

March 29, 2022

Chair Natalia Kusendova, M.P.P.
Standing Committee on Social Policy
Legislative Assembly of Ontario

Dear Ms. Kusendova:

Re: *An Act to enact the Digital Platform Workers' Rights Act, 2022 and to amend various Acts*

We are writing you regarding Bill 88, the *Working for Workers Act*, which is before your committee for review.

The Canadian Research Insights Council (CRIC) is Canada's voice of the research, insights, and analytics industry both domestically and globally. As the industry's national self-regulatory association, CRIC represents research agencies and users of research that adhere to the highest standards, ethics, and best practices that protect the public interest. Members include a mix of Canada's most established companies, such as Quest Mindshare, Nanos, Ekos, Telus, The Logit Group, Bell, Maru, Leger, and Ipsos, as well as newer agencies from all parts of Canada.

As legislators, you know that research plays a pivotal role in our society, improving public policy, programs, products, and services. It gives a voice to Ontarians in decisions that matter to them, and is an essential component of a democratic society.

We understand that Bill 88 is intended to improve the working conditions of people working through digital labour platforms, and as such, the scope of the proposed legislation should not impact the research, insights, and analytics industry.

We do question, however, if whether as currently drafted, Bill 88 might have adverse effects on those who receive payments for activities that are not work related. More specifically, our concerns are that the definition of "worker" at Section 1 might result in unintended consequences if the term is interpreted to include individuals who are offered incentives by research companies to participate in a research project.

We note that this is a concern that has been raised with similar bills in other jurisdictions, leading the Californian Legislature to pass [Assembly Bill 1561](#) in September 2021. Bill 1561, which deals with the classification of independent contractors, amended the California Labor Code to include the definition for "research subject," and specific provisions to clarify that the Code did not apply to participants in a research project. The amendment reads as follows:

SEC. 3. Section 2782 of the Labor Code is amended to read:

2782. (b) As used in this section:

(2) "Research subject" is any person who willingly engages with a data aggregator in order to provide individualized feedback on user interface, products, services, people, concepts, ideas, offerings, or experiences, and does not engage solely for the purposes of completing individual tasks, except as the tasks relate to providing such feedback.

By way of background, it is a common practice within the research sector to offer respondents and focus groups participants modest financial incentives to encourage them to take part in a research project.

The use of incentives is a long-standing, global best practice, going back several decades. Some research projects, in fact, would be nearly impossible to undertake without incentives to encourage the participation of hard-to-reach populations, such as low-income earners, Indigenous Peoples, and new Canadians. This in turn ensures that research results are truly representative of the populations targeted by empirical research. As such, the offer of incentives is not only practiced by the market and survey research industry, but as well by the academic, medical, social science and pharmaceutical sectors.

Incentives —usually a gift, payment or other consideration — are required to offset any expenses or inconveniences associated with participating in a research project. Participation in market research, therefore, is not a ‘job’, hourly or otherwise, and individuals’ participation in research projects renders individuals into research subjects, not employees or workers.

Clearly, this is not the intent of Bill 88.

To include research participants within the scope of Bill 88 would create insurmountable hurdles for research companies (the vast majority of whom are small-medium-enterprises). The net effect would be to significantly reduce the amount of research that can be undertaken, reduce the participation rates for those taking part in studies, and significantly weaken the quality and representation of research results.

We would argue, however, the term “worker” as currently drafted in Bill 88 is broad enough to be interpreted as applying to individuals who receive incentives to participate in a research project.

As such, we request that the Committee eliminate this possible unintended consequence by adding the term “research subject” to Section 1 of Bill 88, using the same or similar language as did the Californian legislature when they took measures to clarify that the California Labor Code does not apply to individuals receiving incentives for their involvement in research.

We thank the Committee for considering our request and we trust it will address our concerns with the appropriate amendments. Note that our industry position on Bill 88 is limited to what is contained in this letter, and silence on a specific provision should not be construed as acquiescence or support.

Do not hesitate to contact Greg Jodouin, our government relations consultant, should you require additional information or a follow-up meeting. Mr. Jodouin can be reached at gjodouin@paceconsulting.ca or at 613-859-8390.

Sincerely,



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