Prova di Solidarietà': How Effectively are Unions and Emerging Collective Worker Representatives Responding to New Business Models in Australia and Italy?

Organising in the fissured workplace: trade union responses across countries ADAPT Conference, Bergamo, November 2019 Anthony Forsyth



'Platform capitalism' (Nick Srnicek):

- Business reinvention to avoid minimum standards & trade unions
- Franchising, staffing agencies, independent contracting, complex supply chains, gig economy
- Test of solidarity barriers to organising



Assessing the effectiveness of union/new collectivist responses – relevant literature

- K D Ewing, 'The Function of Trade Unions' (2005) 34:1 *Industrial Law Journal* 1
- Richard Hyman, Understanding European Trade Unionism: Between Market, Class and Society (Sage Publications, London, 2001)
- Richard Freeman & James Medoff, What Do Unions Do? (Basic Books, New York, 1984),

See also :

- Michael Ford QC & Tonia Novitz, 'There is power in a union? Revisiting trade union functions in 2018', forthcoming)
- Gregor Gall & Jack Fiorito, 'Union Effectiveness: In Search of the Holy Grail' (2016) 37:1 *Economic and Industrial Democracy* 189
- Susan Hayter (ed), *The Role of Collective Bargaining in the Global Economy: Negotiating for Social Justice* (Edward Elgar/International Labour Office, 2011)



1) Collective bargaining

- Amazon/Filcams CGIL Nazionale 'world-first collective agreement' (see Cattero & D'Onofrio, 2018)
 - **GMB** 'self-employed plus' agreement for **Hermes** couriers
- Unions NSW attempt to negotiate agreement with Airtasker (see Minter, 2017)







2) Campaigns for improved regulation

- Transport Workers Union & Young Workers Centre 'Rights for Riders'
- **California Labor Federation** (et al) 'AB5' legislation deeming gig workers to be employees (codifying *Dynamex* ruling, 2018)
 - **Italian union confederations** & **rider collectives** Bologna Charter of Digital Workers' Rights & *Emendamento Riders*, Legislative Decree n.101/2019
- United Workers Union 'Fair Food Campaign' labour hire licensing



3) Litigation to challenge business models









Outcomes of gig economy litigation

UNIVER

Misclassification successfully challenged	Contractor status confirmed
<i>Dynamex,</i> Supreme Court of California (2018)	3 x <i>Uber</i> decisions, Aust'n Fair Work Commission (2017-19) + Fair Work Ombudsman investigation (2019)
<i>Klooger v Foodora,</i> Aust'n Fair Work Commission (2018)	<i>Uber Eats,</i> Aust'n Fair Work Commission (2019) – appeal pending
<i>Uber v Aslam,</i> UK Supreme Court (2018)	R (IWGB) v Central Arbitration C'tee (Deliveroo case), UK High Court (2018)
r. R:	<i>Foodora</i> decision, Employment Tribunal of Turin (2018) → slightly different outcome, Turin Court of Appeal (2019)



4) Self-organised worker collectives



RIGE Share Univers United The voice of Ride Share Drivers in Australia & around the World



Conclusions:

- Possible to 'organize the unorganizable' (Zamponi, 2018)
- Best examples where unions pursue multi-level strategy: campaigns, litigation, grass-roots organising
- Legal/institutional frameworks must adapt, e.g.
 - collective bargaining across supply chains
 - relax competition law constraints for platform

