as Kenney and Zysman (2016) who argue that the economy is being restructured in such a way that significantly enhances the power of large technology companies such as Google, Amazon and Facebook. In essence, platforms are “digital infrastructures that enable two or more groups to interact” (Srnicek 2017, p. 43). The platform business model hinges on the extraction, refinement and sale of data (Srnicek 2017, p. 40). Within the platform economy, firms operate according to the logic of this distinctive business model. Utilising this broad definition and neutral term allows for a holistic analysis of platform work and avoids semantic debates regarding the boundaries of the ‘sharing economy’.

Existing research into the platform economy

Empirical research in this area broadly relates to the social, economic and environmental impacts of the platform economy. Schor (2014, p. 7) emphasises its social core and the occurrence of exchange between unknown individuals or “stranger sharing”. Trust between strangers is generated via ratings systems and reputational data which replace branding or licensures in helping to provide consumers with information while lowering the perceived risks associated with partaking in transactions with strangers. Many studies have focused on the quality of such data (Zervas, Proserpio & Byers 2015; Overgoor, Wulczyn & Pots 2012; Luca & Zervas 2015) and some have found that they serve to undermine the capacity for platform users to form genuine social connections (Parigi & State 2014). Ratings systems have also been found to reproduce gender, class and racial biases (Edelman & Luca 2014).

Framing the platform economy in terms of economic benefits for users and providers is widespread. Several studies focus on intrinsic and external motivations for platform use (Hamari, Sjöklint & Ukkonen 2015; Tussyadiah 2015). While social connection and environmental sustainability may play some role in motivating users, the greatest reason for participation in for-profit platforms is financial (Mohlmann 2015; Balck & Cracau 2015; Bardhi & Eckhardt 2012). While economic gains can be made by users and providers where transactions would otherwise not have taken place, the broader economic effects of platforms on other markets are often overlooked. The use of Airbnb has been shown to substantially decrease hotel revenue, especially among low-cost businesses (Zervas, Prosperio & Byers 2016). An area that is gaining increased media attention is the effect of accommodation platforms on the housing market in cities with large numbers of tourists (van der Zee 2016). Recent figures from a University of New South Wales report indicate that 60 per cent of Airbnb listings in Sydney are for entire homes, many of which would have previously been available for long-term rent by residents (Bainbridge & Armitage 2017). The role played by platforms in reducing housing affordability in cities such as Sydney is yet to be investigated comprehensively.

Another sector that has been significantly impacted by the growth of the platform economy is the transportation industry. Shared forms of transportation and their impact on mobility are explored in detail by multiple authors in an edited book by Meyer and Shaheen (2017). A study conducted by Ciari and Becker (2017) examined the benefits and costs associated with bike sharing, car sharing and ride sharing, and found that shared ride services have the potential to help fill infrastructure gaps in urban cities. Framing the platform economy within the context of environmental sustainability is a key theme developed in scholarly analyses across various disciplines. Most research into bike sharing focuses on the benefits of increased cycling and decreased car use. However, research into bike share systems in North America conducted by Shaheen et al. (2012) indicates that levels of substitution from cars to shared bikes is low. The literature on bike-sharing shows that most users are motivated chiefly by convenience and to a lesser extent, environmental concerns (Fishman, Washington & Haworth 2013, p. 162).

Bates and Liebling (2012) focus on the environmental benefits of car sharing and highlight its potential to decrease the overall number of cars. Another study into car sharing undertaken by Martin and Shaheen (2010) found similar reductive effects on greenhouse gas emissions. While the findings of these and similar studies superficially support claims regarding the environmental benefits of the platform economy they have not been widely replicated across platforms operating in other areas. The net environmental effect of utilising platforms has been questioned due to the association between GDP increase and greenhouse gas emissions in high-income OECD countries (Knight & Schor 2014). Therefore, in the absence of any wide-ranging studies, claims regarding the environmental advantages of the platform economy remain largely unfounded (Cohen 2016).

The volume of scholarly analyses of ride sharing has grown substantially in recent years, due in large part to the commercial success of Uber. According to a report prepared for the Department of Finance, Services & Innovation (NSW) (2017), the number of ride sharing platforms operating in New South Wales has grown significantly since 2015 and now includes smaller companies such as GoCar and Shebah. In the 2015/16 financial year, Uber generated \$132 million in revenue, representing an increase of 242 per cent on the previous year (Department of Finance, Services & Innovation (NSW) 2017, p. 4). Uber's business model has

also expanded beyond the transportation sector to include UberEats, a platform for food delivery.

Case study: driving for Uber

It was an ordinary working day for 42 year old Eric Huestis, a full-time Uber driver in the American state of Vermont. He got into his car and clicked on the sleek black Uber icon on his phone's home screen. A pop-up alert on the screen asked him to contact customer support. From Uber's perspective Eric is the customer, somebody who engages Uber to find passengers for his private ride-sharing enterprise. He is redirected to an online form where he fills in his details. Minutes later he receives a message informing him that his criminal record isn't meeting requirements and needs to be reassessed before he can drive again (Shahani 2017). Eric was recently pardoned for possession convictions, however these weren't a problem when he passed the criminal history check in early 2016. Confused and upset he looks for a number to ring and speak to an Uber staff member. Despite being one of the most valuable tech start-ups on the globe, operating in 663 cities world-wide, there is no number for Eric to call.

Unlike the roads in Vermont, communication with Uber is not a two-way street.

Eric soon became stuck in a labyrinth of generic emails and automated responses, thrust from one disinterested Uber staff member to another. Whilst his Uber account was deactivated Eric was forced to pick up scrap metal to make ends meet. With no avenue to have his side of the story heard, he had to wait nearly a month while the mistake was rectified (Shahani 2017). During this time, Eric was put under significant financial and emotional stress. When allowed to drive again, he received no apology from Uber. Despite being glad to get back on the platform, Eric's relief was dampened by the \$3,000 he lost in wages (Shahani 2017).

This experience is emblematic of the precarious reality for millions of platform workers around the world. Platform firms have the capacity to sever their relationship with workers quickly

and easily, unencumbered by the unfair dismissal laws that usually protect employees. This story provides an insight into the anxiety and confusion experienced by many workers in the platform economy. Unaware of their relationship with the law, unsure of how much they will be paid from one week to the next and unable to get answers from the platforms that hold their financial fate in their hands. In the case of Uber, Eric's story also reveals a detached communication style that hinders the resolution of drivers' issues and a lack of informational transparency that keeps drivers in the dark and simultaneously ensures that Uber's operations remain shrouded in secrecy. These are prominent themes that have also arisen from my fieldwork, as will be discussed in Chapter Three.

According to a report prepared by Deloitte Access Economics for the Department of Finance, Services & Innovation (NSW) (2017, p. 8), there were 24,000 Uber drivers in Australia in 2016 and 8,000 were operating in Sydney. The number of Sydney drivers has increased almost three-fold since 2015 (Department of Finance, Services & Innovation (NSW) 2015). Uber's expansion has attracted intense media attention and litigation around its responsibility to pay GST and clarify its contracts with drivers. In 2017, the Federal Court confirmed the Australian Taxation Office's classification of Uber as a provider of "taxi travel" for the purposes of GST legislation, meaning drivers are now liable to pay the tax on every fare they receive (Han 2017). The Fair Work Ombudsman has also launched an investigation into Uber in June of 2017 over claims that it has been wrongly classifying its drivers as independent contractors (Marin-Guzman 2017a). This could create an opportunity for a legal test case to be brought against Uber that could result in drivers being reclassified as casual employees (Marin-Guzman 2017a). The legal framework underpinning the operation of the platform economy shapes the experiences of workers, especially in terms of pay rates, taxation and working conditions. The continuing rise of platform firms and increasing number of workers involved in this sector necessitates further research into the platform economy.

This thesis evaluates experiences of work in the platform economy through a case study focusing on the experiences of thirteen Uber drivers in Sydney. Relatively little attention within the field of political economy has thus far been devoted to researching the platform economy with a labour-centric focus especially in Australia. At time of writing, no comparable interview-based fieldwork has been conducted with this group of platform workers in the

Sydney metropolitan area. My research aims to contribute to addressing this gap in the academic literature, as well as potentially informing the decisions of workplace and employment policy-makers.

Conclusion

This chapter has explored the historical origins of the platform economy and situated the rise of platform work as an extension of the flexibilisation of the workforce. It has contextualised and examined the differing conceptualisations of the platform economy. The lack of definitional consensus and conceptual clarity that permeates the scholarly literature in this area reflects the limits of current understandings of the social, economic and political consequences of platform work and the way in which platform firms operate. This chapter has demonstrated that existing research in this area is heavily skewed towards analysis of the ‘sharing’ or redistribution of physical goods as opposed to the ‘sharing’ or purchase of less tangible commodities such as labour power. To deepen scholarly understandings of the platform economy, this thesis will focus on the experiences of platform workers. The regulatory environment in which platform work is currently being carried out in Australia will be examined in Chapter Two. This will illustrate the shift in employment relations represented by platform work as well as the increasing burden of risk and cost that platform workers are required to bear.

Chapter Two:

Formal Rights of Platform Workers

Introduction

This chapter aims to contextualise platform work performed in Australia through a survey of the existing regulatory environment, and identify how the rigidity of this regime poses challenges for workers in this sector. The first section of this chapter will provide a brief outline of the historical development of labour law and independent contractor agreements in Australia. It will then analyse the regulatory environment in which Uber driving in particular is being conducted with a focus on taxation, insurance and employment law. This chapter will then explore the question of whether platform workers are being misclassified as independent contractors through an examination of legal challenges that have occurred in comparable common law jurisdictions such as the United Kingdom. Finally, the barriers preventing independent contractors from engaging in collective bargaining and associated detriment for working conditions will be assessed. Ultimately, the political, legal and regulatory challenges posed by platform work necessitates a multi-faceted policy response from state and Commonwealth governments to redress the limitations in the existing legal framework. The issue of legislative reform and policy options will be revisited and explored in more detail in Chapter Four.

Development of Australian labour law

Labour law is concerned with social relationships between key stakeholders in the labour market, that is workers, employers, unions and the state (Stewart et al. 2016, p. 2). The *raison d'être* of this field of law is to regulate labour markets and afford workers with minimum protections that are not provided by the free marketplace (McCrystal 2014b, p. 663). In England during the eighteenth and nineteenth centuries, the common law developed around the individual employment contract and the principle that employees owed, *inter alia*, a duty of loyalty and obedience to employers (Stewart et al. 2016, p. 9). By contrast, in Australia collectivist interests played a larger role in the development of labour law due to the dominance

of the federal conciliation and arbitration system in mediating workplace relations (Creighton 2011, p.117). For example, the Conciliation and Arbitration Court was created in 1904 under s 51(xxxv) of the *Australian Constitution*, and was charged with the prevention and settlement of industrial disputes (Creighton 2011, p.117). Arbitrated decisions of the Court gave rise to the award system, reflecting a ‘safety net’ of minimum terms and conditions for applicable employees at an industry level. The 1980’s bore witness to a shift towards collective bargaining at an enterprise level (Creighton 2011, p.117). However, the ‘no disadvantage test’ retained its importance by stipulating that an enterprise agreement could not leave employees worse off than the relevant award (Creighton 2011, p. 119). In this historical context, the individual contract of employment played a minimum role in shaping employment relations (Creighton 2011, p. 119). Labour law in Australia therefore developed in a unique context during the 20th century, when the SER became highly prevalent.

Surveying the current regulatory environment

Capitalising on the rigidity of laws and regulations across a wide field at both state and federal level, Uber has occupied a legal and regulatory grey area since its Australian launch in 2012. For three years, Uber operated illegally in New South Wales as it had failed to comply with state government taxi and hire car regulations. Several drivers were issued with vehicle registration suspensions and fines by officials from the Roads and Maritime Services (RMS). Uber was legalised in December 2015, after an independent taskforce established by the NSW state government recommended the loosening of taxi industry regulations (Code 2015). Reforms required ride-share drivers to obtain a private hire vehicle authority from the RMS, undertake criminal background checks, and subject their cars to regular safety testing (Code 2015). Currently, Uber is legal in every Australian state and territory apart from the Northern Territory (ABC News 2016).

The application of existing taxation laws to Uber is in a state of ongoing change. In 2015, the Australian Taxation Office (ATO) made an administrative ruling that Uber was a provider of “taxi travel” in accordance with the definition provided in section 195(1) of the *Goods and Services Tax Act 1999* (Cth). This ruling rendered all Uber drivers liable for payment of the

GST on every dollar earned, irrespective of whether their annual turnover reached the \$75,000 threshold. This was subsequently challenged by Uber in the Federal Court, which ultimately confirmed the ATO's determination, meaning that drivers are now required to register for GST.¹ In Sydney, Uber introduced a 55 cent booking fee to cover 'operational costs' as well as increasing the minimum fare from \$8 to \$9 (Boyd 2017). This booking fee is estimated to increase Uber's profits by \$22.8 million per year (Boyd 2017), while its impact for drivers will be minimal. The ATO is also conducting a review into whether drivers should be classified as casual employees under taxation law, which generates further uncertainties regarding the legal status of platform workers (Marin-Guzman 2017a).

Similar confusion exists in relation to the application of insurance regulations to ride-sharing platforms. In the context of Compulsory Third Party (CTP) insurance, taxi and hire-car services are classified as a specific vehicle class, while ride-sharing services are considered part of the ordinary class of passenger vehicles (Robinson 2016). This raises several issues, for example if an Uber driver was involved in a road accident in which a passenger was severely injured, it is extremely unlikely that their private insurance company would cover ongoing medical and financial costs incurred by the passenger. The NSW State Government has in part responded to regulatory uncertainty in this area with legislative reform, specifically the *Motor Accident Injuries Bill 2017* (NSW) which comes into effect in December 2017 (State Insurance Regulatory Authority 2017). This is designed to provide more consistency and transparency between point-to-point transport providers, however the effectiveness of such reforms in overcoming contractual complexity and redressing power differentials between platform workers and firms is not yet settled.

Stewart and Stanford (2017, pp. 425-6) describe the dynamic of platform work as a triangular relationship between the end-user of a service (platform users such as Uber riders), the worker who produces or performs a service (platform workers such as Uber drivers) and the digital intermediary that enables the service provision (platform-based companies such as Uber) (see Figure 2.1). This complex relationship raises issues in relation to insurance and liability for third party injuries. Specifically, even though a contract exists between the worker and the

¹ *Uber B.V. v Commissioner of Taxation* [2017] FCA 110 (17 February 2017).

digital intermediary this is characterised as a service contract for use of software, and generally the obligations and responsibilities of platform firms remain limited through the doctrine of privity and the existence of agreements between workers and end-users. The structure of this legal relationship therefore shifts the risks and costs associated with platform work away from firms and onto platform workers.

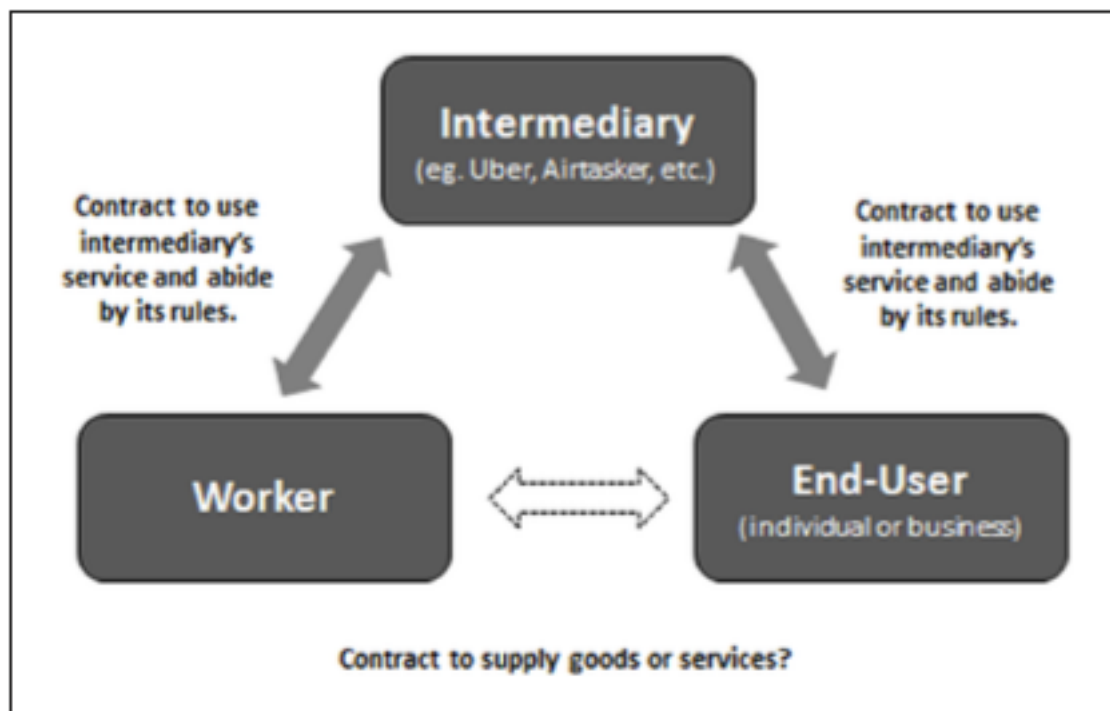


Figure 2.1: The triangular relationships of the gig economy.
Taken from Stewart & Stanford 2017, pp. 426.

Crucially, platform workers such as Uber drivers are purportedly not engaged as employees but independent contractors who run their own micro-enterprises. The Australian Law Dictionary defines independent contractors as a “residual category” (Mann & Blunden 2015) of worker “who acts as an independent principal, exercising an independent discretion in carrying out a task for his own business interest and who is retained simply to produce a result”.² Independent contractor agreements have traditionally been conceived as ‘contracts for service’, rather than ‘contracts of services’ the latter describing an employment relationship (Stewart et al. 2016, p. 195). Across common law jurisdictions, self-employed workers are generally not afforded legislative protections, minimum labour standards and access to

² *Hollis v Vabu Pty Ltd* (2001) 207 CLR 21.

collective bargaining schemes, based on the premise that these workers are entrepreneurs, benefitting from running businesses of their own. However, the broad group of workers who fall within the 'self-employed' category is far from homogenous. The extent to which independent contractors can benefit from the risk-reward model of enterprise, and freely negotiate fair contractual terms varies significantly. Independent contractors working in low skill industries, subject to a high degree of dependency on one employer, rarely possess this capacity. Falling within the regulatory chasm, means these workers are often more vulnerable than employees (McCrystal 2014b, p. 222).

There is no scope for drivers to negotiate the terms of their contract with Uber and if they refuse to accept Uber's terms they are denied access to the digital platform. Drivers sign a standard form agreement with Uber which uses explicit language framing it as a technology company, or ride-sharing 'aggregator', that provides its driver-partners with information and payments technology to further their own small businesses (Wilkins 2016). Independent contractor agreements are generally governed by the *Independent Contractors Act 2006 (Cth)* ('ICA'). Section 12(1) permits the court to review 'service contracts' that are unfair or harsh. However, the ICA unfair contracts jurisdiction places the onus on the individual to seek redress in the Federal Court with the risk of adverse cost orders, indicating its effectiveness is questionable. Moreover, whether the ICA even applies to Uber drivers is unclear as the contract between drivers and Uber contains a choice of law clause, stipulating that the terms of the agreement should be construed in accordance with the laws of contract in the Netherlands, where Uber is legally incorporated (Wilkins 2016). This issue of private international law is yet to be examined by the courts.

The primary piece of legislation regulating labour relations in Australia is the *Fair Work Act 2009 (Cth)* ('FWA'). It emerged from the ashes of the Howard Government's Work Choices agenda that sought to marginalise collective bargaining and introduce individual Australian workplace agreements. With certain exceptions (commonly regarding state government employees over which states retained jurisdiction in accordance with the referrals power) most substantive parts of the FWA cover 'employees' and 'employers' within their 'ordinary meaning' pursuant to common law. Despite growth in non-standard forms of work, the operation of labour regulations in Australia continues to hinge on an arbitrary division between

employees and independent contractors. A small number of general protections of the *FWA* extend to independent contractors including the ability to bring a claim under the adverse action provisions (Fair Work Ombudsman 2017a). However strong minimum protections like the National Employment Standards (NES) apply only to ‘national system employees’. Section 61 of the *FWA* sets out the NES which are ten minimum entitlements that cannot be excluded or limited via an enterprise agreement, award or employment contract (*FWA* s 61). The NES includes entitlements relating to parental, annual, personal, compassionate and community service leave. Further, the *FWA* provides for national minimum wage orders to be made that dictate the lowest level of remuneration to which all employees are entitled (*FWA* ss 293-4).

The exclusion of independent contractors from the unfair dismissal regime under Part 3-2 of the *FWA*, helps to reinforce the financial and employment insecurity faced by platform workers. Uber reserves the right to deactivate a driver’s account or restrict their access to the Uber app at any time (Wilkins 2016). While common law remedies for breach of contract may be sought, chances of success remain poor. This was demonstrated in a recent decision by the District Court of Western Australia³ to dismiss a damages claim for wrongful contract termination brought by an Uber driver who had his account deactivated without notice. The court found that there had been no breach of the agreement between Uber and the driver. The driver’s appeal to the Supreme Court of WA was also dismissed.⁴

Despite traditionally taking a conservative approach to categorising work relationships, courts have responded to the rise of non-standard working arrangements to a greater extent than legislators (Stewart et al 2016, p.197). While the business model of most platform firms hinges on engaging workers as independent contractors, labels used by parties to an agreement are not considered to be definitive. The proposition that employers cannot falsely classify employees as independent contractors in order to avoid additional responsibilities has been highlighted by Justice Gray in the Federal Court who mused that, “the parties cannot create something which has every feature of a rooster but call it a duck and insist that everybody else recognize it as a duck”.⁵

³ *Oze-Igiehon v Rasier Operations BV* [2016] WADC 174 (9 December 2016).

⁴ *Oze-Igiehon v Rasier Operations BV* [2017] WASCA 107 (8 June 2017).

⁵ *Re Porter; Re Transport Workers Union of Australia* (1989) 34 IR 179, 184 (Gray J).

Courts apply the ‘multi-factor test’ which was most definitively set out by the High Court in *Hollis v Vabu*.⁶ At issue in this case was whether a company was vicariously liable for the tortious acts of its bicycle courier, after a pedestrian was injured. The court was required to determine whether an employment relationship existed between the company and the bicycle courier so as to establish the employer vicariously liable for the courier’s negligence. In coming to its decision, the court identified several factors that should be considered when making an employment classification including: the extent of control exercised over work performed, methods of payment, who is responsible for providing essential tools or equipment, the worker’s ability to delegate or sub-contract tasks, whether the worker can generate goodwill in their own business, and whether the worker is an emanation of the business (Stewart & Stanford 2017, p. 427). In considering these factors, the High Court found that the couriers were employees not independent contractors. However, the court was clear that these factors are not conclusive, and the totality of the relationship between the parties should be considered (Stewart & Stanford 2017, p. 427).

Legal challenges and Fair Work Ombudsman investigation into Uber

As emphasised previously, the legal classification of workers is pivotal for determining access to labour law protections. The self-employed status of Uber drivers has been at issue in legal cases in the United Kingdom and the United States, where courts have ruled that certain drivers should be classified as employees. Most significantly, the London Central Employment Tribunal has found that two Uber drivers should be considered workers with rights to the minimum wage and other formal protections.⁷ In that case Snelson J stated that, “the notion that Uber in London is a mosaic of 30,000 small businesses linked by a common ‘platform’ is to our minds faintly ridiculous...Drivers do not and cannot negotiate with passengers...They are offered and accept trips strictly on Uber’s terms”.⁸ Similar findings have also been made in the UK in relation to Deliveroo couriers (Osborne 2016). Uber has been granted leave to appeal the decision, thereby delaying any definitive need for change to its business model. The recent

⁶ (2001) 207 CLR 21.

⁷ *Aslam v Uber B.V.* [2017] I.R.L.R. 4 (28 October 2016).

⁸ *Aslam v Uber B.V.* [2017] I.R.L.R. 4 (28 October 2016), 90 (Snelson J).

decision of London's transport authority to suspend Uber's operating license is likely to have a more significant impact in the short-term (Hinchcliffe 2017). While this case has symbolic importance and the potential to clear the way for future legal challenges, it has no tangible impact on the uncertainty experienced by platform workers in Australia. The extent to which these determinations can be applied to other forms of platform work is unclear, due to the high levels of managerial control that Uber exerts over its drivers, relative to other platform firms. The only way to ensure decent working conditions for Uber drivers and other platform workers is through robust legislative reform.

In Australia, allegations have been made against Uber for 'sham contracting' or misclassifying employees as independent contractors, which is prohibited under s 357 of the *FWA* (Fair Work Ombudsman 2017b). This has triggered a Fair Work Ombudsman (FWO) investigation into potential breaches of Commonwealth workplace laws as well as discerning the accurate nature of the relationship between Uber and its drivers (Marin-Guzman 2017a). Uber determines the fare rate that drivers receive, decides the terms on which drivers accept fares and has the power to deactivate drivers' accounts if their ratings fall below an arbitrary minimum level or they receive complaints. If the FWO finds that Uber drivers should not be classified as self-employed independent contractors this could have significant consequences for the operation of Uber's business model in Australia. At the very least, Uber's labour costs would increase due to the need to meet minimum wage requirements. However, in order for Uber to be prosecuted for sham contracting, they must be shown to have been 'reckless' which is a high legal threshold to meet (FWA ss 357-9). Employers would be deterred from misrepresenting employment relationships if this standard was reduced to a test of 'reasonableness' (Productivity Commission 2015). The FWO investigation also provides scope for a test case to be brought against Uber. This litigation would be lengthy and costly and would likely involve a full-time driver. The application of any decision to workers on other platforms would be uncertain due to differences in the degree of autonomy extended to workers.

Scope for collective action

The rights of workers to collectively bargain and negotiate with employers without the threat of dismissal or retribution, is an important and basic labour standard that has been enshrined by the International Labour Organisation in the *Right to Organise and Collective Bargaining Convention Number 98* (1949). This recognition is essential for allowing workers to have their voices heard and utilise an effective tool for improving working conditions (McCrystal 2014a, p. 663). The right to access collective bargaining has conventionally been exercised by workers through union membership or membership of a similar professional association. There are currently two groups of drivers' associations operating in the ride-sharing space in Australia; Ride Share Drivers United (RSDU) and the Ride Share Drivers Association of Australia (RSDAA). Both claim to be representing the interests of ride-share drivers and were established in 2016. Neither group is in fact a registered trade union with tangible negotiating or collective bargaining power. Under the *FWA*, both independent contractors and employees in Australia have the right to join a union or worker association. Employees are protected from adverse actions resulting from strikes and other forms of industrial action by meeting certain procedural requirements outlined in the *FWA*. While union membership is protected by provisions of the *FWA*, independent contractors cannot access protected industrial action provisions in the context of enterprise bargaining, leaving them liable for economic tort claims.

Moreover, anti-competitive implications exist for independent contractors engaging in industrial action as this could breach antitrust or restrictive trade practices provisions in the *Competition and Consumer Act 2010*. Collective bargaining or striking by self-employed workers could constitute price-fixing and collective boycotts due to the existence of individual commercial (as opposed to employment) contracts. The ACCC can authorise independent contractors to engage in 'anti-competitive' conduct such as collective bargaining when it is satisfied that the public benefit outweighs the public detriment, however such cases are rare and there is no institutional support for these negotiations (McCrystal 2007). Furthermore, it is extremely unlikely that this authorisation would be provided in circumstances where collective boycotts or strikes are planned parts of negotiations (McCrystal 2007).

Conclusion

This chapter has illustrated the importance of employment classification in shaping the application of existing statutes and regulations to platform workers in Australia. The status of platform workers as independent contractors has many consequences in the context of taxation, insurance and labour law. In general, this classification limits access to legal protections and collective bargaining for platform workers, undermining their capacity to improve working conditions and redress power imbalances in relation to platform firms. The accuracy of this classification, especially for Uber drivers has been the subject of legal challenges overseas and potential exists for similar legal action to take place in Australia. The regulatory complexity that stems from the triangular relationship between platform firm, worker and end-user is immense, and renders the result of such challenges difficult to predict. Ultimately, the government needs to undertake robust legislative reform to ensure decent working conditions for platform workers and clarity regarding their legal rights. Policy options will be explored in further detail in Chapter Four. The role of current regulatory shortfalls in shaping platform worker experiences of uncertainty and legal confusion will be explored in Chapter Three.

Chapter Three:

Experiences of Platform Work

Introduction

This chapter will present the findings of fieldwork conducted with the aim of understanding experiences of platform work. Fieldwork involved individual semi-structured interviews with Uber drivers in the Sydney metropolitan area. Firstly, the findings of previous academic studies on the experiences of platform workers will be outlined. This chapter will then describe the methodology used to collect and analyse qualitative data in this study. Finally, my interview findings will be presented according to key themes that emerged during the process of data analysis. These include choice and flexibility, poor communication between platform firms and workers, lack of transparency and regulatory confusion, unrealistic expectations and income insecurity. These themes will be explored and related to the key questions with which this study is concerned, namely the nature of the relationship between workers and platform firms, the role of digital communication in building and maintaining this relationship and the role of regulations in shaping the experiences of platform workers. The implications of interview findings for theoretical understandings of platform work will be explored in Chapter Four.

Findings of previous studies

Platform work is regularly featured in the media. However, the unglamorous everyday experiences of workers do not figure prominently and reporting on the unreliable, precarious and unpredictable nature of platform work is scant. The emergent academic literature across a variety of disciplines helps to fill this gap and has focused on three broad themes, namely worker motivations (Schor 2014, 2015; Böcker & Meelen 2017), earnings (Surie & Koduganti 2016; Kaine, Oliver & Josserand 2017; New 2017) and social outcomes of platform work (Ravenelle 2017). A small number of studies have also explored the role of software applications and digital technologies in platform management and control over worker behaviours (Lee et al. 2015; Rosenblat & Stark 2016). Most of the peer-reviewed studies in this area are either United States-centric or focus on the Global South. There is a lack of research concentrating on an Australian or Oceanic context which is significant due to the

important role of geographic location and regional variability in shaping experiences of platform work (Graham, Hjorth & Lehdonvirta 2017; Rosenblat & Hwang 2016).

The financial motives of platform workers have been emphasised by Schor (2015) who found that money was the dominant motivating factor for workers on for-profit platforms. This research involved semi-structured interviews and participant observation of individuals on three platforms, Relay Rides, TaskRabbit and Airbnb. Earnings from these platforms varied dramatically and those relying on platform work in a full-time capacity were barely earning subsistence incomes. Schor (2014) also found that social interaction varied significantly across platforms. Meeting new people and establishing social connections was a common motive for Airbnb hosts however enhanced social networks and lasting relationships were generally a rare product of platform involvement. Participants also reported a feeling that platform work did not live up to promises of significant earnings and flexible work schedules.

The entrepreneurial ethos of freedom and autonomy that dominates the promotion of platform firms is challenged and undermined by many sociological studies. Ravenelle (2017) explores the difficulties and disadvantages of platform work through an examination of the lived experiences of platform workers in New York City. This study draws on qualitative data from ethnographic interviews conducted with workers across four platforms namely Uber, Airbnb, TaskRabbit and Kitchensurfing. She argues that a sense of vulnerability pervades the experiences of digital platform worker which stems from the uncertain and change-susceptible nature of platform design and the on-demand nature of work. Furthermore, her findings suggest that a stigma may be attached to platform work as workers were often reluctant to reveal their involvement with for-profit platforms (Ravenelle 2017, p. 292).

By contrast, a study conducted by Surie and Koduganti (2016) into the experiences of ride-share drivers in India found that platform firms overwhelmingly provide workers with stable incomes and significant opportunities to improve their overall financial positions. Drawing on 45 in-depth interviews with platform drivers, Surie and Koduganti distinguish platform work from more traditional experiences of informal employment and argue that they present a much

more desirable arrangement for many workers. They also explored drivers' perceptions of insecurity and risk and found that they are able to manage the risks associated with unpredictable earnings and flexible work schedules, especially in the short-term.

With a similar focus on the Global South, a multi-year study conducted by Graham, Hjorth and Lehdonvirta (2017) found that in addition to benefits, digital platform work is accompanied by significant risks and costs for labour. This work forms part of an emerging literature on the nature and conditions of work in global digital labour markets (Bergvall-Kåreborn & Howcroft 2014; Irani 2015; Kingsley, Gray & Suri 2015). The study relied on quantitative data from transaction records of a large digital labour platform as well as qualitative data from over 100 semi-structured interviews with platform workers and stakeholders in South-east Asia and Sub-Saharan Africa. Graham, Hjorth and Lehdonvirta (2017, p. 135) identify four main areas of concern for workers on digital platforms, namely: lack of bargaining power; economic exclusion from non-digital local labour markets; impacts of intermediated value chains and; lack of scope for the development of transferable skills. This study places the marketplace for digital platform work in a global context, and points to the importance of geographic location in shaping the experiences and impacts of platform work on the lives of individuals.

The theme of regional and locational variability is reinforced by Rosenblat and Hwang (2016), who examine differences in motivations and practices of Uber and Lyft drivers. They argue that there is no such thing as universality in the context of employment and extend this to platform work (Rosenblat & Hwang 2016, p. 2). This study drew on fieldwork in the form of participant observation and semi-structured interviews conducted with 50 Uber and Lyft drivers across Canada and the United States. The researchers identified a marked distinction in the motivations of drivers ranging from full-time drivers who rely on a platform as their main source of income, part-time earners, people who drive on a hobby basis to pass the time or meet new people and drivers in transition between careers. In addition to financial incentives, Rosenblat and Hwang argue that key motivating factors for driving include social interactions with customers, the improvement of language skills as well as having the autonomy and flexibility of "being your own boss". These factors shape the different ways that drivers experience similar circumstances of work, as well as their perceptions of work. Further, they

found that the experiences of work were significantly shaped by the nature of platform relationships with drivers in a particular locality (Rosenblat & Hwang 2016, pp. 7-8).

The uneven nature of this relationship and communications between platforms and workers is also explored by Rosenblat and Stark (2016). Through an analysis of driver posts on digital forums and Uber's software-based platform, they found significant power and information asymmetries, emerging through reliance on algorithmic technologies and digital surveillance. In addition to ratings systems, these technologies alter driver behaviour and create ongoing expectations that shape the way in which drivers work. Consequently, Uber yields significant indirect control over its drivers, a phenomenon termed by Lee et al. (2015) as "algorithmic management". This has important implications for policy makers as reform must account for the importance of platform disintermediation in shaping power asymmetries and the communication of information. My research challenges and extends these critiques of platform work by examining experiences of Uber drivers and their relationship with the platform in an Australian context.

Research methodology

The interview methods used in this study echo the qualitative and inductive strategies utilised by researchers in previous studies. In-depth, semi-structured interviews were conducted between May and August 2017 with thirteen Uber drivers operating in the Sydney area.⁹ In addition, two stakeholder interviews were conducted with representatives from the Ride-Share Drivers' Association of Australia (RSDAA) to gain background information regarding the activities of union-like associations in this space.

Recruitment

Participants were recruited using a dual strategy which relied on communication using Facebook's digital platform. Firstly, an advertisement was posted in a closed Facebook group

⁹ Ethics approval #2017/114

with 682 members titled 'Sydney Uber drivers'. Secondly, individual messages were sent via Facebook to 50 randomly selected members of this group. Both the advertisement and the recruitment messages briefly outlined the purpose and aims of the study and invited drivers to consider participation. Snowball sampling had initially been identified as an important part of the recruitment strategy. However, as time progressed this was found to be unfeasible as most participants (77 per cent) did not know any other drivers. Drivers who expressed an interest in being interviewed were then emailed a Participant Information Statement which provided further details of the study.

Data collection procedures

The main data collection methods used in this study were individual semi-structured interviews and a demographic survey. Four interviews took place at a university library, either Fisher Library at the University of Sydney or Main Library at the University of New South Wales. One driver chose to have the interview conducted in a café, while another elected their artistic studio as their preferred site. Seven participants chose to have their interviews conducted over the phone. In the case of phone interviews, a Participant Consent Form was emailed and this was returned by the participant prior to the interview taking place. For in-person interviews the Participant Consent Form was completed at the site of the interview before it commenced. Demographic surveys were completed by participants following each interview.

An interview topic guide was prepared prior to interviews taking place. The open-ended questions in the guide related to: (1) How the participant came to be an Uber driver; (2) The participant's general experiences as an Uber driver; and (3) How being an Uber driver had affected other aspects of their lives. This ensured each interview covered similar subject matter and increased the comparability and reliability of the qualitative data generated from interviews (Cohen & Crabtree 2006). While the guide was generally followed during interviews, it was also diverged from when necessary to pursue interesting issues that arose during conversation.

Interviews lasted between 20 and 50 minutes and were conducted by the same researcher. During each interview, the researcher took down brief written notes. Interviews were audio-

recorded and later transcribed. Every participant was assigned a pseudonym to ensure confidentiality. Audio-recording each interview meant that the researcher's attention was not too focused on note-taking while also facilitating dialogue and rapport building between the participant and the researcher. After each interview, participants were provided with a demographic survey consisting of twelve questions. Participants were provided with two to five possible responses and space to elaborate, where appropriate. Questions in the demographic survey focused on age, income, education level, marital status and superannuation contributions.

Data analysis procedures

Interview transcripts were analysed using an open-coding method based on the grounded theory approach (Glaser & Strauss 1967; Glaser 1992; Corbin & Strauss 2015). The aim of this qualitative methodology is the creation of a theory that is firmly grounded in the data collected and analysed by the researcher (Ramalho et al. 2015). In the context of heterodox economics, Lee (2005, p. 96) argues that the method is an effective tool in the development of causally explanatory theories that are “historical in structure, content and explanation”. An inductive and thematic approach to coding was used following the three principles identified by Strauss and Corbin (1990), namely open, axial and selective coding. Firstly, the open coding stage of analysis was undertaken in order to identify broad threads and common themes in the data. Secondly, the axial stage of coding involved looking for connections between broad themes and refining these into key categories. Finally, selective coding involved re-examining and refining interview data further by relating key categories to each other to identify relationships between categories and theoretical concepts. The entire coding process was carried out reflexively and occurred several times. Data collected from demographic surveys was collated into a spreadsheet using Microsoft Excel software. The data analysis process continued until the researcher isolated key themes that are explained below.

Research findings

Participant characteristics

Participants in the study came from a diverse range of age, ethnic and educational backgrounds. Out of the 13 participants, four were women and nine were men reflecting the male-dominated Uber workforce. Five drivers were aged between 25 and 34 years, four were between 35 and 44 years old and three were aged 45 to 59 years old. Three participants were born outside Australia while the remainder were born in Australia. In terms of education, ten participants had completed some form of tertiary education namely either a TAFE qualification or university degree. Two drivers had completed a postgraduate university degree and three participants were currently enrolled in a postgraduate degree. Participants also came from a diverse range of professional and industry backgrounds. These characteristics are summarised in Table 3.1.

Themes emerging from the analysis of interview data will now be presented. Firstly, the motivations behind participants pursuing platform work will be examined, highlighting the importance of flexibility and autonomy in choosing the hours that they work. Participant experiences of platform work will then be explored with a focus on the ways in which the relationship between drivers and the Uber platform shapes the nature of the employment contract, daily experiences of work, income and employment security.

Table 3.1 – Work and education profile of interviewees

Pseudonym	Education	Current or most recent job	Period of time driving for Uber	Second job while driving	Desired future career
Tom	Bachelor's degree	Consultant	2 months	N	Engineer
Simon	Bachelor's degree	Student	3 months	N	Doctor
Megan	High school	Bus driver	2 years	Y	Uber driver
Sam	Bachelor's degree	Futures trader	2 years	Y	Futures trader
Jason	Bachelor's degree	Student	7 months	Y	Digital Forensics
Ethan	Postgraduate degree	Scientist	4 months	N	Teacher
Darren	TAFE	Landscaper	2.5 years	Y	Sales/communications
Alex	TAFE	Mining	4 months	Y	Mining
Damien	High School	Student	1.5 years	Y	Lawyer
Maxine	TAFE	Care worker	1.5 years	Y	Care work/Uber driver
Roy	Bachelor's degree	Human resources	4 months	Y	Management Consultant
Dorothy	Postgraduate degree	Artist	3 months	Y	Teacher
Emma	High school	Retail worker	1.5 years	N	Uber driver

Theme 1: Choice and flexibility

A key theme to emerge from interviews with drivers concerned the extent to which they felt as though they had choice and control regarding their work. When asked about what they considered to be the best aspect of driving for Uber, the majority of participants nominated flexibility and the ability to choose their own working hours. For example, Darren a full-time university student driving for Uber between fifteen and twenty hours a week whilst living at home, explained how platform work helped him better manage his time and study commitments:

“So for me what attracted me to it was the fact that I could pick my own hours. Like the number of jobs I’ve had to hold done whilst at uni, you know you have to put in leave if you have exams and stuff like that...But with Uber you just don’t turn on your app it’s as simple as that. You don’t have any minimum hours that you have to do”.

This view was echoed by Damien, a part-time communications student and former landscaping apprentice who chose to increase the hours that he drives for Uber as he was earning a greater income:

“Flexibility, especially with uni and working and if you want to go away on the weekend it’s like not like a normal uni student where you have to ask to get off work and what not. I still do full-time hours while I’m at uni. Like if my uni’s in the middle of the day I can still work beforehand and after. So it doesn’t interfere. That’s probably the best part easily. Yeah, definitely, that’s the best part”.

In addition to deciding when and for how long they worked, some drivers also expressed a sense of control over whether they drove for Uber at all. This view was commonly expressed by drivers who did not rely on Uber as their primary source of income and instead had fulfilling careers in other industries. One such hobbyist driver was Sam, a semi-retired futures trader in his late 50’s who drives for Uber primarily for social reasons and to fill in time during the day when he is not trading:

“Ultimately, I reckon Uber is becoming more like a taxi, people treat us like taxi drivers. But you just have to try to be pleasant and remember that ultimately we have a choice about whether or not we want to do it”.

Similarly, Roy a self-employed management consultant began driving for Uber to fill in time after losing a full-time job in human resources management. He characterised driving for Uber as a hobby that also provided him with a supplemental income and an excuse to leave the house:

“The other thing I like is I can go wherever I want in Sydney apart from when I have a passenger and I go where they want to go. Um, I can go and sit on Bondi beach and have my lunch, I can work with my management consulting because a lot of it’s computer work or over the phone so I can go and park the car and sit on a park bench and do my management consulting work so I like that part of it.”

Conversely, several drivers expressed a sense of frustration about not being able to find alternate forms of work. For some, Uber driving was therefore a type of ‘employment of last resort’, easily accessible due to low barriers to entry. Four drivers indicated that they had engaged in lengthy job searches that had been unsuccessful. These drivers generally described the current labour market as competitive and difficult to enter. For example, 52-year-old Megan described herself as unemployable due to her age and turned to Uber driving as an alternative. Another female driver who lacked formal qualifications beyond high school level also expressed resigned acceptance about not being able to find a job elsewhere. In a similar vein, Simon a full-time university student spent ten months searching for employment before deciding to drive for Uber on a part-time basis whilst studying for the GAMSAT. He was part of a significant group of drivers whose careers were in transition, and Uber driving was therefore a relatively short-term measure that provided them with some form of cash flow during this period. The money they earned from Uber driving served as their main form of income, hence their attitudes about whether they drove were less relaxed than those that drove to pass the time.

Theme 2: Poor communication

A common issue raised by almost every interviewee concerned Uber's arm's-length style of communication. Communication between Uber and its drivers is purely digital and occurs either via email or the Uber application. Apart from a weekly newsletter containing information about up-coming events in the area, drivers do not have any contact with the company unless they initiate it. This would usually happen when a problem arises for instance with the payment of a fare or when a passenger leaves something behind in their car. Many drivers expressed a preference for phone over email communication. However, there is no direct line access to Uber management and therefore no scope for driver-initiated phone communication. Interviewees described Uber's methods of communication using terms such as 'quick', 'distant', 'frustrating', 'threatening' and 'patronising'. The majority of drivers expressed a sense of dissatisfaction with the way in which their questions or issues were handled by Uber staff.

During an interview, one driver received several messages from Uber in relation to a rider complaint that had recently been made against him for unsafe driving. He expressed significant distress during his email exchange with different staff members and never received a response from the same person twice. Uber frames their communication with drivers in these circumstances in terms of 'reaching out' in order to hear their side of the story. Several drivers expressed the view that the emails they received from staff members were generic in nature and often did not correspond with the content of the driver's message. Interviewees conveyed a sense of helplessness and a feeling that their voices were not being heard during interactions with Uber staff who were not interested in addressing their concerns. This view was articulated by the driver receiving emails during our interview:

"...You're always speaking to someone different. They never actually know what something's up to. They send default generic emails that become totally useless and pointless. It's just sort of pathetic and nothing ever gets resolved if there is an issue.... They use this term 'reaching out' which is the most annoying, frustrating thing. It's like you know, thanks for reaching out. You know what, go stuff yourself. I'm sick of hearing it."

During this exchange, the interviewee was not given any details of the trip that the complaint related to, nor the exact nature of the complaint. While the stated reasoning behind this was rider privacy and confidentiality, it made the driver's attempt to explain his side of the story effectively impossible. This reflects the informational asymmetry identified by Rosenblat and Stark (2016) that exists between drivers and Uber, however such asymmetries are extended beyond technology into the context of person-mediated interactions with staff. Overall, the experiences of interviewees indicates that communication between drivers and Uber is one-sided and lacks transparency which has important implications for driver understandings of their legal rights and obligations.

Theme 3: Lack of transparency and regulatory confusion

A considerable lack of informational transparency by Uber translates into regulatory confusion among drivers. Uber's limited contact with drivers is reflective of the opaque and secretive manner in which the platform firm operates. Since its Australian launch, Uber has defied regulations and occupied a legal and regulatory grey zone. However, the company has not kept drivers informed of the evolving and complicated rules governing the manner in which they work, particularly in relation to insurance and taxation. This has resulted in a knowledge gap as many drivers are unaware of their obligations to state and federal authorities including the Australian Taxation Office (ATO) and the Roads and Maritime Services (RMS). Due to their status as independent contractors and employees, the ultimate responsibility of complying with these regulations rests with drivers. There is a need for platform workers to seek out third-party sources and engage in their own in-depth research to make sense of their status within the web of relevant laws and regulations.

When asked about their taxation requirements, interviewees generally exhibited a good understanding of the strict income and expense tracking required of independent contractors, particularly those who had prior experiences of being self-employed. However, when asked to explain their GST obligations interviewee responses were inconsistent.

Full-time university student Simon gave the following reasoning for his decision not to pay GST:

“I didn’t pay GST. I believe at the time it was the law to pay GST from the first dollar but as far as I understood it there were so many grey areas. There were no laws protecting me so I figured why should I pay tax.”

Many interviewees expressed a feeling of resentment towards Uber over GST requirements:

“So one thing that really annoys me is that we have to pay their GST...I don’t mind paying my own GST but they’re a billion dollar company and they can’t even pay the GST out of the 25% that they’re paid...They pay nothing, they’re all getting rich, the least they can do is pay their own bills”.

Few exhibited a sound understanding of how the GST regime works and the way in which the Federal Court’s recent decision regarding the need for drivers to pay GST on every fare affected them on a day-to-day basis. Interviewees indicated that they had received a brief email from Uber in the weeks following the court’s judgement which informed them that they now needed to register for GST. Only one long-term driver had registered for GST well before the recent decision. This driver was studying law and had conducted his own research as well as consulted extensively with his accountant.

This sense of regulatory confusion was even more apparent in the context of insurance where Uber provides very little advice or information to drivers. When asked what form of motor vehicle insurance they currently had, interviewees gave a range of responses and reasons behind their decisions. In NSW, CTP and third party insurers are not liable to cover Uber drivers if accidents occur and many policies could be voided in the context of ride-sharing (Collett 2015). Uber has a contingent liability policy relating to personal injury to third parties and property damage to road users, however there are situations when this policy would not apply leaving drivers potentially liable for significant sums (Cecil 2014). Three drivers had private car insurance policies specific to ride-sharing, while the rest had ordinary comprehensive or compulsory third party (CTP) insurance policies. Drivers who had upgraded their policies to include ride-sharing generally did so because they wanted extra protection and

did not trust Uber to protect them and cover the costs of an accident. These drivers all conducted their own research by calling around or looking online to find information about whether they needed to upgrade their insurance policies.

Those drivers that had not upgraded their policies generally believed it was unnecessary. Their reluctance also stemmed from a belief that changing their policy would increase the cost of their insurance. Many stated that they would be prepared to lie to an insurance company in the event of an accident. They expressed a lack of certainty about whether this would mean they were breaking the law. One driver explained:

“I’m not sure if it’s dodgy but with Uber I read that you just need to have third party and normal comprehensive but if you tell them [the insurance company] you’re doing Uber it’s going to cost you a lot more. Uber already covers if you’re a passenger in the car, they cover you through their insurance. But as soon as somebody gets out of your car and you’re not driving someone then you just pretend you’re a normal driver and you’re not Uber driving. So yeah, you should tell them but it costs you a lot more.”

Another driver expressed similar uncertainty in this regard:

“I just have my normal comprehensive car insurance and I believe there may be a need to have an extra policy. But basically, if I have an accident I’m just going to give the details of what happened, what the registration details of the other car were, describe the accident. Whether or not it was ride-sharing makes no difference to the insurance company... You’re on the road more so there may be more risk from that but there’s no requirement to divulge whether you were ride-sharing on the insurance claim form so I don’t think it’s necessary to pay the premium either.”

Interviewees displayed similar uncertainty regarding the nature and terms of their contract with Uber and how it related to their work. Drivers enter into a contract with Uber during the sign-up process by agreeing to terms and conditions in the Uber application. Despite this, most drivers expressed uncertainty about whether and at what stage of the process they signed an

agreement with Uber. Almost every driver reported either briefly skimming or ignoring the terms of the contract altogether and just ‘ticking the box’. They were therefore unaware of the terms of their independent contractor agreements and the rights that they were afforded or signing away.

This agreement is altered regularly and drivers agree to its terms and conditions each time an update is made to the Uber application. For instance, a change was made to the agreement following the Federal Court’s GST ruling. Many drivers reported feeling rushed or ‘put on the spot’ as they would often be prompted to agree to a new contract when they were in their vehicles ready to start work. The contract is extensive and difficult to comprehend due to the use of legal jargon and the fact that drivers are trying to read it on a mobile phone. During this process, there is no scope for negotiation of the terms of the agreement contrary to the traditional understanding of independent contracting. If they don’t agree to the new terms then they are unable to access the Uber platform. When asked whether she had ever read the terms of her contract with Uber one driver responded by saying:

“I’ve signed many contracts with Uber and the thing is that if you don’t sign the contract you don’t get to work so you’ve just got to do it anyway. You have to do what they say, you have no choice. If you don’t sign it, you don’t get work. There’s no need to read it. I’ll admit, the first one I read but the last few I haven’t read because there’s no point. If you disagree then they cut you off.”

Drivers are generally unaware of their legal rights or the features of their legal relationship with Uber. This contributes to the power asymmetry identified by Rosenblat and Stark (2016) in favour of the platform firm. Drivers assume more financial and legal risks when signing the contract than they would if they were employees but remain unaware of the exact nature of this risk. These power and information asymmetries will be explored further in Chapter Four.

Theme 4: Unrealistic expectations

Another common theme that arose during interviews concerned the high level of expectations that Uber has for the way that drivers carried out their work. An intrinsic aspect of digital platforms is the technology that enables real-time feedback through reputation systems. While such systems are designed to create accountability and trust among platform users, they also allow platform firms to monitor and scrutinise the performance of on-demand labour. Riders are asked to rate each trip out of five stars, however they are given no criteria upon which to base their rating. If a driver's rating falls below 4.6 then they receive a warning from Uber. If it continues to fall below 4.46 then that driver can be removed from the platform and their account deactivated (Rosalina Kariotakis, personal communication, 27 July 2017). There is essentially no avenue for drivers to challenge this decision. Many drivers conveyed a sense of stress and frustration when asked about the star rating system which acts as a constant source of anxiety in their minds.

Part-time artist and casual teacher Dorothy described feeling threatened and attacked by Uber staff who 'reached out' to let her know that her rating was falling. This had a significant effect on her confidence and self-esteem:

“Um, so sometimes I had pretty bad experiences and I made [driving] mistakes and it was just exacerbated by this ratings system. And I thought it was really unrealistic the whole system where you had to maintain a five star rating the whole time. So, you're reliant on these people giving you a five star rating all the time. Even if they gave you a four, which in Australian culture that's actually considered really good, it wouldn't be enough. So when I went below 4.6 overall they started sending me emails saying if this rating continues then we will be removing the app. I started to get really, really discouraged by the emails. That really started to play on me...and I felt like it was really playing on my self-esteem, seriously on my psychology and self-esteem.”

The technological infrastructure of the Uber application means that drivers are constantly being monitored by digital means and by passengers whose ratings provide the company with feedback on driver performance. Passengers therefore occupy the role of the “watcher” (Stark

& Levy 2015) which has traditionally been filled by managers or workplace supervisors. The constant and diffuse nature of digital oversight shapes driver experiences of work by increasing expectations of passengers. Difficult to meet expectations combined with a system of dismissal based purely on the subjective opinions of strangers about whether those expectations have been met leaves drivers in an inherently vulnerable position, especially if they rely on Uber as their primary source of income.

Theme 5: Income insecurity

Starting in 2015, Uber's website advertised a guaranteed minimum hourly rate of \$30 in fares for drivers in Sydney on the condition that they accept 90 per cent of requests and were operating in a designated 'core service area' (Uber 2015). This would equate to earnings in excess of \$4,800 per month for drivers working 40 hours per week. While this promotion is no longer active, advertisements of hourly rates between \$30 and \$40 still make up a key part of Uber's recruitment strategy. Many drivers indicated that these promises regarding compensation had been a key reason behind their signing up.

The national minimum wage in Australia is currently \$18.29 an hour after an increase of 59 cents an hour by the Fair Work Commission in July 2017 (Dziedzic 2017). Many drivers indicated that their hourly rate fell well short of this once they accounted for expenses and after Uber detracted its 20 or 25 per cent fee. The average hourly rate quoted by interviewees before expenses was \$30 an hour after Uber received its cut. As independent contractors Uber drivers are not guaranteed a minimum wage and have several financial expenses associated with carrying out their work. These include petrol, insurance, vehicle maintenance and vehicle depreciation, although these expenses may be tax deductible under s 8 of the *Income Tax Assessment Act 1997* (Cth). The lowest average hourly rate reported by an interviewee was \$8 an hour after these expenses were deducted. The average hourly rate reported by drivers was \$10 an hour, a rate well below the minimum wage. This average does not take into account the effects of an increased assessable income and a higher applicable tax bracket or GST liabilities.

Hourly rates of pay for drivers obviously vary considerably depending on what time of the day and in which areas they are working. Drivers have no control over the cost of each fare and there is no scope for negotiation as all payments are made through the app. Many drivers indicated that their hourly rates of pay had dropped considerably in the last year as the number of fares that they received also decreased. A common view expressed by interviewees was that this was due to an increase in the number of drivers on the platform:

“I think the major problem with it is that drivers aren’t compensated enough and Uber is too focused on ramping up the number of drivers so they have a surplus and can then drive down prices. Like despite the fact that they promise \$30-\$40 an hour once you take out the mileage on your car so depreciation, insurance, maintenance costs, fuel. I had a spreadsheet where I followed all of these things because I was sceptical of it from the start. So I kept fairly close track of my expenses and it came down that I was making \$8 an hour and I was driving a 2012 Mitsubishi Mirage which is the smallest, most fuel-efficient car you can drive on the Uber platform.”

When asked what he least enjoyed about being an Uber driver, Damien nominated the unpredictable nature of pay:

“Um, I think it’s the unreliability of your income you know like I said there were times when one day you’d be making a killing and the next day you’d have to work an extra x amount of hours just to make it back to your general goal. So I guess the unpredictability and unreliability of your pay you know. There were a lot of times when I was just driving around and I wished I could get that set wage in my bank account that secure payment so I can actually budget myself and plan my finances and time accordingly.”

Many drivers stated that they began each shift with a target amount that they wanted to reach and would have to extend their working hours to accommodate for low numbers of fares. This impacts upon the flexibility of driving and meant that many worked longer hours than they would otherwise like to. Two interviewees who enjoyed the social side of Uber driving stated that they would like to do Uber full-time but could not rely on the income as it was too variable and unpredictable. Almost every interviewee expressed the view that they were not paid

enough for the work that they did especially in light of the increasingly high standards expected from them by Uber and their passengers.

When asked about superannuation contributions, only one interviewee indicated that they had made a contribution to their superannuation fund since they commenced work with Uber. This driver was a management consultant who drove for Uber on a hobby basis. His lump-sum contribution was primarily financed by his consulting earnings and was not comprised of a weekly proportion of his Uber earnings. This lack of superannuation contribution will have serious implications for workers when they reach retirement age. Interviewees falling into the 35 to 44 age bracket expressed the most concern over their lack of superannuation contributions.

Conclusion

Findings from this case study indicate that Uber driving is an increasingly precarious form of work which is closely linked to the regulatory grey area in which Uber drivers operate. Interview findings confirm that the relationship between drivers and Uber is characterised by asymmetrical information and power relations (Rosenblat & Stark 2016). Effective communication between drivers and company staff is difficult and a lack of transparent communication by Uber contributes to regulatory confusion among drivers. Drivers are generally unaware of their legal rights and obligations to Uber and government agencies. This lack of awareness may be symptomatic of a broader trend among workers of all types, but it is exacerbated by the complex and unclear application of existing regulations to platform work.

While the sample size of drivers is relatively small and only relates to Uber, the findings from these interviews provide useful insights into the lack of legal protections and employment vulnerability experienced by workers across many digital platform. These interviews provide valuable information regarding poor rates of pay and patterns of superannuation contributions among platform workers. These issues have not been investigated to any great extent in the scholarly literature in this area. The implications of these interview findings will be drawn out in Chapter Four and related to the broader platform economy. Issues of precariousness of work, power and information asymmetries, the potential for collective action in the ride-sharing and

broader platform work space and policy options for governments to increase protections for platform workers will be explored in Chapter Four.

Chapter Four:

Protection for Platform Workers

Introduction

This chapter will explore the implications of my fieldwork and consider these findings in the context of existing academic literature relating to precariousness and the platform economy. Firstly, the dimensions of precarious employment as defined by Vosko (2009) will be briefly outlined and applied to platform work. It will then be argued that the precariousness of platform work hinges on an asymmetrical relationship between on-demand labour and platform firms. Power and information asymmetries manifest in regulatory confusion and are maintained through platform design and detached communications. The capacity for this disparity to be corrected through collective organising by workers will then be explored. Using recent examples of collective action by platform workers, it will be demonstrated that unions have the potential to help fill informational gaps but the effectiveness of labour-driven negotiations is constrained by the rigidity of the regulatory regime. Therefore, the most effective means of protecting platform workers is through robust legislative reform. The final section of this chapter will explore the possible avenues for reform available to Australian policy-makers. Ultimately, it will be argued that in the absence of changes to the existing regulatory framework, platform work will remain unsatisfactorily precarious and the vulnerability of on-demand labour will persist.

Precariousness of platform work

Scholarly research into labour insecurity and shifts in employment practices within advanced industrialised nations has produced an extensive literature around the notion of precarious work (Kalleberg 2011; Standing 2011; Vosko 2009; Vosko, Macdonald & Campbell 2009). Campbell & Price (2016) identify five differing ways in which the concept of precariousness has been conceptualised in an academic context. This discussion will focus on the conceptualisation of precariousness in employment used by Vosko (2009) referring to “objective job characteristics that involve insecurity” (Campbell & Price 2016, p. 315). Thus,

the impact of subjective elements such as contextual conditions and social location on individual experiences of precarious work will not be considered as it is beyond the scope of this thesis.

Vosko (2009, p. 2) identifies four dimensions of precarious employment: (1) employment uncertainty; (2) low income, (3) lack of social protection and (4) limited statutory entitlements. She emphasises the role of labour market insecurity in shaping precariousness and delineates a further four features in this regard: (1) degree of certainty of continuing employment; (2) degree of regulatory effectiveness including the application and enforcement of regulations; (3) control over the labour process such as working conditions and capacity for union membership; and (4) adequacy of the income package received by workers including government and employer funded benefits (Vosko 2009, p. 2). This conceptualisation moves beyond the common confounding of precariousness with deviation from the Standard Employment Relationship (SER) model. Such conflation characterises the approach taken by many policy-makers in this area which functions to maintain the labour market's precarious fringes (Vosko 2009, p. 3).

When assessing platform work according to these criteria, several parallels become apparent. Firstly, low hourly rates for full-time and part-time platform workers below minimum wage levels have been well documented (Kaine et al. 2017; New 2017). In the case of ride-share drivers, findings from my interviews indicate that Uber drivers in Sydney are earning on average \$10 per hour or less. In an interview, the President of the RSDAA (personal communication, 27 July 2017) confirmed that the base fare rate for drivers in Sydney was \$1.50 per kilometre and \$1.00 per kilometre for those drivers operating outside of Sydney. According to analysis conducted by RACQ (2017), the cost of running an average private vehicle is 78 cents per kilometre. This figure takes into account operational costs such as petrol, insurance and registration but does not include vehicle depreciation. After Uber's commission fee, income tax and GST are deducted, drivers are not left with a liveable income, especially not one that is able to support dependents.

Platform work is also characterised by employment uncertainty and insecurity. Platform workers can have their accounts deactivated and may be removed from digital platforms without notice. Due to their status as independent contractors, there are very few legal avenues for platform workers to appeal deactivations. With arguably no access to the unfair dismissal regime, platform workers must rely primarily on breach of contract claims. Statutory entitlements for platform workers are minimal and their rights are subject to the terms of their agreements with platform firms and the operation of commercial rather than employment law. Despite being classified as independent contractors, many platform workers have no scope to negotiate the terms of their agreement with platform firms. Problematically, many workers remain unaware of the extent of their precarious positions. Without an established tradition of union organisation, collective bargaining by platform workers is underdeveloped or non-existent, and further limited by the asymmetrical relationship between platform firms and on-demand labour. Ultimately, platform workers are operating in isolation from one another and are disempowered by the regulatory environment and the digital structure of platform firms. This form of work therefore exhibits a high level of precariousness and this insecurity is built upon asymmetries of power and information access between workers and digital platforms.

Power and information asymmetries

Digital platform work represents a “massive rupturing of conventional employment relations” (Webster 2016, p. 58), further exacerbating the pre-existing power differential in favour of employers. In exchange for taking on the mantle of the capitalist entrepreneur, on-demand labour forgoes the formal protections afforded to employees under labour law. Platform workers generally lack bargaining power to realise decent working conditions, pay and security of tenure in their agreements with firms. Their resulting precariousness largely hinges on power and information asymmetries between platform firms and on-demand labour (Rosenblat & Stark 2016).

Findings from my fieldwork suggest that platform firms are generally not transparent in the manner that they communicate with workers. This results in an informational gap that capitalises on regulatory rigidity and translates into regulatory confusion among platform

workers. Interactions between platforms and workers occur predominantly through digital means with limited scope for worker-initiated communication. This dependence on software-enabled communication enhances worker experiences of insecurity, especially in the context of contract termination. Workers generally possess inadequate means of challenging firm decisions or responding to end-user complaints. Further, platform firms do not transparently disclose the risks associated with platform work nor the legal responsibilities of workers. The onus to seek out information is therefore transferred to platform workers. This shift in risk allocation from firm to the worker is a core part of the platform business model. The platform firm relies on the construction of a false narrative regarding the freedom of the worker to benefit from the risk-reward model of capitalist entrepreneurialism. As many platform workers remain unaware of their legal rights and obligations, greater knowledge of statutory protections has the potential to strengthen their relative bargaining power.

Potential for change

To this end, unions and collective worker organisations can serve an important function in filling informational gaps and providing platform workers with an awareness of their legal rights. In the case of ride-sharing, the RSDU and RSDAA provide members with information regarding legal and regulatory developments via digital means such as email newsletters and website posts. This aids in diminishing regulatory confusion experienced by drivers as well as filling the informational gaps created by Uber's lack of transparency. Without union advocacy and access to the statutory enterprise bargaining scheme, it is likely that power and information asymmetries between on-demand labour and platform firms will increase. This will undoubtedly exacerbate the vulnerability experienced by platform workers.

Collectivisation among platform workers is complicated by the individualised nature of platform work and the “fissuring” of modern workplaces (Weil 2014). Platform workers are physically disconnected and socially isolated from one another due to the absence of a collective workspace. In addition, the nature of digital platforms positions workers to be in a constant state of competition with one another (Graham, Hjorth & Lehdonvirta 2017, p. 155). Large-scale labour movements are difficult to establish among platform workers, not least

because independent contractors cannot access protected industrial action provisions. Moreover, if a segment of the workforce chooses to withhold their labour then there is a vast and unknown proportion of other workers prepared to promptly replace them (Graham, Hjorth & Lehdonvirta 2017, p. 155). This is reflected in the limited impact of ‘strikes’ organised by the RSDU in Melbourne, where Uber drivers were called on to switch off their driver apps in protest over rates of pay and working conditions (Simpson 2017). While this collective action attracted media attention, it failed to compel Uber into making concessions over base fare rates.

Findings from fieldwork carried out for this study indicate that most platform workers are physically and socially isolated from one another. The vast majority of interviewees did not know and were not in contact with any other drivers, except for chance meetings as passengers in each other’s cars. Only three of the thirteen drivers interviewed had regular contact with other drivers and these drivers were members of a ride-sharing drivers’ association. Most interviewees were unaware that any workers’ associations were operating in the ride-sharing space in Australia, suggesting their communications lacked reach. Despite expressing approval of the existence of such groups, interviewees expressed little interest in joining a union or participating in industrial action such as strikes. This attitude reflects trends in trade union membership among employees in Australia which has fallen from 40 to 15 per cent since 1992 (ABS 2017). Much of the frustration expressed by drivers regarding low rates of pay was attributed to the growing competition posed by new drivers entering the platform. The disparity between supply and demand for work therefore undermined any collegiality that workers may have felt for one another. This reflects similar findings made by Graham, Hjorth and Lehdonvirta (2017) in their study of digital workers in sub-Saharan Africa and South-east Asia.

Institutions such as unions and worker associations serve an important function in advocating for workers’ rights by maximising individual power through collectivist action, as well as highlighting regulatory gaps. This is demonstrated by the role of the RSDU in instigating the Fair Work Ombudsman’s investigation into Uber’s employment practices and organising driver submissions. According to its website, the RSDU attempted to negotiate with Uber over low base fare rates but the company declined to participate (RSDU 2017). It then made a complaint to the Fair Work Ombudsman in Victoria over allegations of sham contracting (Marin-Guzman 2017a). Similarly, the RSDAA has aided drivers whose accounts have been

deactivated in bringing unfair dismissal claims to the FWC. Despite the FWA's unfair dismissal regime being restricted to employees, Uber settled these claims and has not raised objections on jurisdictional grounds (Marin-Guzman 2017b). This decision was likely motivated by Uber's desire to avoid the creation of legal precedence in favour of formalising the employee status of its drivers. While these associations provide support and guidance for drivers, the RSDU and the RSDAA are not registered trade unions and therefore do not wield the same collective bargaining power. In contrast with statutory good faith bargaining requirements in the context of enterprise negotiations between employee representatives and employers, Uber is not legally required to negotiate over pay and conditions with worker associations. The potential for these associations to strengthen worker protections and push for progressive reform is therefore limited.

The current legal framework provides almost no scope for platform workers to collectivise, given commercial rather than employment law theoretically applies to their work arrangements. As highlighted by the recent case of negotiations between AirTasker and Unions New South Wales, engagement between workers' advocates and platform firms can help strengthen labour standards (Minter 2017). Unions NSW negotiated an agreement with AirTasker involving recommendations about rates of pay and the future implementation of basic safety standards, injury insurance and dispute resolution mechanisms (Patty 2017). These measures represent "incremental improvements in AirTasker's practices" (Minter 2017, p. 450). The agreement was entered into voluntarily and does not possess the same enforceability as an enterprise agreement. While these initiatives represent a shift in the right direction, they cannot provide adequate protections for platform workers in isolation. Statutory reform is required to extend minimum labour standards to platform workers ensuring they are more effectively enforced.

Policy options

The digitally-based platform economy allows firms to bypass the costs and obligations traditionally associated with employment. On-demand labour is not entitled to the same benefits and working conditions as employees on casual, part-time or full-time contracts,

though the different forms and degrees of control over the performance of work can be difficult to discern. The business models of platform firms fundamentally confuse and complicate the application of long-standing labour law frameworks. Until legislative reform is implemented, platform workers remain vulnerable and unprotected. In devising regulatory reform, policy-makers should prioritise three goals: (1) clarify the nature of the relationship between platform workers and platform firms; (2) facilitate unionisation and collective organisation among platform workers; and (3) pursue a less formalistic and narrow approach to the application of labour law to include workers who possess the hallmarks of precariousness and vulnerability.

Stewart and Stanford (2017, pp. 429-301) identify five general strategies for reform available to policy-makers in Australia. Firstly, the application of existing labour laws and employment regulations can be applied with more procedural and substantive clarity. This could occur through legal test cases that challenge the classification of platform workers as independent contractors and instead confirm their status as employees for the purposes of the *FWA*. This strategy would likely be most effective in the context of Uber due to the high levels of control exerted by the platform over its drivers, and persuasive rulings by overseas courts and tribunals. However, reform via common law would be a costly and slow process that would fail guarantee the extension of formal protections to workers across different digital platforms. The only way to ensure the enforceability of labour standards for platform workers is through targeted legislative reform.

The second avenue for policy-makers involves introducing an expansive statutory test for determining where a worker is an employee and explicitly including non-standard forms of work such as on-demand labour (Stewart & Stanford 2017 p. 429). Both the Productivity Commission (2015, p.812) and the Victorian Department of Economic Development, Jobs, Transport & Resources (2016, p.32) rejected the proposal of a statutory test in recent reports, due in part to concerns regarding the reduction of productivity and employment by disincentivising ‘true’ independent contractor arrangements. Their rejection of this proposal was also based on a high degree of deference given to the flexibility of the common law approach to classifying workers (Productivity Commission 2015, p.805; Department of Economic Development, Jobs, Transport & Resources 2016, p.32). However, a statutory test

could combine the common law's multi-factor approach with an emphasis on the existence of employer dependency while also remaining broad enough to capture new labour relations as they emerge, through express reference to the legislative objectives set out in s 3 of the *FWA*. Crucially, a statutory test would give greater clarity to platform workers about their legal rights and obligations. Relatedly, the FWC's decision to confirm the right of casual employees to *request* permanency after twelve months of consistent work (Edwards 2017), demonstrates the commission's willingness to respond to a fractured labour market which could prove advantageous for on-demand labourers who have fulfilled the timing requirements.

On the other hand, the concept of an employer could be reconceived and legislated in labour law (Stewart & Stanford 2017, p. 431). Prasl and Risak (2016, p. 280-1) identify several features that highlight the multi-functional role of an employer including powers to create and end a working relationship, the provision of work and compensation and management over factors of production. The exercise of these functions can be observed in the operation of platforms such as Uber but they are less obvious in other platforms such as AirTasker where the end-user also exercises control. A platform worker could therefore have several employers depending on which regulation is being applied. This would be a nuanced approach that would likely be difficult to implement in practice and arguably create more complexity instead of helping to resolve the regulatory confusion currently experienced by platform workers.

Alternately, all workers could be afforded similar basic legal protections, irrespective of their status, by removing the importance of employment classification in the operation of labour regulations. Anybody engaged in a working relationship would be entitled to equivalent benefits, echoing the operation of work health and safety legislation to protect anybody carrying out 'work' in most state and territory jurisdictions (Stewart & Stanford 2017, p. 432). Every worker would be entitled to superannuation, minimum wage levels and paid leave. While it would represent a significant step forward for the realisation of universal labour rights, the likelihood of such reform being implemented in the current uncertain political environment is minimal and regard should be had to possible adverse impacts on employment and productivity levels.

The most pragmatic option for policy-makers is to introduce a new classification of worker and treat employment status as a continuum rather than a binary. The traditional classificatory distinction between an employees and independent contractors does not adequately account for the complexities of an increasingly flexible and digitally-dependent labour market. Platform workers differ from traditional employees in that they can choose when and for how long they work, as well as in some cases the particular tasks that they undertake. However, while digital platforms allocate and facilitate work, workers do not possess bargaining power to negotiate over rates. Further, platform firms exert control over how work is paid and executed. Additionally, the way tasks are completed by workers is monitored and surveilled through software platforms and rating systems that are not akin to conventional oversight of independent contractors. A new intermediate category of dependent contractor or independent worker could therefore be enacted. This could occur through an extension of the definition of employee in substantive provisions of the *FWA* and stipulating that its ordinary meaning includes the dependent contractor category. Other common law jurisdictions such as Canada have already embraced this intermediate worker category (Cherry & Aloisi 2017). This approach would not solve every challenge faced by platform workers, however it would provide them with greater clarity of their legal rights. The introduction of this intermediate category would need to be closely overseen and accompanied by the implementation of regulatory strategies to avoid misclassification of workers by platform firms.

Conclusion

This chapter has explored experiences of platform work through the lens of precariousness. It has highlighted the importance of power and information asymmetries in maintaining uncertainty, constructing false narratives regarding risk allocation and fostering regulatory confusion among platform workers. The limited potential for trade unions and worker collectives to address these imbalances has been explored using examples from collective action by platform workers in Australia. Possible avenues for regulatory reform in Australia have been outlined and the introduction of a dependent contractor category has been advanced as the most pragmatic policy option. Ultimately, legislative reform that prioritises decent work for platform workers and supports their capacity to collectivise is essential for reducing the highly precarious nature of platform work.

Conclusion

This thesis has explored experiences of on-demand labour in the emerging digital economy from the perspective of Uber drivers. It has examined the nature of the relationship between workers and platform firms, the part played by digital communication in building and maintaining this relationship, and the role of regulations in shaping the experiences of platform workers. Contrary to the promises of flexibility, freedom and entrepreneurialism, this thesis has emphasised the precariousness and uncertainty that characterises platform work. It has also demonstrated the regulatory confusion experienced by platform workers and the uncertain regulatory terrain they are required to navigate. In the case of Uber, informational gaps are maintained and exacerbated by its app-based platform and detached style of corporate communications. This thesis has emphasised the potential role of unions and self-organisation in providing regulatory clarification and redressing some of the power and information asymmetries between workers and platform firms. In its current state, the legislative framework leaves workers without legal protections and severely restricts their ability to engage in collective action. This serves to further entrench the inherent power imbalance between platform worker and digital firm. This thesis has also highlighted the failure of regulatory and labour law frameworks in addressing the uncertainties of platform work and the capacity of platform firms to construct a false narrative around the risks associated with platform work. Dignified working conditions and fair legal protections should be universally accessible to workers of all kinds, irrespective of their employment classification. Ultimately, regulatory weaknesses necessitate a targeted response from governments, if the platform economy is to provide individuals with genuine opportunities for decent work.

Research significance

This research provides important empirical insights into platform work and experiences of on-demand labour. The precarious and unprotected nature of platform work has not been adequately explored in existing academic literature, which tends to emphasise the flexibility and economic opportunity purportedly enjoyed by on-demand labour. This thesis has reconceptualised the nature of platform work by focusing on the relationship between workers, platform firms and legislative frameworks as well as the ways in which this relationship in turn shapes the precariousness of platform work. The asymmetric power and information relations

that are reinforced and exacerbated by the existing regulatory infrastructure in Australia, have allowed platform firms near free rein to utilise a business model that leaves workers vulnerable and severely hinders their ability to negotiate improved pay and working conditions.

Chapter One firmly situated the emergence of the platform economy within a broader trend towards the flexibilisation of the workforce in the Global North during the post-Fordist era. It highlighted the link between neoliberal ideals of freedom, autonomy and entrepreneurialism and the ways in which platform work is promoted. The associated shifting of risk away from firms and onto individuals was then emphasised through an examination of the lack of protections available to platform workers.

Chapter Two examined the regulatory environment in which platform work is being performed in Australia, and highlighted the numerous challenges posed for on-demand labour. It was demonstrated that the platform economy disrupts established norms upon which employment law is premised, removes employment relations from the traditional government-exercised regulatory sphere to the unforgiving commercial marketplace. The lack of legal protections and limited capacity for platform workers to exercise collective bargaining power was also emphasised. Workers are disempowered by the rigidity of the current regulatory environment, a situation that favours the profit-making agenda of platform firms.

Findings from interviews with Uber drivers in the Sydney metropolitan area were then presented in Chapter Three. This fieldwork illuminated the relationship between platform firms and platform workers and highlighted the non-transparent nature of Uber's communications with drivers. It was shown how this strategy fosters a sense of regulatory confusion among workers, which is further exacerbated by the complexity and uncertainty of the regulatory environment in which platform work is performed. Findings from interviews also revealed the income insecurity and unpredictability associated with platform work. While the sample size of drivers was relatively small and only related to Uber, the findings from these interviews provide useful insights into a common lack of regulatory understanding, and the effects of precarious employment experienced by workers across many platforms.

The implications of these findings for theoretical understandings of platform work were then explored in Chapter Four. Platform work was assessed according to dimensions of precarious employment and shown to possess a high level of precariousness built upon power and information asymmetries between workers and platform firms. The potential for this imbalance to be redressed through collectivisation of platform workers was then explored. It was found that collective bargaining power was significantly limited by the existing regulatory framework. Due to regulations that are not well-adapted to the platform economy, governments do not have sufficient power to mediate frictions between platform firms and workers. Moreover, workers cannot utilise a foundational aspect of Australia's labour law architecture which continues to play an important role for improving working conditions at an enterprise level. Possible changes to the existing legal framework were explored and the introduction of a dependent contractor category was advanced as the most pragmatic policy option in the current political climate. Increased regulatory clarity, an expanded reach of legal protections as well as the facilitation of collective organisation among platform workers should be prioritised by policy-makers. While this will not solve all the challenges faced by platform workers, it will help to improve the highly precarious position that they currently occupy.

This thesis has provided an empirical basis for the development of theoretical frameworks that further elucidate the relationship between platform workers and digital platforms. It contributes to the emerging academic literature in this field by demonstrating the importance of power and information asymmetries in shaping worker experiences. Further, it illustrates the need for regulatory reform that addresses this imbalance with the aim of providing workers with formal protections that limit their employment vulnerability. It is a nascent point in time to seriously question how the current legislative framework accommodates technological developments and changes in the labour market. If policy-makers fail to engage in a genuine assessment of the effectiveness of existing labour regulations then precarious employment in Australia will continue to expand.

Directions for future research

This thesis provides an empirical basis for future research into experiences of platform work and how these are shaped by the operation of regulatory frameworks and digital technologies. It has highlighted the existing gaps in regulatory protections for platform workers, as well as the information and power asymmetries that characterise relationship and communications between workers and platform firms. It has examined the platform economy through a case study focusing on the experiences of Uber drivers operating in the Sydney area. Due to the small sample size and limited scope of qualitative data collected through fieldwork, my findings could be tested further through interviews with a larger pool of Uber drivers from Sydney and other Australian cities such as Melbourne, Brisbane and Canberra. Investigation into the experiences of Uber drivers in other cities would not only expand the data set in this area but also allow for comparative analysis. Undertaking testing with broad geographical samples is important for verifying the findings of previous studies that emphasise the role of regional variation in shaping experiences of work (Graham, Hjorth & Lehdonvirta 2017; Rosenblat & Hwang 2016).

The most important avenue for future research into experiences of platform workers would be to test the findings of this study in the context of work for platform firms other than Uber. These include AirTasker, Amazon Mechanical Turk, Deliveroo, Freelancer and Foodora. In an Australian context, investigation into the on-demand labour platform AirTasker would provide an opportunity to test findings of studies into global digital labour markets. Comparative analysis should be conducted with platform workers from different nations and further research could usefully consider differences and similarities between experiences of platform workers in the Global North and South. This broad-based inquiry could help elucidate how labour law systems in other jurisdictions have responded to the rise in non-standard employment arrangements, with the potential to identify effective policy solutions that could be adopted domestically.

Considering the developing nature of the platform economy and the expansion of the platform business model, scholarly research should also focus on how experiences of platform work have changed over time. Views expressed by interviewees in this study suggest that the quality

of their experiences of work have declined over time. Studies that include a temporal control could discern whether there are common triggers for this decline and whether certain variants such as age, influence the speed of the decline. Further, the asymmetrical relationship between platform workers and firms should be analysed in greater detail, in particular the role of software and digital technologies in shaping power and information differentials. The impact of technologically-enabled “algorithmic management” (Lee et al. 2015) on work and worker behaviours should also be examined in an Australian context.

The platform economy will continue to expand as existing firms consolidate their position in the marketplace and new entrants emerge. This will see an increase in the number of people engaging in platform work in Australia. If a greater number of platform workers find themselves beyond the coverage of statutory protections, this risks undermining a core objective of the labour law regime, that is, to afford vulnerable workers protections so as to create a more level playing field between firms and workers. Thus, at this critical juncture it is imperative that more scholarly attention is directed at developing coherent frameworks to deepen understandings of the relationship between on-demand labour and digital platforms, that go beyond promises of freedom, flexibility and economic opportunity. It is only when armed with this understanding that regulatory reform allowing for decent work in the platform economy will be an attainable reality.

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