

Lisa Chesters  
Chair  
Standing Committee on Employment, Education and Training  
House of Representatives  
Parliament, Canberra  
ACT 2000



Via: [ee.reps@aph.gov.au](mailto:ee.reps@aph.gov.au)

Dear Chair,

**RE: INQUIRY INTO THE DIGITAL TRANSFORMATION OF WORKPLACES**

Victorian Trades Hall Council (VTHC) welcomes the opportunity to make a submission to the inquiry into the digital transformation of workplaces.

VTHC is the peak body for unions in Victoria, representing 41 affiliated unions and over 500,000 members that reach into each and every industry in the state. The terms of reference considered by this inquiry affect every single Victorian union member and worker, and the consequences of technological advancements on workers such as automation, artificial intelligence (AI), surveillance, and algorithms must be approached with extreme caution.

Victorian unions unequivocally believe all work is skilled work, and that all work can create pride and meaning for workers. Unions stand firmly behind the principle that workers deserve good, fulfilling lives outside of work and a strong social safety net to ensure this. Workers want to do their work to their best ability and embrace advancements. Technological change should improve their standard of living - not exacerbate existing inequalities.

Thus far, Victorian unions have seen new technologies used as a tool to strip workers of rights, protections and security. Conversely, it is possible for technological and digital advancements to improve the lives of workers, but substantial and dedicated regulation is necessary to ensure this outcome.

This submission addresses all terms of reference in this inquiry, with particular focus on the impacts AI, automation and algorithms will have on vulnerable workers. It includes 24 recommendations that Victorian unions believe are necessary to protect and enhance working conditions into the future.

Should you have any questions about this submission, please do not hesitate to contact Tiarne Crowther, VTHC Special Advisor on

Yours sincerely,

Luke Hilakari  
Secretary

**Luke Hilakari**  
Secretary

**Amanda Threlfall**  
Assistant Secretary

**Wilhelmina Stracke**  
Assistant Secretary

**Trades Hall**  
54 Victoria Street  
Carlton 3053

**Ph: 03 9659 3511**  
**info@vthc.org.au**  
**weareunion.org.au**

# **VTHC Submission to the Inquiry into the Digital Transformation of Workplaces**

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## 1. Introduction: Digitalisation and the Future of Work

Workers, their unions and the public at large have been encouraged to think about workplace digitalisation as an issue of profound complexity and nuance.

The novelty of these technologies is constantly emphasised: their total lack of a precedent, the impossibility of predicting their consequences. Through jargon, obfuscation and deceptive framing, many working people have been led to feel simply unqualified to participate in the AI discussion - let alone have a say on the specific role it will take in their working lives.

For all we hear about complexity and nuance, the self-reported experience of workers actually exposed to these technologies has been remarkably straightforward. **AI is a new technology causing old problems.**<sup>1</sup> In the hands of employers, it makes it possible for union workers to be added to blacklists, for worker's private conversations to be used against them, for their personal life to fall under perpetual scrutiny. In other words, digitalisation risks making 'the future of work' look very similar to the past which they fought hard to escape.

For several decades, innovations in information technology have transformed Australian workplaces. Until recently, these transformations have concentrated on the production process - with machines taking over work previously performed by humans. Today's crucial development is that AI has made it possible for managerial *and* productive functions to be automated. This has profound implications for the future of work in Australia.

AI, algorithmic management (AM), automated decision making (ADM) and automation are starting to impact every dimension of Australians' working lives: from their day-to-day experiences in the workplace, to their relationship with managers and their position in the wider labour market.

Although human workers still drive cars, deliver packages, answer calls, and pack goods - an increasing number receive their instructions from an app or software program. Pioneered by digitally based food delivery and ride-hailing services, this system of management-by-algorithm is spreading to manufacturing, transportation, logistics, legal services, banking, telecommunications, healthcare, public administration and retail.

AM refers to the use of algorithmic systems to undertake managerial functions at work. It is closely tied to automation, because data collected through AM often guides the automation process. The functions performed by AM technologies include:

People analytics:

- Monitoring, evaluating and ranking worker performance.
- Calculating and ensuring adherence to schedules and deadlines.
- Informing decisions on hiring, firing, disciplining, and promoting.

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<sup>1</sup> Trades Union Congress. 2020. *Technology Managing People: The Worker Experience*. London: *Trades Union Congress*, p. 57; De Stefano, V and Taes, S. 2023. "Algorithmic management and collective bargaining," *Transfer: European Review of Labour and Research*. Vol. 29 (1), p. 27; United Workers Union. 2020. *Technology and Power: Understanding issues of insecure work and technological change in Australian workplaces*. Submission: Inquiry into the Impact of Technological and Other Change on the Future of Work and Workers in New South Wales. Select Committee, Parliament of New South Wales. Available at: [parliament.nsw.gov.au/lcdocs/submissions/69004/f](https://parliament.nsw.gov.au/lcdocs/submissions/69004/f), p. 13.

- Analysing workers' behavioural, cognitive, and emotional states.
- Analysing workers' biometric data including sleeping habits, fingerprints, retina and iris scans, physical fitness, vocal tone, and facial expressions.
- Modifying workers' behaviour through incentives, punishments and strategic withholding of information.
- Influencing workers' relationships with one another.
- Calculating and issuing remuneration and entitlements.

#### Industrial analytics:

- Delivering real-time instructions and feedback to workers on their performance.
- Predicting staffing and resourcing needs.
- Identifying potential sites for labour-saving technologies to be implemented.
- Implementing labour-saving technologies in the production process (automation).
- Optimising and coordinating the sequence of tasks and complex processes.
- Anticipating maintenance and replacement needs.
- Synchronising output with fluctuations in consumer demand.
- Synchronising labour inputs with fluctuations in consumer demand.
- Synchronising production with inter-company activity (i.e. supply chains).

Digitalisation, ADM, and automation have the potential to relieve workers of repetitive tasks and generate historic productivity gains. AI could pre-emptively address risks to workplace health and safety, streamline the work process, improve organisational decision-making and enhance the quality of jobs. These possible benefits are much discussed and the Committee is likely to hear about them from a number of responses to this inquiry. What may not currently be as salient are the extensive risks AI poses to workers - and it is here that this submission will focus.

Just as digitalisation may transform workers lives for the better, it may also systematically deprive them of fundamental rights, secure livelihoods and the ability to take collective action. The outcome will depend on decisions taken today at all levels of government.

All Australian workers should be able to share in the benefits of digitalisation. This means making sure that employers are not the only voice in the room when it comes to implementing this technology - workers must be front and centre on decisions about AI, AM and ADM.

So far, employers have been given relatively free reign to impose AI, AM and ADM technologies in their workplaces. This has put Australia out of alignment with other advanced economies and leaves us vulnerable to a number of serious risks.

At the workplace level, the employer-led AI rollout is reducing transparency and job quality while heightening surveillance and work intensification. At the workforce level, this risks causing widespread deskilling, fragmentation and polarisation. This will heighten power-differences in the workplace so significantly that labour rights may become increasingly difficult for workers to exercise in any capacity.

In 1856, Victorian unions were the first place in the world to fight for and win the 8-hour day - setting a historic standard for every worker to enjoy 8 hours of rest and 8 hours of recreation after 8 hours of work. Workers have a fundamental right to spend time with family, pursue education, explore creative pursuits, appreciate nature, participate in arts, culture and public affairs, or simply, to relax however they please to. Digitalisation is undercutting

this basic principle - the principle which has civilised capitalism in Australia for nearly two hundred years.

Workers take pride in their work. Workers want to improve their skills, become more efficient and contribute to better outcomes. Victorian unions are not opposed to technological progress. However, we also recognise that workers deserve to share in the wealth that they create. Since 1994-95, there's been increase of 16.6% in the hours worked by Australians - but labour's share of national income has only shrunk.<sup>2</sup> The question of digitalisation needs to be considered in this context.

Workers must be *participants in* rather than *victims of* the AI rollout. This will require proactive action from the Federal Government to harness workers' voice, regulate the worst uses of this technology and prevent irreversible distortions to the structure of our workforce and society at large.

This submission will make a number of recommendations about issues relating to workplace digitalisation. All of these share a common reference point: that workers deserve to have a say over how technological advancements affect them, and that all of society benefits when this happens.

## **2. Digitalisation at the Workplace Level**

### **2.1 Current forms of digital transformation of the workplace are harming workers**

Unfortunately, this inquiry's terms of reference assumes that digitalisation, on-balance, is going to be beneficial for workers, communities, the economy and the national interest. Although widespread in elite policy-making circles, this is not how the average Australian worker is thinking about AI. In fact, concern with these technologies is higher here than in almost any other developed country.<sup>3</sup> Working Australians are seeing firsthand how these digital technologies are actually being deployed in the workplace. Their anxieties are well-founded and need to be taken seriously.

Narratives around futuristic technologies always presented a vision of utopia. In 1930, John Maynard Keynes predicted in the future there would be such extensive technological benefits, that living standards would increase to the point where workers would have so much leisure time, they would only need to work the hours they chose, around fifteen per week.<sup>4</sup>

According to OECD research, 13% of Australian workers work 50-hours per week or more, higher than the OECD average. Inequality is worsening - 90% of Australians receive just 7%

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<sup>2</sup> Australian Government. "Annual Productivity Bulletin 2024." *Productivity Commission*, 29 Feb 2024, Available at: <https://www.pc.gov.au/ongoing/productivity-insights/bulletins/bulletin-2024>

<sup>3</sup> Brynjolfsson E, et. Al., "The AI Index 2024 Annual Report," AI Index Steering Committee, *Institute for Human-Centered AI*. Stanford, California: Stanford University, April 2024, pp. 441-443: only 38% of Australians trust companies to protect their personal data appropriately, just 40% believe AI will have more benefits than drawbacks. Since 2022, the number of Australians who report feeling 'nervous' about the use of AI products and services has jumped 18% - from 51% to 69% - this is the highest rate in the world.

<sup>4</sup> Crafts, N. 2022. "The 15-Hour Week: Keynes's Prediction Revisited." *Economica* Vol. 89, (356), pp. 815-829. Available at: <https://onlinelibrary.wiley.com/doi/full/10.1111/ecca.12439>.

of the benefits of economic growth.<sup>5</sup> This is a reversal of the trends of the 1950s where 90% of workers received 96% of the benefits – and Keynes’ utopia has never looked further away.<sup>6</sup>

AI and ADM are already threatening to make this inequality worse. Experts in the US estimate that of the 40 million jobs lost as a result of Covid-19, 42% have not come back with most being replaced by machines.<sup>7</sup> In Australia, research has predicted that 1.3 million full-time jobs will be automated as a result of AI – affecting 9.9% of Australian workers.<sup>8</sup> AI, AD and ADM are being channelled into workplace surveillance, increasing OHS risks and substantially diminishing autonomy. A 2021 study found that 90% of employers monitor digital activity of remote workers.<sup>9</sup>

Women workers, young workers, migrant workers and workers of colour will be particularly impacted by technological advancements in the workplace. Experts predict that the jobs most likely to be automated are customer service workers, administration and clerical workers, accountants and bookkeepers, sales workers, and retail workers, jobs which are commonly performed by women, young people, migrants, and workers of colour.<sup>10</sup> It is unlikely that generative AI will have the same impact on low-paid, less technical jobs as previous technological advancements have, but greater automation and AI has the potential to impact knowledge work.<sup>11</sup> Directors in these industries are less likely to have their jobs affected by AI and automation.<sup>12</sup>

If AI and automation continues to be rolled out without government intervention, it is likely there will be significant unequal outcome for women, exacerbating pre-existing gender segregation of the workforce. For example, one of the professions most likely to be impacted by AI; clerical and administrative work; has the highest concentration of women workers in Australia, where women make up 72% of the roles.<sup>13</sup> The third highest concentration of women workers is sales workers, being 59%, and professionals, being 55%, both of which are roles likely to be impacted by AI and automation. Women workers also

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<sup>5</sup> Grudoff, M and Richardson, D. 2023. “Inequality on Steroids: The Distribution of Economic Growth in Australia.” *The Australia Institute*, pp. 1-9. Available at: [Inequality on Steroids-Who Benefits From Economic Growth in Australia-WEB511-copy.pdf](#)

<sup>6</sup> Ibid.

<sup>7</sup> Samuels, A. 2020. “Millions of Americans Have Lost Jobs in the Pandemic – And Robots and AI Are Replacing Them Faster Than Ever.” *Time Magazine*, 6 Aug 2020. Available at: <https://time.com/5876604/machines-jobs-coronavirus/>

<sup>8</sup> Molloy, S. 2024. “The Jobs mostly likely to be replaced by artificial intelligence technology in Australia.” *News.com*. Available at: [Jobs mostly likely to be replaced by artificial intelligence technology in Australia | news.com.au — Australia’s leading news site](#)

<sup>9</sup> Meredith, J and Holland P. 2023. “Does your employer have to tell if they’re spying on you through your work computer?” *Swinburn University of Technology*. 10 Oct 2023. Available at: <https://www.swinburne.edu.au/news/2023/10/does-your-employer-have-to-tell-if-theyre-spying-on-you-through-your-workcomputer/#:~:text=In%20Australia%2C%20this%20figure%20was,the%20start%20of%20the%20pandemic>.

<sup>10</sup> Talmage-Rostron, M. 2024. “How will Artificial Intelligence Affect Jobs 2024-2030.” *Nexford University*, 10 Jan 2024, Available at: <https://www.nexford.edu/insights/how-will-ai-affect-jobs>

<sup>11</sup> Manyika, J. 2017. “Technology, jobs and the future of work.” *McKinsey & Company*, Executive Briefing, 24 May 2017. Available at: <https://www.mckinsey.com/global-themes/employment-and-growth/technology-jobs-and-the-future-of-work>

<sup>12</sup> Talmage-Rostron. “How will AI Affect Jobs.”

<sup>13</sup> *Workplace Gender Equality Agency*. 2023. “WGEA Gender Equality Scorecard 2022-2023.” 28 November 2023. Available at: <https://www.wgea.gov.au/publications/australias-gender-equality-scorecard>



make up 56% of the retail trade industry.<sup>14</sup> Women workers are still withheld from progressing, being forced to remain at the bottom of the workforce as women make up only 39% of senior leaders, 37% of key management personnel and 22% of CEOs.<sup>15</sup> As a result, women are one of the groups most likely to be subjected to the impacts of AI and automation.

International studies confirm similar results, for example a US study found that 79% of US women workers may suffer the impacts of AI.<sup>16</sup> Part of the foundation for this prediction was that 70% of US women workers are employed in professional white-collar jobs susceptible to the impacts of AI.<sup>17</sup>

Additionally, the British Institute for Public Policy Research has found that women, workers of colour, and young workers are more likely to be subjected to workplace surveillance. It found that women workers in non-unionised workplaces were 53% more likely to face surveillance by their employers.<sup>18</sup> Consideration must also be given to the interaction between surveillance at work and the impact it may have on victim/survivors of sexual harassment and assault, a common form of which is stalking. 1 in 5 Australian women are subjected to stalking, and 1 in 5 are being subjected to sexual violence.<sup>19</sup> For victim/survivors, being surveilled at work may cause additional substantial harm.

If employers are allowed to collect vast amounts of information about their workers, there needs to be protections against the high risks of hacks and scams, and the way leaked information can be misused against women, especially victim/survivors of sexual harassment or family violence. As an illustration of this risk, the details of 30,000 staff at Telstra were leaked in an October 2022 data breach.<sup>20</sup>

Post Covid-19, many unions have made significant gains in terms of flexible work arrangements and increased work from home right, which can be very valuable for women workers and workers who have caring responsibilities. However, there are a range of new programs for monitoring workers' computers at home including Veriato, Teramind, ActivTrak, Interguard, and SentryPC.

A young worker, working as a copywriter, contacted the Young Workers Centre based at Trades Hall in 2020 and was required to be on zoom every hour she was working, even while

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<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> El Atillah, I. 2023. "Nearly 80% of Women's Jobs at Risk from Generative AI, new research finds." *Euronews.Next*, 29 June 2023. Available at: <https://www.euronews.com/next/2023/06/29/womens-jobs-will-be-disproportionately-affected-by-ai-according-to-new-research>

<sup>17</sup> Briggs, J and Kodnani, D. 2023. "The Potentially Large Effects of Artificial Intelligence on Economic Growth." *Goldman Sachs Economic Research*, 26 Mar 2023. Available at: [https://www.key4biz.it/wp-content/uploads/2023/03/Global-Economics-Analyst-The-Potentially-Large-Effects-of-Artificial-Intelligence-on-Economic-Growth-Briggs\\_Kodnani.pdf](https://www.key4biz.it/wp-content/uploads/2023/03/Global-Economics-Analyst-The-Potentially-Large-Effects-of-Artificial-Intelligence-on-Economic-Growth-Briggs_Kodnani.pdf)

<sup>18</sup> Ali Hussen, D. 2023. "Dystopian' surveillance 'disproportionately targets, young, female and minority workers.' *The Guardian*, 27 Mar 2023. Available at: <https://www.theguardian.com/global-development/2023/mar/26/dystopian-surveillance-disproportionately-targets-young-female-minority-workers-ipp-r-report>

<sup>19</sup> Australian Bureau of Statistics. 2021-22. *Personal Safety, Australia*, ABS. Available at: <https://www.abs.gov.au/statistics/people/crime-and-justice/personal-safety-australia/latest-release>

<sup>20</sup> Swain, S. 2022. "Details of 30,000 Telstra staff leaked online in third-party data breach." *9News.com.au*, 4 Oct 2022. Available at: <https://www.9news.com.au/national/telstra-data-staff-breach-optus/16b216d7-09f2-43c8-93d6-8df4f0041e24>

she was on the phone or writing material as part of her work, so her employer could watch her work. Her manager separated her out into breakout 'rooms' and used the rooms to sexually harass and bully her. She also overheard him bullying other staff members, and witnessed him punching a wall in his home office. She found the constant surveillance extremely intimidating and left her job without having another one lined up.<sup>21</sup>

In Australia, there is little research about the impacts of AI and automation on racial equality. However, a US study found that AI and automation will have a significant impact on racial economic equality, predicting that the racial wealth gap could widen to \$43 billion annually by 2045.<sup>22</sup> Four of the top five occupations at risk of automation in the US, being office support, production work, food services and mechanical installation and repair, commonly employ workers of colour and black workers.<sup>23</sup>

Young workers are also likely to be significantly impacted by AI and automation. Young workers commonly work in the industries likely to be affected by AI and automation, such as accommodation and food services, where 22% of young workers work, retail trade, with 20% of young workers, and health care and social assistance, where 11% work.<sup>24</sup> The most common occupations for young workers are sales workers, being 16% of young workers.<sup>25</sup> Polling from the UK and US indicates widespread concern amongst young workers about the threat of automation, and the general impact of AI on their working lives.<sup>26</sup>

A UK study found that the rollout of AI is likely to occur in two stages, with the first being using AI to identify and automate more repetitive tasks associated with entry level jobs.<sup>27</sup> These entry level jobs are important for young workers to get their start at work. The study found 11% of workers' tasks are already subject to the first AI implementation wave, and that this could rise to 59% in the second wave.<sup>28</sup>

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<sup>21</sup> YWC solicitor's account of a young worker who contacted them for advice.

<sup>22</sup> Shelly Brown, J, et. Al. "The Impact of Generative AI on Black communities." *McKinsey Institute for Black Economic Mobility*, 19 Dec 2023. Available at: <https://www.mckinsey.com/bem/our-insights/the-impact-of-generative-ai-on-black-communities>

<sup>23</sup> Ibid.

<sup>24</sup> *WorkSafe ACT*. 2022. "Data snapshot – Young workers." Available at: [www.worksafe.act.gov.au/data/data-snapshots/data-snapshot-young-workers-2022](http://www.worksafe.act.gov.au/data/data-snapshots/data-snapshot-young-workers-2022)

<sup>25</sup> Ibid.

<sup>26</sup> Funk, I. 2023. "Young workers grapple with the future of AI, worry about being replaced by technology." *Chicago Sun Times*, 9 Nov 2023. Available at: [chicago.suntimes.com/business/2023/11/8/23939102/artificial-intelligence-ai-young-workers-worry-job-replaced-technology](http://chicago.suntimes.com/business/2023/11/8/23939102/artificial-intelligence-ai-young-workers-worry-job-replaced-technology); O'Sullivan-Dale, U. 2023. "Survey reveals 61% of young workers worry about impact of AI on employment." *Robotics and Automation*, 16 Aug 2023. Available at: <https://www.roboticsandautomationmagazine.co.uk/news/ai/survey-reveals-61-of-young-workers-worry-about-impact-of-ai-on-employment.html>

<sup>27</sup> Mayne, M. 2024. "AI posing 'significant barrier' to young workers as 8 million jobs put at risk." *People Management*, 3 Apr 2024. Available at: <https://www.peoplemanagement.co.uk/article/1867477/ai-posing-significant-barrier-young-workers-8-million-jobs-put-risk#:~:text=Testing-.AI%20posing%20'significant%20barrier'%20to%20young%20workers%20as%208,million%20jobs%20put%20at%20risk&text=As%20many%20as%208%20million,women%20among%20the%20most%20affected>

<sup>28</sup> Jung, C and Srinivasa Desikan, B. 2024. "Transformed by AI: How Generative Artificial Intelligence Could Affect Work in the UK – And How to Manage It." *Institute for Public Policy Research*, March 2024. Available at: [https://ippr-org.files.svdcdn.com/production/Downloads/Transformed\\_by\\_AI\\_March24\\_2024-03-27-121003\\_kxis.pdf](https://ippr-org.files.svdcdn.com/production/Downloads/Transformed_by_AI_March24_2024-03-27-121003_kxis.pdf)



It is important to highlight the potential for AI, automation and other technological advancements to interact with rising inequality and high rates of insecure work, making it more difficult for workers to join their unions. If the jobs of migrants, workers of colour, women, and young workers are taken by employers utilising technology like AI, there is likely to be higher rates of unemployment amongst these cohorts. Additionally, vulnerable workers may be forced into only working low paid, routine jobs where workers have little control over their work. High rates of unemployment and low paid work could lead to an extreme divide in income and wealth between those profiting off AI and vulnerable workers such as migrants, young workers, and women workers.

## 2.2 Transparency

In 2020, American couriers for Target's delivery service 'Shipt' were notified that the company's payment algorithm had been updated. Specific details of the change were not disclosed, but workers were told that it would entail a pay rise. Over the following weeks, however, couriers realised that their pay had been cut. Workers' rights advocates took notice and developed a website for couriers to report and compare their pay records. It soon became clear that the company had lied: since the algorithmic update, 40% of workers suffered a pay cut and many were now earning an hourly rate below their state's minimum wage.<sup>29</sup>

When employers begin to use AI to make managerial decisions, the first thing workers often notice is a drastic reduction in transparency. Major changes to the work process start occurring without disclosure or explanation: pay fluctuates, penalties are issued, shifts are reduced or intensified, colleagues are laid off.

Algorithmic management makes it possible for these changes to happen without any singular human manager taking responsibility for them - the company becomes immune from challenge, with no accountable human figure responsible for justifying or even explaining these changes to workers.<sup>30</sup>

As the Australian Nursing and Midwifery Federation has noted, this opacity poses serious ethical risks.<sup>31</sup> AI leads human managers to become unwilling or unable to articulate the rationale for company decisions. This is because of the 'black box' problem: AI-driven management programs are highly opaque.

Management algorithms make decisions through a complex process that is dynamic and self-improving. A high degree of expertise, time and confidential information is needed to make sense of the decisions they produce.<sup>32</sup> AI-driven management software devises recommendations from vast quantities of data. It is often simply impossible to understand

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<sup>29</sup> Calacci, D. 2022. "Organizing in the End of Employment: Information Sharing, Data Stewardship, and Digital Workerism," in *CHIWORK '22: The Symposium on Human-Computer Interaction for Work, June 08-09, 2022*. Massachusetts: Massachusetts Institute of Technology Media Lab, p. 5.

<sup>30</sup> Mendonca P and Kougiannou N. 2023. "Disconnecting labour: The impact of intraplatform algorithmic changes on the labour process and workers' capacity to organise collectively." *New Technology, Work and Employment*. Vol. 38, pp. 4-5.

<sup>31</sup> Australian Nursing and Midwifery Federation. 2024. *Submission to the Senate Select Committee on Adopting Artificial Intelligence (AI)*. Parliament of Australia. Available at: [Submissions – Parliament of Australia \(aph.gov.au\)](https://www.parliament.gov.au/submissions), p. 11.

<sup>32</sup> IndustriAll: European Trade Union. 2019. "Artificial Intelligence: Humans must stay in command." Policy Brief, 2019. Available at: [Policy%20Brief%20-%20Artificial%20Intelligence.pdf](https://www.industriall.eu/publications/policy-brief-artificial-intelligence), p. 4.

why exactly the technology arrived at the recommendations that it did and what specific data input caused it.

As AM is used not only to rank and profile workers, but also, to dole out rewards and disciplines, workers feel like managerial decisions become incontestable. The employer's self-interest is shrouded behind a 'veil of objectivity.'<sup>33</sup> Anti-worker changes are framed as neutral and empirical matters of procedure. As workers in the British education sector found when they tried to question a decision made about a co-worker using AI:

'They didn't want to tell me, and they didn't really understand it themselves ... Any AI used is assumed by an employer to be flawless and impartial therefore not open to challenge, ... the company will say the system cannot lie.'<sup>34</sup>

The inherent opacity of AI systems also makes it very difficult to prove when they are responsible for discrimination. It is not uncommon for their training data to be unreliable, biased, or pseudoscientific.<sup>35</sup>

For example, the management software company HireVue sells AI-drive video interviewing systems to large companies. Their AI is programmed to determine which candidates will be suitable workers by analysing speech and voice patterns, facial movements, and other factors. It was found that the program discriminated harshly against many candidates, but especially those with disabilities whose expression and voice patterns were unrecognisable to the program.<sup>36</sup>

Overseas, state authorities have intervened to protect workplace transparency from AM technologies. In 2023, an Italian regional court forced a food delivery company to disclose to the relevant trade union information about its automated decision-making systems, including:

- The main parameters being used to train automated systems.
- Details about the termination of workers' accounts.
- The 'logic and operation' of systems used to score workers and allocate tasks.
- The measures in place to ensure the fair and accurate functioning of these systems.<sup>37</sup>

Governments around the world are recognising the threat AM poses to workplace transparency. Procedural fairness is impossible when life-altering decisions are made about workers that cannot be explained to them. Australian governments must act to ensure this does not become the standard in our workplaces.

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<sup>33</sup> Klengel E and Wenckebach J. 2021. "Artificial intelligence, work, power imbalance and democracy – why codetermination is essential." *Italian Labour Law e-Journal*. Vol. 14 (2), pp. 157-171.

<sup>34</sup> Trades Union Congress. 2020. "Technology Managing People: The Worker Experience." London: *Trades Union Congress*, pp. 45-8.

<sup>35</sup> Juego B, et. Al. 2024. "Algorithms By and For the Workers: Towards A Fair, Democratic and Humane Digitalisation of the Workplace." Brussels: *Foundation For European Progressive Studies*, p. 15.

<sup>36</sup> Trades Union Congress, "Worker Experience," p. 51; Whittaker, M. 2019. "Disability, Bias, and AI." AI Now Institute, NYU. Available at: <https://ainowinstitute.org/disabilitybiasai-2019.pdf>

<sup>37</sup> Tribunal of Palermo, Work Section, 26 June 2023, Italian General Confederation of Labour v Foodinho (It.), Available at: [art-28-statuto-Riders-1687786624-1.pdf \(bollettinoadapt.it\)/](art-28-statuto-Riders-1687786624-1.pdf (bollettinoadapt.it)/)

**Recommendation 1: Amend the *Fair Work Act (Cth.) 2009* to require employers to consult with unions over any major change to technological or organisational processes.**

To bring Australia into line with international best practice, the *Fair Work Act (Cth.) 2009* should be amended. Employers should be required to disclose to workers and their unions not only when they introduce an AI management program at work, but also changes to existing programs. Employers should be required to disclose to workers and their unions not only when they use an AI program at work, but also such relevant information as:

- The identity of the AI program.
- The decisions it is being used for.
- The identity of the third-party AI program developer (if applicable).
- The software's training data, designated variables, and objectives.
- The volume, subjects and usage of data collected about workers.
- The outcomes of any internal or external audits into the software at this or any other workplace it has been used.
- The content and outcome of any complaints lodged about the program by workers.

**Recommendation 2: A total ban on the use of AI to make human resourcing, industrial relations or employment law related decisions should be introduced. This must include a prohibition on the use of AI to hire, terminate, promote or discipline workers.**

The use of ADM to make these status-altering decisions allows employers unprecedented cover from scrutiny and accountability. The *Fair Work Act (Cth.) 2009* should be amended to prohibit this. All status-altering decisions must be attributable to an accountable human manager.

### **2.3 Surveillance**

Employers use AI-driven surveillance for three purposes:

1. To train algorithmic management and ADM software.
2. To control, understand and monitor workers.
3. To identify points where the production process can be optimised.

First, AM software requires vast quantities of data to be effective: data about the production process, input costs, the company imperatives, and the workforce. Increasingly sophisticated forms of surveillance are used to collect this training data - round the clock monitoring, extensive use of cameras, biometric tests, and invasive machine learning techniques which infer information about the most intimate parts of workers' lives.<sup>38</sup>

There is no technological boundary preventing employers from using workplace surveillance to gather information on workers' personal lives and even their psyche.<sup>39</sup> In fact, the tendency of these self-improving technologies is to progressively expand their purview.

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<sup>38</sup> Benn, C and Lazar, S. 2022. 'What's Wrong with Automated Influence.' *Canadian Journal of Philosophy* Vol. 52 (1), p. 135; Ajunwa, I, Crawford, K and Schultz, J. 2017. Limitless Worker Surveillance. *California Law Review*. Volume 105, p. 735; Calacci, "Organising at the End of Employment," p. 3.

<sup>39</sup> De Stefano V and Taes S. 2023. "Algorithmic management and collective bargaining," *Transfer: European Review of Labour and Research*. Vol. 29 (1), p. 27.

This is called **function creep**. Without intervention, AI-driven surveillance technologies will tend to simply make as many inferences about their subjects as they can.<sup>40</sup> Already, employers have been caught using these technologies to discover the following about potential or current workers in their organisation:

- Their likelihood of falling ill and needing to take above average sick days.<sup>41</sup>
- Their likelihood of becoming pregnant.<sup>42</sup>
- Their sleep, fitness, and wellbeing habits.<sup>43</sup>
- The structure of their personalities, including tendencies for disobedience.<sup>44</sup>
- Their work satisfaction.
- Their likelihood of wanting to stay in the company long-term.

This is not 'surveillance' as conventionally understood. Its subject is the future as well as the present: its aim being to pre-emptively define which workers are most likely to 'rock the boat'— using this information to eliminate annual raises for them, expel them from the candidate selection process, or otherwise push them out of the organisation.<sup>45</sup>

AI-driven advances in surveillance technology have wildly outpaced Australia's existing regulatory frameworks.

Employers argue that misuse of these technologies is already covered by existing privacy and discrimination laws. However, the 'black box' problem means it is exceedingly difficult for workers to definitively prove that a hiring software's decision can be specifically attributed to discriminatory inferences.<sup>46</sup>

Although data consent requirements formally exist in many workplaces, Victorian workers know that denying employers access to your personal data often forecloses your possibility of employment.<sup>47</sup> Already, workers in Australia have been threatened with redundancy for refusing facial recognition scans.<sup>48</sup>

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<sup>40</sup> Koops, BJ. 2021. "The Concept of Function Creep." *Law, Innovation and Technology*. Vol. 1 (13), 29-56; Harwell, D. 2019. "A face scanning algorithm increasingly decides whether you deserve the job." *The Washington Post*, 6 November 2019. Available at: [HireVue's AI face-scanning algorithm increasingly decides whether you deserve the job - The Washington Post](#)

<sup>41</sup> Roth, S and Delbos, B. "AI is causing massive hiring discrimination based on disability." *The Hill*, 8 April 2024. Available at: [thehill.com/opinion/technology/-ai-is-causing-massive-hiring-discrimination-based-on-disability/](#)

<sup>42</sup> Mohan, P. 2023. "AI, pregnancy discrimination, and harassment: How the government fought workplace discrimination in 2023." *Fast Company*, 28 December 2023. Available at: [ai-pregnancy-discrimination-harassment-how-government-fought-workplace-discrimination-2023](#)

<sup>43</sup> Rowland, C. 2019. "With fitness trackers in the workplace, bosses can monitor your every step – and possibly more." *The Washington Post*, 16 February 2019. Available at: [washingtonpost.com/with-fitness-trackers-in-the-workplace-bosses-can-monitor-your-every-step.](#)

<sup>44</sup> Chen, Z. 2023. "Ethics and discrimination in artificial intelligence-enabled recruitment practices." *Humanities and Social Sciences Communication*, Vol. (10), 567.

<sup>45</sup> Trades Union Congress, "Worker Experience," p. 59.

<sup>46</sup> Sheard, N. 2022. "Employment Discrimination by Algorithm: Can Anyone Be Held Accountable?" *University of New South Wales Law Journal*, Vol. (45) 2, p. 646.

<sup>47</sup> Trades Union Congress, "Worker Experience," p. 40.

<sup>48</sup> White, S. 2020. Security Guard at Government Building Wins Fight Against Boss over Facial Recognition Technology. *The Canberra Times*, 27 July 2020. Available at: [Security guard at government building wins fight against boss over facial recognition technology | The Canberra Times | Canberra, ACT](#)

VTHC has heard firsthand accounts of workers in Melbourne exposed to intrusive and deceptive surveillance practices:

- In S's matter, audio-visual surveillance was installed around her workplace without any of the staff being notified or consulted. The employer deliberately installed some of these devices while she was getting changed in another room. The devices were installed in the kitchen, waiting room, other spaces around the clinic, in front of her desk and behind her desk. The employer lied to staff about some of the devices not being operational: despite claiming they were inactive, when needing to confirm the identity of a patient he used footage from them. The employer would use surveillance to issue real-time directives to 'S' as patients entered the clinic. This level of supervision made her feel uncomfortable and anxious.
- In J's matter, an employer installed CCTV cameras around the workshop - one of which pointed to the entrance of the bathrooms. J was strongly discouraged from using the bathroom before 6am or after 7pm because he was entitled to penalty rates for such hours. The employer used CCTV to scrutinise how much time workers spent in the bathroom - this made J feel targeted, anxious and discouraged from taking reasonable breaks to use the bathroom.

New regulations are urgently needed in recognition of the OHS risks posed by surveillance on this scale. The Rail Tram and Bus Union has raised the alarm about how extensive surveillance against train drivers caused a surge in 'fatigue due to a constant anxiety about being watched.'<sup>49</sup> The Australian Workers Union has reported of an employer on a blue-collar worksite whose excessive use of surveillance created 'highly dysfunctional and negative' work environment which saw three workers placed on suicide watch - with one even taking their own life.<sup>50</sup>

Perpetual observation causes heightened stress, burnout, anxiety, fatigue, tension and work dissatisfaction.<sup>51</sup> With every second of their day scrutinised, workers feel the need to be constantly on call, so they do not get turned down for well-paying tasks or penalised by the operating program. As one United Workers Union hospitality worker summarised, the effect of employer deployed surveillance is such that:

'You feel like you're in a jail more than a workplace.'<sup>52</sup>

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<sup>49</sup> Rail, Tram and Bus Union. 2020. Submission: Inquiry into the Impact of Technological and Other Change on the Future of Work and Workers in New South Wales. Select Committee, *Parliament of New South Wales*. Available at: [0016 Australian Rail Tram and Bus Industry Union, NSW Branch.pdf.](#), p. 3.

<sup>50</sup> The Australian Workers Union. 2020. Submission: Inquiry into the Impact of Technological and Other Change on the Future of Work and Workers in New South Wales. Select Committee, *Parliament of New South Wales*. Available at: [0023 The Australian Workers' Union.pdf \(nsw.gov.au\).](#), p. 7.

<sup>51</sup> Todolí-Signes A. 2021. "Making algorithms safe for workers: occupational risks associated with work managed by artificial intelligence." *Transfer: European Review of Labour and Research*, Vol. 27(4), 433-452; De Stefano V and Wouters M. 2022. "AI and digital tools in workplace management and evaluation: An Assessment of the EU's legal framework." Report for the Panel for the Future of Science and technology. Brussels: *European Parliament*; Moore, P. 2019. "OSH and the Future of Work: Benefits and risks of artificial intelligence tools in workplaces." *EU OSHA discussion paper*. Available at: <https://osha.europa.eu/en/publications/osh-and-future-work-benefits-and-risks-artificial-intelligence-tools-workplaces..>

<sup>52</sup> United Workers Union. 2020. *Technology and Power: Understanding issues of insecure work and technological change in Australian workplaces*. Submission: Inquiry into the Impact of Technological and

**Recommendation 3: Amend the National Employment Standards to include a right to workplace privacy.**

This will act as a protection against function creep. This should include a prohibition on employers using AI to infer information about workers health, cognition, personal affairs, emotions and political or industrial views. Data collected about workers to evaluate their performance should be anonymised.

**Recommendation 4: The Federal Government should work with its state and territory counterparts to eliminate intrusive surveillance in the workplace.**

Monitoring of workers must only be for the purposes of safety and security. Any data generated from surveillance must not be used as a basis for disciplinary or human resources decisions except where safety or security at risk. Workers' data must not be sold to third parties without their consent.

**Recommendation 5: Model occupational health and safety laws should be amended to recognise the profound risk to workers' psychosocial health posed by intrusive surveillance and algorithmic management.**

**Recommendation 6: Health and Safety Representatives should be trained in how to identify AI-based health and safety risks, and empowered under the Act to issue stop-work orders should these be present.**

## 2.4 Job Quality

Surveillance and a lack of transparency make the work environment more hostile to workers. However, these are only precursors to how AI is changing the content of their work itself. Employers do not use surveillance simply as means of control - they use it to understand how they can intensify production. For workers, this typically means task loss, task breakdown, outsourcing and automation. Employers are maximising profit at the expense of job quality.

As employers accumulate increasingly granular information about the work process through AI-driven surveillance, they can identify areas where jobs can be 'simplified' through **task loss** or **task breakdown**.

Job Quality Impact	Mechanism	Labour-Market Impact
<b>Task Loss:</b> Reducing the number of tasks a worker must complete as part of their role.	Usually accomplished through automation.	Deskilling (devaluation of human skills and the workers who have them).
<b>Task breakdown:</b> Dividing one worker's duties between several cheaper and more insecure workers.	Usually accomplished through outsourcing.	Fragmentation (insecure arrangements replace traditional employment).

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Other Change on the Future of Work and Workers in New South Wales. Select Committee, *Parliament of New South Wales*. Available at: [parliament.nsw.gov.au/lcdocs/submissions/69004/f](http://parliament.nsw.gov.au/lcdocs/submissions/69004/f), p. 24.



For example, at a manufacturing plant, employers might use the data from AI-driven surveillance to calculate, down to the second, the costs and benefits of automating a workplace task. If they choose automation, this will cause job destruction (lay-offs). However, the more likely outcome is partial automation – and workers in the manufacturing plant will see their breadth of duties narrow. This is task loss.

AM can cause task loss even without automating any part of the production process. This is because it favours repetitious, quantifiable, strictly defined, work processes with minimal space for risk, variation, or deviation from standard process.<sup>53</sup> Managerial AI can rapidly shift workers between stations on an on-demand basis. This allows employers to produce a broader range of products without having a specialised and multi-tasking worker for each variant.<sup>54</sup>

Automation and task loss means workers have less variety in their working days, and almost no room for discretion, experimentation, autonomy, or personal influence on the final product of their work. This impairs skill development and is associated with psychosocial hazards:

‘In my company, AI is being either used to replace staff or put staff under more pressure... it makes work more stressful ... robotic, alienating, monotonous, lonely.’<sup>55</sup>

The effects of task loss are compounded by employers utilising task breakdown.<sup>56</sup> Task breakdown occurs when an employer splits the complex processes usually undertaken by one well-trained in-house worker and divides them between several less trained workers (or machines) usually operating outside of the firm. Advances in AI are allowing this to happen on an unprecedented scale.<sup>57</sup>

There are two important points to consider with regards to the effects of AI on job quality. First, task loss and task breakdown will occur *wherever* employers are permitted to deploy AI without consulting their workers. It expresses basic market forces – that employers want to minimise labour costs and would rather tasks be done by less secure workers and without extensive training. Depriving workers of tasks can be used as a pretext for cutting their pay.

Second, the effects of plummeting job quality on workers subjected to these technologies are so severe that they may outweigh any corresponding productivity gains. In a meta-analysis of over 20,000 European managers involved in firms using algorithmic management, the loss of personal autonomy and task variety caused by AI was found to

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<sup>53</sup> Klengel E and Wenckebach J. 2021. “Artificial intelligence, work, power imbalance and democracy – why codetermination is essential.” *Italian Labour Law e-Journal*. Vol. 14 (2), 157-171; Juego, “Algorithms By and For the Workers,” p. 26.

<sup>54</sup> Schaupp, “Cybernetic Proletarianization,” p. 18; [Chapter 17: AI and income inequality: the danger of exacerbating existing trends toward polarization in the US workforce in: Handbook of Artificial Intelligence at Work \(elgaronline.com\)](#)

<sup>55</sup> Trades Union Congress, “Worker Experience,” p. 56.

<sup>56</sup> Mendonca and Kougiannou, “Disconnecting Labour,” pp. 1-8.

<sup>57</sup> Calacci, “Organising at the End of Employment,” pp. 2-5; De Stefano V and Doellgast V. “Introduction to the Transfer special issue. Regulating AI at work: labour relations, automation, and algorithmic management.” *Transfer: European Review of Labour and Research*. Vol. 29 (1), pp. 9-20.

have such a negative impact on worker wellbeing that it possibly outweighed net efficiency gains from these technologies.<sup>58</sup>

## 2.5 Work Intensification

For employers, the intended effect of reducing transparency, reducing job quality, and implementing surveillance is work intensification: having workers produce more in less time, and with no change in pay.<sup>59</sup> Surveillance, lack of transparency, and task reallocation are all proving crucial to work intensification. Digitalisation also facilitates work intensification through:

- Algorithmically determined productivity targets which force people to rush work or face penalties.
- Elimination of surplus time.
- Forcing workers to 'manage' themselves through behaviour modification and soft control techniques.
- Customer ratings of worker performance.
- Algorithmically determined rankings of workers.
- Instantaneous evaluation of worker activities.

Employers are using AI to intensify work in ways that go beyond what is reasonable under the managerial prerogative. Management algorithms persistently underestimate the time required to complete tasks satisfactorily.<sup>60</sup> Workers are forced either to rush their work at the expense of quality or fail to meet their algorithmically set deadlines. Both options leave them open to penalties or termination. For example, in Wales, a local government worker's productivity quota did not change to account for her pregnancy, and as a result her shifts were cut, and she automatically incurred penalties.<sup>61</sup>

In Australia, the Transport Workers Union has voiced serious concern about AI being used to impose unsafe deadlines on road transport workers. Since 2018, eighteen gig-economy transport workers have died on Australian roads:

'In the gig transport sector ... workers are almost entirely managed through artificial intelligence ... The outcome of AI used in this way in the transport industry is that people die. **When hourly rates are too low and require people to work at unsustainable paces and hours, people die.** When AI pressure to deliver at an unrealistic speed leads to dangerous practices on our roads, people die.'<sup>62</sup>

Management algorithms are often programmed not to consider factors that any human manager would understand impact performance: poor lighting, equipment issues,

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<sup>58</sup> Kinowska H and Sienkiewicz LJ. 2023. "Influence of algorithmic management practices on workplace well-being – evidence from European organisations." *Information Technology & People*. Vol. 36 (8), pp. 21-22.

<sup>59</sup> United Workers Union, "Technology and Power," p. 10.

<sup>60</sup> Trades Union Congress, "Worker Experience," p. 56.

<sup>61</sup> Trades Union Congress. 2024. *A Snapshot of Workers in Wales' Understanding of AI*. Cardiff: Wales Trade Union Congress, Cymru. Available at: [ENG Workers in Wales' understanding and experience of AI - Wales TUC 1.pdf](#), p. 12.

<sup>62</sup> Boutros, J. Campaigner, Transport Workers Union of Australia. 2024. Statement at the Public Hearings for the Select Committee on Adopting Artificial Intelligence (AI) Inquiry. *Australian Senate*. 21 May 2024. Available at: [Parliamentary Business/Committees/Senate/Adopting Artificial Intelligence](#), p. 43.

fluctuations in temperature, poor ergonomic conditions, or personal crisis.<sup>63</sup> AI allows employers to demand maximum efficiency even under these conditions. This is inhumane.

These programs are also overwhelmingly developed in the United States, tailored to its comparatively lower labour standards and protections than those in Australia or Europe. Management algorithms are functioning as a backdoor for employers to impose US-style working conditions.<sup>64</sup>

Algorithmic management allows management to experiment with various 'soft-control' techniques. General standards for every worker are replaced with customised 'nudges' - instant feedback is given to workers who are expected to 'self-optimize' their productivity. Strict scheduling and directives are replaced by mutable incentives. An example of this is in algorithmically managed ride-hailing services such as uber - where information is strategically withheld from drivers to induce them to accept jobs they would otherwise avoid.<sup>65</sup>

AI-driven work intensification is also characterised by the elimination of surplus time.<sup>66</sup> With the ability to observe every second of production, even the smallest operationally induced work breaks can be identified and filled. Brief opportunities for socialisation or rest are removed.<sup>67</sup> This contributes to collapsing levels of work satisfaction, psychosocial health, and general wellbeing.<sup>68</sup>

In warehouses and factories with advanced ADM, workers wear wristbands or hold devices that issue immediate feedback on how productive they are being - in some cases, automatically alerting a manager, sounding a blaring alarm or assigning more work if a worker's productivity falls below 80% of their usual rate.<sup>69</sup>

Work intensification should be considered in the context of the broader workplace changes identified - surveillance, lack of managerial transparency, and reduced job quality. In plain terms, vast sections of the Australian workforce are on track to spend their days being spied on, working harder for less, and undertaking increasingly monotonous and repetitive duties.

Without regulation, market forces guarantee the replication of these conditions across an increasing number of workplaces. The use of ADM is becoming a competitive advantage making it an incentive for employers to chip away at workers' rights and to diminish meaningful work.

Australia is embarking on an employer-led AI arms race. As the United Workers Union has observed, workplace technologies conform to path dependence - once installed, they are

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<sup>63</sup> Trades Union Congress, "Worker Experience," p. 48.

<sup>64</sup> Hajkowicz, S. 2024. *Artificial intelligence foundation models: Industry enablement, productivity growth, policy lever and sovereign capability considerations for Australia*. CSIRO, Canberra. Available at: [Artificial Intelligence foundation models report - CSIRO](#).

<sup>65</sup> Calacci, "Organising at the End of Employment," p. 4.

<sup>66</sup> Schaupp, S. 2022. "Cybernetic Proletarianization: Spirals of devaluation and conflict in digitalized production." *Capital & Class*. Vol. 46(1), p. 11.

<sup>67</sup> Calacci, "Organising at the End of Employment," p. 4.

<sup>68</sup> Walker, M. 2024. "The Impact of AI on Contracts and Unionisation," Chapter 18 in *Handbook of Artificial Intelligence at Work*. Edward Elgar Publishing, p. 362.

<sup>69</sup> Schaupp, "Cybernetic Proletarianization," p. 21.

very difficult to wind back.<sup>70</sup> When a rival firm is undertaking task breakdown, surveillance, automation and work intensification, others will be pushed to adopt these techniques to survive. Failure to counterbalance these market forces with worker voice and regulation is setting Australia on a dangerous path that we are running out of time to correct.

### **Case study - Work Intensification: Amazon<sup>71</sup>**

Amazon has five warehouses in Melbourne. Amazon uses cameras to track workers' every move. It also tracks their real time productivity with data generated by the cameras, scanners and other devices used in the movement of goods.

This surveillance has been used for multiple purposes. Amazon uses the data generated to form algorithms that set targets for the speed at which workers must work, tracks the length of time workers take breaks, and the conversations they have with co-workers. Amazon has also intimidated workers looking to establish a union by placing postal boxes where votes needed to be posted in the middle of the warehouses, which are constantly surveilled.

Amazon workers in the US have likened the surveillance they are subjected to as being imprisoned and find the targets dehumanising as they fail to account for bad days or for workers who have different physical capabilities than others. Targets are causing workers to run from shelf to shelf, or to carry too many heavy objects and it has led to a high injury rate. Research from Harvard Law School has demonstrated that **the most automated Amazon warehouses are also those with the most worker injuries.**<sup>72</sup>

## **3. Digitalisation and the Labour Market**

The workplace-level ramifications of an employer-led AI rollout are clearly unsettling. However, their impacts only become wholly apparent when we consider how they are likely to affect the workforce as a whole.

An employer-led AI rollout risks an aggressive deskilling, fragmentation and polarisation of the Australian workforce – all driven by a deliberate and systematic devaluation of human skills. There are few comparisons in history for what the effects of this would be long-term.

### **3.1 Deskilling**

Workers know how to interface with customers, administer medications, write professionally, lay bricks and cables, educate children, paint houses, entertain audiences, interpret medical scans, and prepare food. When workers pool their skills and knowledge and collectively bargain for a fair share of the wealth that they create, they lift the living standard of all Australians.<sup>73</sup>

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<sup>70</sup> United Workers Union, "Technology and Power," p. 8.

<sup>71</sup> Greene, J. 2021. "Amazon employee surveillance fuels unionisation efforts." *The Washington Post*, 2 Dec 2021. Available at: <https://www.washingtonpost.com/technology/2021/12/02/amazon-workplace-monitoring-unions/>

<sup>72</sup> Center for Labor and a Just Economy at Harvard Law School. 2024. "Worker Power and Voice in the AI Response." *Harvard Law School*: Cambridge Massachusetts. Available at: <https://clje.law.harvard.edu/worker-power-and-voice-in-the-ai-response/>, pp. 3-14.

<sup>73</sup> Center for Labor and a Just Economy, "Worker Power and Voice," p. 3; Livingston, J. 1987. *Origins of the Federal Reserve System: Money, Class, and Corporate Capitalism, 1890–1913*. Ithaca, New York: Cornell University Press, p. 87.

Workers who hold skills or knowledge that are scarce, valuable, or dependent on extensive training have always had an outsized leverage against employers - they cannot be mistreated without risking major disruptions to output.<sup>74</sup>

The most important dynamic to understand about employer-deployed AI and the labour market is that it **transfers productive knowledge from workers to employer-controlled machines. This systematically undermines workers' ability to negotiate for a better life.**

When AI can write documents, identify faulty equipment, read scans, or manage complex inventory, employers can suddenly 'hire anyone' for roles that formerly required extensive training. This causes wages for that role to fall and corrodes the bargaining power of the workers undertaking it.

The current trajectory of the AI rollout is to devalue human productive knowledge across the Australian labour market - from legal services to medical technicians, research assistants, educators, artists, and manufacturers.<sup>75</sup>

**Deskilling is not an incidental by-product of employer-led digitalisation** or job simplification. Rather, **it is one of employer's key motivations for implementing it.** As one manager of an increasingly digitised manufacturing plant in Germany summarised:

[We want] either to make things go faster or to enable people with less qualifications to do it... to shift work ... to less qualified and therefore cheaper workers ... [to be able] to hire anyone.<sup>76</sup>

As we have seen, employers are using AI to narrow the range of tasks each individual worker is required to undertake, causing skill erosion.<sup>77</sup> However, in some cases, it is the workers themselves whose activities are being used to deskill the labour process. Data collected about workers is used to assess how replaceable they are, and even train their replacements - whether these are machines or poorer-paid workers. For example, the location activity of warehousing workers has been used to train the robot-pickers which later made them redundant.<sup>78</sup> The location data of human logistics workers is being used to develop autonomous transport vehicles to replace their positions.<sup>79</sup>

In some instances, self-devaluation actually becomes a central part of the worker's daily duties:

'Management at Smart Electrics ordered skilled production workers to program their knowledge into the work control systems. Through a software, workers had to put ...

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<sup>74</sup> Perelman M. 1998. *Class Warfare in the Information Age*. New York: St. Martin's Press, p. 38.

<sup>75</sup> Krzywdzinski, M, Schweiß, D and Sperling, A. 2024. "Between control and participation: The politics of algorithmic management." *New Technology, Work and Employment*, pp. 2-17.

<sup>76</sup> Schaupp, "Cybernetic Proletarianization," pp. 17-18; Schaupp, S. 2022. "Algorithmic Integration and Precarious (Dis)Obedience: On the Co-Constitution of Migration Regime and Workplace Regime in Digitalised Manufacturing and Logistics." *Work, Employment and Society*, Vol. 36(2), p. 317.

<sup>77</sup> Schaupp, "Cybernetic Proletarianization," p. 18.; [Chapter 17: AI and income inequality: the danger of exacerbating existing trends toward polarization in the US workforce in: Handbook of Artificial Intelligence at Work \(elgaronline.com\)](#)

<sup>78</sup> *Ibid.*, p. 20.

<sup>79</sup> *Ibid.*, pp. 19-21.

pictures of their labour process into the system... instructions had to be detailed enough to allow 'any random person' to carry out the assembly process.'

**'I'm siphoning off his knowledge'** [one manager said,] **'he is replaceable now.'**<sup>80</sup>

### **Recommendation 7: Increase redundancy and retraining obligations.**

If an employer is considering making a worker redundant due to AI, automation or any other technological advancement associated with the digitisation of the workplace, there should be substantial obligations on the employer to retain the worker's employment. These should include:

- Obligations to continue to employ the worker including re-training them on the job to be able to take advantage of new technologies,
- Paying workers adequate redundancy packages until they can find new equivalent employment. This will discourage employers from making workers redundant without genuinely trying to continue the worker's employment,
- Employers should be required to pay for a redundant worker's re-training and their income while they're training and looking for another job, and
- A nation-wide full-employment strategy that places obligations on employers to employ workers who have had their jobs impacted by AI, automation or other technological advancement.

### **3.2 Fragmentation**

Deskilling jobs means the workers doing these jobs can be treated as interchangeable objects. They can be paid less, replaced more easily and discarded without hesitancy. This is another key motivation for employer-led digitalisation: to further fragment (or 'flexibilise') the workforce and untether themselves from traditional employer-employee obligations.

As roles become deskilled, the need for quality training dissolves and it becomes possible for employers to have an extremely rapid turnover of staff.

'Quality training has been replaced with online learning ... Members are disciplined and treated unfairly for errors made even though overall competency levels are dropping due to a lack of training.'<sup>81</sup>

AI makes it possible for workers to be used and discarded according to instant fluctuations in market activity. A model of work is emerging that is so insecure, it functions effectively on-demand - with hyper-individualised arrangements, non-standardised pay, unpredictable scheduling, and exclusion from statutory labour rights.

As early as 2018, Australian workers engaged in digitally-fragmented arrangements experienced unacceptable underpayment. Unions NSW reported of a catalogue distribution worker on a four-week contract who had to track her movements in an app.

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<sup>80</sup> Schaupp, "Algorithmic Integration," p. 317.

<sup>81</sup> Trades Union Congress, "Worker Experience," p. 57.



After 100 hours of work, she calculated her hourly rate as \$2 an hour. She was told the minimum wage did not apply because she was an independent contractor.<sup>82</sup>

An insecure and fragmented workforce also presents severe obstacles to labour organising.<sup>83</sup> This further distorts the worker-employer relationship. Nesting dolls of outsourcing and labour hire can make it challenging for a worker to know who their bargaining counterpart actually is. Insecure work undermines wellbeing by inducing a sense of precarity and powerlessness.<sup>84</sup> As the United Workers Union has noted: 'employers know that insecure workers have limited power to speak up and assert their rights.'<sup>85</sup>

### 3.3 Polarisation

In the short-term, casualisation and deskilling may result in considerable efficiency gains for employers. In the long-term, it will distort the workforce in ways that should concern every Australian.

Most often, the main issue raised about AI and the labour market is widespread job loss through automation. Employers and technology giants have responded by arguing that for all the jobs AI destroys, it will likely create many more. We should ask what kind of jobs these will be.

Left to market forces, AI destroys good and secure jobs while generating an abundance of low-wage, ultra-flexible, labour-intensive positions – along with a tiny portion of highly paid managerial-technical-professional roles created to oversee these.<sup>86</sup>

We need only to look at the jobs AI has already created to recognise this pattern.

When algorithmic management was applied to the ride-hailing and food delivery industries, a business model appeared that was built on a 'massive reserve army' of precarious workers who required no training, used their own vehicles, and were owed no protections. They could also be deactivated at any point and easily coerced into being constantly available to dispense orders.<sup>87</sup> Deactivations without cause are part of the business model – having been reported in Australia, Argentina, the UK, Canada, Kenya, South Africa, Uruguay, France and Nigeria.<sup>88</sup>

AI, we are reassured, also creates jobs in content moderation, data annotation, algorithm training and dataset construction. These too, however, are overwhelming undertaken by unprotected 'ghost workers' who have almost no bargaining power, receive abysmal pay

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<sup>82</sup> Unions New South Wales. 2020. Submission: Inquiry into the Impact of Technological and Other Change on the Future of Work and Workers in New South Wales. Select Committee, *Parliament of New South Wales*. Available at: [parliament.nsw.gov.au/lcdocs/submissions/69070/0028%20Unions%20NSW.pdf](http://parliament.nsw.gov.au/lcdocs/submissions/69070/0028%20Unions%20NSW.pdf), p. 20.

<sup>83</sup> Calacci, "Organising at the End of Employment," p. 2.

<sup>84</sup> Calacci, "Organising at the End of Employment," pp. 2-5.

<sup>85</sup> United Workers Union, "Technology and Power," p. 18.

<sup>86</sup> Schaupp, "Algorithmic Integration," p. 318; Goos, M and Manning, A. 2007. "Lousy and lovely jobs: the rising polarization of work in Britain." *Review of Economics and Statistics*. Vol. 89 (1), pp. 118-133.

<sup>87</sup> Mendonca and Kougiannou, "Disconnecting Labour," pp. 1-8; Černušáková, B. 2024. "Labour Rights and Technology: Mapping Strategic Opportunities for Workers and Trade Unions." *International Lawyers Assisting Workers*, May 2024 Report, Available at: [ISSUE-BRIEF-Labour-Rights-and-Technology.pdf](http://ISSUE-BRIEF-Labour-Rights-and-Technology.pdf) ([ilawnetwork.com](http://ilawnetwork.com)), p. 22.

<sup>88</sup> *Ibid.*, pp. 19-22.

and often work under horrifying conditions. In Kenya, **Facebook’s recruitment practices** for content moderators **were found to be so misleading that they amounted to human trafficking and forced labour**.<sup>89</sup>

AI does not lower demand for insecure low-paid jobs.<sup>90</sup> In fact, it does the opposite. For many employers, completely replacing workers with machines will not be necessary or even desirable. The preference will be to maintain low paid and low trained human workers, using automation wherever necessary to expel the secure and the well-paid.

Employer-led digitalisation, therefore, will create jobs – not long-term, secure well-paid jobs but, for many workers, feudal arrangements which barely provide the means of survival.

The jobs market will not shrink. It will become saturated with cheap and digitally deskilled jobs unable to promise permanence, benefits, or security – let alone opportunities for social mobility or a stable retirement.

In the aforementioned German manufacturing plant undergoing digitalisation, many workers depend on state benefits to survive. They are largely overqualified for the work they are doing. ‘Errors’ in the automated payment system mean they are constantly paid late. One full-time worker in the facility became homeless. Another couldn’t even afford food.<sup>91</sup>

As the AI arms race accelerates, more skills will be devalued, more secure workers will become insecure, and more precarious jobs will be created to absorb them. **The labour market will polarise at its extremes**.<sup>92</sup> On a generational timescale, this could result in inequalities so intense that they strain the durability of Australian democracy. This is outlined further below.

Regardless of industry, we can anticipate this process of polarisation to unfold:

1. **Collection:** Employers collect data about workers and the production process.
2. **Identification:** Employers identify where production can be ‘simplified’ through deskilling, task reallocation, automation, or outsourcing.
3. **Expulsion:** Secure, well-paid workers whose skills have been devalued via simplification are expelled from the organisation.
4. **Absorption:** These now precarious workers are re-integrated into the workforce through one of the new insecure positions created by digitalisation.
5. **Polarisation:** Wage and job inequality increases across the industry.
6. **Repeat.**

### **Recommendation 8: Introduce a Universal Basic Service.**

As part of AI regulation policy, Universal Basic Services (UBS) should be introduced as a safety net to mitigate the ramifications of potential labour polarisation. A UBS ensures that all workers receive unconditional access to necessary public services and facilities needed for workers to be safe, healthy, and to fully participate in society regardless of income. These

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<sup>89</sup> Ibid., p. 6, 36.

<sup>90</sup> Autor, D and Dorn, D. 2013. “The Growth of low-skill service jobs and the polarisation of the US labor market.” *American Economic Review*, Vol. 103 (5), pp. 1553-1597.

<sup>91</sup> Schaupp, “Cybernetic proletarianization,” 21-22.

<sup>92</sup> Staab, P and Prediger, LG. 2019. *Digitalisation and Polarisation: A literature review on the effects of digital change on social structures and companies*. Dusseldorf: Research Institute for Social Development.

services should include healthcare, education, housing, public transport, food, childcare and access to information such as the internet and mobile phones.<sup>93</sup>

Proponents of UBS argue that it is more equitable than a universal basic income as it is based on appropriate provision of minimum needs relevant to individuals.<sup>94</sup> It can also be argued that increased services under a UBS may lead to job creation, the sort of jobs which are unlikely to be outsourced to AI.

The Committee should investigate implementation of UBS to enhance our safety net so that all workers are healthy, safe and can participate in society regardless of their income.

#### **4. The Labour-Management Relationship: Rights, Dignity and Power.**

##### **4.1 Digital Technology and Industrial Relations**

An employer-led AI rollout could constitute, over the long-term, one of the greatest transformations in Australian workplace relations since the industrial revolution.

Every component of employer-led digitalisation discussed in this submission has implications for labour rights and the employer-worker relationship:

- Loss of transparency makes it impossible to attribute responsibility for managerial decisions. It is very challenging to organise against a boss who cannot be seen and who makes decisions according to a process that cannot be understood.<sup>95</sup>
- Pervasive surveillance increases workers' fear of reprimand for organising activities.
- Elimination of surplus time limits opportunities for workers to form social ties with one another.
- Outsourcing makes it challenging for workers to know who their bargaining counterpart is.
- Reduced job security makes it harder for workers to feel invested in changing their workplace for the better.
- Insecurity and fragmentation excludes workers from statutory labour protections.
- Polarisation causes the formation of a vast stock of displaced workers who can be called on to replace workers taking industrial actions.

Digitalisation is seeing employers deploy an arsenal of novel tools to distort the worker-employer relationship. This, in turn, is giving them the confidence to resuscitate aggressive anti-worker strategies from the early 20<sup>th</sup> century: **industrial espionage, smear campaigns, intimidation and blacklists**. Amazon exemplifies this scorched-earth approach to industrial relations:

- Using AI-driven heatmaps to forecast the probability of certain warehouses to unionise and targeting these for interventions.<sup>96</sup>

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<sup>93</sup> *New Economic Foundation*. 2019. "Universal Basic Services: Public Services to Meet the Needs We All Share." Available at: <https://neweconomics.org/campaigns/universal-basic-services>

<sup>94</sup> Gregory, C. 2023. "Universal Basic Services." *Faculty of Public Health Briefing*. Available at: <https://www.fph.org.uk/media/0cvd21zb/fph-briefing-universal-basic-services-pdf.pdf>

<sup>95</sup> Center for Labor and a Just Economy at Harvard Law School. 2024. "Worker Power and Voice in the AI Response." *Harvard Law School: Cambridge Massachusetts*. Available at: <https://clje.law.harvard.edu/worker-power-and-voice-in-the-ai-response/>, p. 3.

<sup>96</sup> Trades Union Congress, "Worker Experience," p. 33.

- Hiring government-trained ‘intelligence analysts’ to collect ‘actionable’ information about ‘organised labor, activist groups and hostile politicians’ around the world.<sup>97</sup>
- Running a PR campaign planned by executives, including Jeff Bezos, to make union organiser Christian Smalls appear ‘not smart or articulate’ while making him ‘the face of the entire union/organising movement.’<sup>98</sup>
- Illegally firing pro-union workers and organisers.<sup>99</sup>
- Forcing workers to attend anti-union meetings.
- Forcing workers to watch anti-union union propaganda on their work devices.
- Banning workers from talking about unions on the shop floor.<sup>100</sup>
- Threatening to withhold wage increases if workers form a union.<sup>101</sup>

Amazon is representative of broader trends. In Georgia, gig-economy workers have faced lifetime bans for participating in strikes.<sup>102</sup> In Argentina, digital workers were permanently deactivated for taking up roles in their union.<sup>103</sup> In Italy, Deliveroo’s employee-evaluation algorithm discriminated against riders who participated in protests about their working conditions.<sup>104</sup>

In the United States, the National Eating Disorder Association (NEDA) laid off its entire helpline staff after they successfully voted to form a union and replaced them with an AI chatbot - ‘Tessa.’<sup>105</sup> ‘Tessa’ was found to be giving individuals with anorexia advice on how to lose weight. NEDA has since shut down the chatbot and no longer provides any helpline services - by phone or online.

Workplace AI has also been used to deliberately pit workers against each other. For example, during an attempt to organise food delivery couriers overseas, management was able to substantially decrease levels of participation in organising meetings by strategically limiting the impacted couriers’ availability to meet and organise.<sup>106</sup>

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<sup>97</sup> Day, M. 2020. “Corporations Like Amazon Hire Union-Busting Labor Spies All the Time.” *Jacobin*, 2 Feb 2020. Available at: <https://jacobin.com/2020/09/corporations-like-amazon-hire-union-busting-labor-spies-all-the-time/>

<sup>98</sup> Blest, P. 2020. “Leaked Amazon Memo Details Plan to Smear Fired Warehouse Organiser: ‘He’s Not Smart or Articulate.’” *VICE News*, 3 Apr 2020. Available at: <https://www.vice.com/en/article/5dm8bx/leaked-amazon-memo-details-plan-to-smear-fired-warehouse-organizer-hes-not-smart-or-articulate>

<sup>99</sup> Greenhouse, S. 2023. “Old-school union busting’: how US corporations are quashing the new wave of organizing.” *The Guardian*, 26 Feb 2020. Available at: <https://www.theguardian.com/us-news/2023/feb/26/amazon-trader-joes-starbucks-anti-union-measures>

<sup>100</sup> Sainato, M. 2024. “They are breaking the law’: inside Amazon’s bid to stall a union drive.” *The Guardian*, 3 Apr 2024. Available at: <https://www.theguardian.com/technology/2024/apr/03/amazon-union-warehouse-california>

<sup>101</sup> Evers-Hillstrom, K. 2023. “Amazon spent unmatched \$14 million on labor consultants in anti-union push.” *The Hill*, 4 Mar 2023. Available at: <https://thehill.com/business/3931442-amazon-spent-unmatched-14-million-on-labor-consultants-in-anti-union-push/>

<sup>102</sup> *Georgia Fair Labor Platform*. “Lifetime app ban for striking Wolt couriers constitutes illegal discrimination.” *GFLP*, 31 Mar 2023. Available at: <https://shroma.ge/en/news-en/wolt-illegal-discrimination/>

<sup>103</sup> Černušáková, “Labour Rights and Technology,” p. 44.

<sup>104</sup> Tribunal Order, Bologna Labour Court, 27 November 2020, Case No. 2949/2019, Italian General Confederation of Trade Unions v Deliveroo Italia (It.), available at <https://www.bollettinoadapt.it/wp-content/uploads/2021/01/Ordinanza-Bologna.pdf>

<sup>105</sup> Meisenzahl, E. “Artificial Intelligence Emerges as a Union-Buster.” *The American Prospect*, 7 Sep 2023. Available at: [Artificial Intelligence Emerges as a Union-Buster - The American Prospect](https://www.americanprospect.com/article/artificial-intelligence-emerges-as-a-union-buster)

<sup>106</sup> Mendonca and Kougianou, “Disconnecting Labour,” p. 5.

In Australia, employers have also been caught using surveillance technologies to divide, punish and intimidate workers. At a casino in New South Wales, management took disciplinary action based on surveillance-collected information while telling the affected worker that the testimony was provided by another employee.<sup>107</sup> Security officers in Canberra have been threatened with disciplinary action for not consenting to facial recognition software.<sup>108</sup> In an Australian poultry facility, workers on break were forced to watch live footage of their coworkers on the kill floor and critique their techniques.<sup>109</sup> Woolworths has been caught erecting CCTV stations to film workers performing protected industrial actions.<sup>110</sup>

Technology giants are normalising an aggressive, antagonistic approach to workplace relations that should be alien to Australians.

'At Amazon, when the union visits to check on [worker] welfare, every interaction is monitored. In one example ... 10 days after an SDA union workplace visit to an Amazon fulfilment centre, I personally received a letter of complaint from Amazon that one of our organisers had breached the two-metre distance rule... Given that HR was in the tearoom at the time, monitoring every single action we took, we wondered why it took 10 days... We can only assume that the 10-day delay in contacting the SDA was the result of very carefully reviewing workplace surveillance footage, either locally or in the US, to see who was talking to the union organiser.'

'It was an ... attempt by Amazon to send a message to the SDA and Amazon workers that Amazon is always watching you.'<sup>111</sup>

If Australia continues to let employers lead the AI rollout, the long-term impacts on workplace relations are not difficult to imagine. Collapsing job quality, anxiety about automation, resentment at constant surveillance and ruthless employer practices could provoke industrial warfare on a scale Australia has not seen in generations.

**Recommendation 9: Amend the *Fair Work Act (Cth.) 2009* in order to introduce a total ban on employers using AI to influence industrial disputes.**

The ban should encompass the following applications:

- If workers are required to use a device, app or other digital interface as part of their role, these cannot be used to disseminate anti-union messages or discourage workers from bargaining. This is compelled speech and a violation of democratic rights.
- Machine learning should never be used to assess whether a worker or a workplace is likely to support unionisation.
- Surveillance technology should never be used to intimidate workers taking or considering taking industrial action.

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<sup>107</sup> United Workers Union, "Technology and Power," p. 28.

<sup>108</sup> Ibid., p. 29.

<sup>109</sup> United Workers Union, "Technology and Power," p. 30.

<sup>110</sup> Ibid., p. 25.

<sup>111</sup> Smith, B. Secretary, New South Wales Branch, Shop, Distributive and Allied Employees Association. 2024. Statement at the Public Hearings for the Select Committee on Adopting Artificial Intelligence (AI) Inquiry. *Australian Senate*. 21 May 2024. Available at: [Parliamentary Business/Committees/Senate/Adopting Artificial Intelligence](#), p. 45.

- Management algorithms should never be used to deliberately engineer conflicts or divisions between workers.
- Management algorithms should never be used to deliberately allocate shifts or tasks to prevent workers from participating in industrial actions, meeting with union delegates, or attending organising meetings.

**Recommendation 10: The Federal Government should mandate protected channels of communication for workers in digitally facilitated work.**

In many workplaces, workers are required to use instant messaging platforms to communicate with one another or with management – such as Slack, Microsoft Teams or Zoom. Employers are empowered to access and monitor these communications for their own interests. Recently, encryption backdoors and AI-powered tools have been developed which magnify this form of internal surveillance: using machine learning techniques to monitor how workers feel about the company, changes in workers sentiment, how often workers communicate with one another, and how they feel about certain company decisions.<sup>112</sup>

In analogue form, this kind of surveillance would be seen as unacceptable. Employers have no universal right to observe every second of workers’ interactions with one another, even on the job. Therefore, in digitally facilitated work, there should be a requirement for employers to implement a protected channel of communication between workers which is free from monitoring. Employer violations of this protected channel should be treated as a serious offence, with appropriate consequences stipulated in the *Fair Work Act (Cth.)* 2009.

**4.2 Dignity and Power**

Without intervention, digitalisation dramatically increases power imbalances in the workplace. For workers subject to the most advanced forms of AM, this is acutely recognised – and causes feelings of dehumanisation, alienation and objectification.

AM makes tasks simple and routine. It tells workers exactly what they have to do and the order in which they have to do them. It ranks workers against one another. It makes it impossible for them to question or challenge managerial decisions. It eliminates opportunities for experimentation, spontaneity, or variety in the work process. Every millisecond of the day is digitally evaluated. The personal influence of the worker on the final product of the work process becomes invisible. The workers ‘disposability’ as a production unit is constantly re-enforced to them, and a profound sense of meaninglessness sets in. To call this a ‘mental health risk’ is a euphemistic understatement: it is a refusal to recognise workers’ humanity.

At its worst, digitalisation is experienced by working people as a form of ritualised humiliation: the blaring of ‘low-performance’ warnings from wrist-strapped devices, unceasing supervision, invisible managers, arbitrary directives, unexplained changes to the work schedule, forced participation in the devaluation of one’s own professional skills. All of this constitutes a **violation of human dignity** that workers often find **more intolerable than the decline in working conditions itself:**

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<sup>112</sup> Bennett Rylah, J. 2024. “How companies are using AI to spy on Slack.” *The Hustle*, 15 Feb 2024. Available at: <https://thehustle.co/how-companies-are-using-ai-to-spy-on-slack>



'I no longer feel like me ... As soon as I get into Smart Shopping, I am Smart Shopping. I cannot make any decisions myself. The scanner tells me: go right or left, down, up.'<sup>113</sup>

'Micromanagement and cameras are setup in every corner to watch you.'<sup>114</sup>

'People are viewed as a series of statistics measured against an arbitrary level of performance.'<sup>115</sup>

'I feel like a robot. I feel constantly monitored...I feel battered like a dog.'<sup>116</sup>

### **4.3 Restoring Balance in Workplace AI**

Just as employers can now amass vast information about their workers, workers should be free to use digitalisation for their own interests. Workers have the right to benefit from data collected about them at work. Information about working hours, commute time and productivity should be accessible to individual workers and their unions. This will allow tools to be developed for workers to collect, own and control their own data which they can use while negotiating bargaining agreements. Data on commute time and out-of-office work, for example, can be deployed in union campaigns to limit unpaid overtime and achieve higher wages. This is already taking place in other advanced economies. A right of data reciprocity will provide an in-built check on such issues as function creep, work intensification and reduced transparency.

New institutions need to be established to prevent extreme power-imbalances in Australian workplaces. Companies employing high-impact AI technologies should be required to either affiliate with sector-specific boards lead by representatives from the community, workforce and experts or, alternatively, to convene internal work-councils elected by their workers. Both boards and work councils should be empowered to request full transparency from employers about how digital technologies are being used and to what ends.

#### **Recommendation 11: A legislated a right of data reciprocity.**

The Federal Government should embed in the *Fair Work Act (Cth.)* 2009 a right for workers and their unions to access, use and negotiate with data collected by employers about the work process.

#### **Recommendation 12: Australia should convene sector-specific boards to develop codes of practice for AI usage in each industry.**

Sectoral boards should be convened and empowered to request from employers the full details of their AI technologies and investigate any suspected abuses therein.

#### **Recommendation 13: Profits from worker-generated data must be shared with workers.**

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<sup>113</sup> Schaupp S and Diab RS. 2020. "From the smart factory to the self-organisation of capital: 'Industrie 4.40' as the cybernitisisation of production." *Ephemera: Theory and Politics in Organisation*, Vol. 20 (4), pp. 19-41.

<sup>114</sup> United Workers Union, "Technology and Power," p. 24.

<sup>115</sup> Trades Union Congress, "Worker Experience," p. 55.

<sup>116</sup> Schaupp, "Cybernetic Proletarianization," p. 22.

The Committee should investigate ways to ensure that employers cannot profit off data collected about workers without sharing these benefits to the worker themselves. Workers have a right to share in any profits created by the data they generate at work.

#### **Recommendation 14: Introduce Collective Intellectual Property Rights.**

Workers and their unions have already been on the forefront of dealing with the impacts of AI. Actors in the SAG-AFTRA union recently won new rights to retain ownership over their digital image, and would derive the same income if the actor had performed in a role if their digital image is used.<sup>117</sup> Actors are able to retain the royalties associated with their work and used by AI and digitalisation.

This concept could be extrapolated to all industries and jobs. Information, data, or processes that are digitally inputted to train algorithms and/or automate work is a form of property that should be owned by workers. Any time this intellectual property is used by AI, algorithms or automation, payment should be paid collectively to workers, akin to a patent infringement payment.

For example, clerical and administrative work is one of the jobs most likely to be impacted by AI. When this occurs, the data and information inputted into algorithms to do this work is information utilised by clerical workers across Australia every day. These algorithms utilise this data without recognising they are taking from workers.

Workers should legally and collectively own the basic intellectual property of their jobs. Should algorithms or AI take advantage of this ownership, they should be required to pay royalties to a fund managed and operated by unions. This fund could assist workers whose jobs have been automated, with retraining costs or basic living expenses.

The Committee should investigate introducing collective intellectual property rights for workers that can be applied to data, information or processes workers utilise to perform their jobs. Payments should be made into a fund, managed by unions, which can be used assist workers grappling with the impacts of technological advancements and increased digitalisation.

#### **Recommendation 15: Remove legislated discrimination.**

Australia's employment framework, including the *Fair Work Act (Cth.)* 2009 and Modern Awards do not uphold the principle of 'same work same pay'. Employers are legally entitled to discriminate against young workers and workers with a disability via youth and apprentice wages, and via the supported wage system. Here, workers performing the same job are paid less than their counterparts for arbitrary reasons unrelated to performance.

When digital and technological advancements take place in the workplace, there is a real risk of such inequality being significantly exacerbated. Minimum protections must be introduced now to ensure this legal discrimination is removed.

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<sup>117</sup> Frawley, C. 2024. "Unpacking SAG-AFTRA's New AI Regulations: What Actors Should Know." *Backstage*, 18 Jan 2024. Available at: <https://www.backstage.com/magazine/article/sag-aftra-ai-deal-explained-76821/#:~:text=While%20you%20won't%20make,%2C%20you'll%20get%20paid.>

The Committee should recommend amending the *Fair Work Act (Cth.)* 2009 to ban youth wages, including apprentice wages and the supported wage system.

#### 4.4 Harnessing Worker Voice

Government regulation will prevent some of the worst possible futures resulting from digitalisation. However, the nature of this technology means that general regulation will not be enough to protect workers' fundamental rights.

Advances in AI capabilities are occurring simultaneously and across a variety of fronts. Rapid, unpredictable development is inherent to machine learning technologies. AI capabilities are accelerating so fast and so opaquely that existing labour laws and regulatory instruments will not be able to keep up or even imagine the conceivable risks and abuses they may cause.

**The single most effective act the Federal Government can take** to ensure a just digital transition, and the over-arching and most important recommendation contained in this submission **is to create the conditions for workers to actively participate in the rollout of AI** – having a say in its deployment, negotiating its limits, and raising the alarm on potential abuses.

Worker inclusion can steer automation in positive directions. It can slow and even reverse 'the race to the bottom' on privacy, wages and conditions by spreading, normalising and enforcing good practice and standards.<sup>118</sup>

This will exceed, in positive effects, almost any other regulatory intervention. Australia's best line of defence against the abuse of AI is empowering the workers who are facing such abuses firsthand.

Advanced economies around the world are giving workers a seat at the table in the AI rollout.<sup>119</sup> Initiatives to empower workers in this regard have been implemented in Spain, Italy, Germany, Ireland, Canada, Switzerland, Denmark, France, Norway, Sweden and the United Kingdom.<sup>120</sup> Some of the benefits of harnessing worker voice, which Australia is currently missing out on, include:

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<sup>118</sup> Bender G. 2024. "Union influence over algorithmic systems: evidence from Sweden," in Castillo PD (ed.) *Artificial intelligence, labour and society*. Brussels: European Trade Union Institute (ETUI), 229-237; Doellgast V, Wagner & O'Brady S. 2023. "Negotiating limits on algorithmic management in digitalized services: cases from Germany and Norway." *Transfer: European Review of Labour and Research*. Vol. 29 (1) pp. 105-120.

<sup>119</sup> Haldrup, C, Ilsoe A and Larsen TP. 2024. *Algorithmic Management and Democracy at Work in Denmark. INCODING Project – Democracy at Work through Transparent and Inclusive Algorithmic Management*. Copenhagen: University of Copenhagen Employment Relations Research Centre. Available at: <https://ddd.uab.cat/record/290693>; Bender G. 2024. "Union influence over algorithmic systems: evidence from Sweden," in Castillo PD (ed.) *Artificial intelligence, labour and society*. Brussels: European Trade Union Institute, 229-237.

<sup>120</sup> Butollo F, Gerst D and Krzywdzinski M. 2023. "Promoting human-centred AI in the workplace. Trade unions and their strategies for regulating the use of AI in Germany." *Transfer: European Review of Labour and Research*. Vol. 29 (1), pp. 53-70; Bertossa D and Voss E, 2022. "Collective Bargaining and Digitalisation: A Global Survey of Union Use of Collective Bargaining to Increase Worker Control over Digitalisation," *New England Journal of Public Policy*. Vol. 34 (1); Klengel E and Wenckebach J. 2021. "Artificial intelligence,

- **Pre-emptive:** Allowing workers to participate in the AI-rollout guarantees pre-emptive rather than reactive responses to misuse of AI. Protections can be embedded in enterprise agreements and industry standards before abuses take place. In Germany, collective agreements have already been introduced in the metal and electricity sector which ‘future-proof’ existing standards from potential changes arising from AI or automation.<sup>121</sup>
- **Tailored:** Empowering workers to bargain and negotiate over AI allows for responsive interventions tailored to the needs of a specific enterprise, sector or industry. This can also fill legislative and regulatory gaps.
- **Immediate:** Educating workers about AI risks and their rights at work will allow misuses of these technology to be spotted and corrected fast.
- **Participatory:** Including worker voice will improve public trust in AI technologies and may even accelerate the digitalisation process.
- **Independent:** Worker voice through collective bargaining is immune to regulatory capture - an issue that has made regulating tech extremely difficult for governments and which has been widely recognised as a major challenge to regulating AI.

There are a number of policy interventions that should be pursued to harness the benefits of worker voice. The following general principles should apply when considering these:

- **Representation:** Workers and their unions should have a say in how and for what purposes employers are deploying AI. Workers and their unions should be represented on both internal and external bodies responsible for monitoring AI usage in the workplace.
- **Education:** Workers must be informed about their rights as they pertain to AI, surveillance and algorithmic management.
- **Transparency:** No changes to the work, disciplinary, hiring, surveillance or organisational processes should occur without the knowledge of the affected workers. There should be mechanisms established to ensure workers are aware of how employers are using their data. Swedish labour law, for instance, obliges employers to inform and negotiate with workers’ representatives when introducing new technologies or organisational processes.
- **Negotiation:** Workers and their unions have an assumed right to collectively bargain and negotiate over the terms of algorithmic management, automation and automated decision making in their workplace.
- **Redress:** Workers must have access to protected and formalised channels to report any abuses of workplace technology.

In many countries of the European Union, public trust in digitalisation and AI is significantly higher than in Australia and algorithmic management / automation has been introduced

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work, power imbalance and democracy – why codetermination is essential.” *Italian Labour Law e-Journal*. Vol. 14 (2), pp. 157-171; Juego B et. Al., 2024. “Algorithms By and For the Workers: Towards A Fair, Democratic and Humane Digitalisation of the Workplace.” Brussels: *Foundation For European Progressive Studies*, Policy Study; Garneau J, Perez-Lauzon S and Levesque C. 2023. “Digitalisation of work in aerospace manufacturing: expanding union frames and repertoires of action in Belgium, Canada and Denmark.” *Transfer: European Review of Labour and Research*. Vol. 29 (1) pp.139-154.

<sup>121</sup> Butollo F, Hellbach L and Wotschack P. 2024. Algorithmic Management and Democracy at Work in Germany. *INCODING Project – Democracy at Work through Transparent and Inclusive Algorithmic Management*. Berlin: WZB Berlin Social Science Center. Available at: <https://ddd.uab.cat/record/290693>, p. 3.

without major industrial conflict or litigation – sometimes even welcomed by workers’ representatives.<sup>122</sup> Excluding workers is making Australia’s experience of digitalisation harsher and more contentious than it needs to be.

See Appendix Item 3 for a selection of examples of how worker participation and collective bargaining has been used to promote positive use of these technologies in the workplace.

**Recommendation 16: The Federal Government should amend the *Fair Work Act (Cth.) 2009* to ensure that:**

- **All key features related to AI, automation, surveillance, and algorithmic management are permitted matters for enterprise bargaining. Unions must be allowed to bargain about the method and type of data collected from workers - and use relevant employer-collected data in the bargaining process**
- **Ensure that worker protections in relation to AI are mandatory terms in Awards and Enterprise Agreements.**

**Recommendation 17: Amend the *Fair Work Act (Cth.) 2009* to ensure that workers have greater power to take industrial action when employers are using digital technologies to unreasonably surveil, influence, coerce or intimidate them.**

**Recommendation 18: Create the new role of elected Workplace Digital Technology Monitors.**

The Federal Government should amend the *Work Health and Safety Act (Cth.) 2011* to recognise the health and safety risks of work intensification, pervasive surveillance, and insecure digital work. The act should allow for any workplace to elect an AI monitor - a knowledgeable person who can give accurate information about AI. Versions of this initiative have already appeared in parts of the European Union. AI monitors activities could include:

- Notifying sectoral boards or relevant work councils of suspected abuses of this technology.
- Providing advice on workplace rights.
- Assisting with identifying and whistleblowing possible abuses of this technology. Acting as a source of information for workers.
- Clarifying to workers what protections they have under their Enterprise Agreement or Award relating to AI.

AI monitors would be entitled to receive paid time for training by qualified experts.

**Recommendation 19: Australia should consider how digitalisation can facilitate a reduction in weekly working hours.**

Federal, state and territory governments should engage with unions to identify ways in which higher productivity can be used to reduce working hours for no loss of pay – with the eventual aim of moving to a universal 4-day, 30-hour work week as the norm for all workers.

This shift has been trialled in multiple countries, and most recently by 20 organisations in Australia in 2022. After the trial, 96% of workers wanted to continue with the four-day week,

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<sup>122</sup> Černušáková, “Labour Rights and Technology,” p. 18.

and over half reported an increase in their productivity. Workers also reported feeling less stressed and burned out, and 65% were more satisfied with their work-life balance.<sup>123</sup> A move like this must be implemented appropriately in each industry and for each workforce. A 4-day work week for professionals might be more straightforward to implement for office workers, compared to construction, manufacturing, or hospitality workers. The key change must be the maximum weekly hours, and this should be implemented through engagement with unions.

## 5. Employers' use of workplace regulatory technology

The idea that regulatory technology can improve compliance with workplace standards in any way shape or form should be approached with extreme scepticism. Industrial and employment law is inherently complicated as it gives expression to the contractual relationship between an employer and workers, and the regulation of inherent power imbalances within these relationships. No part of employment law should be outsourced to any form of regulatory technology or algorithm.

Fundamental to this is the importance of ensuring there is a human decision maker. Many of the minimum protections embedded in the *Fair Work Act (Cth.)* 2009, such as the general protections framework, require consideration of the operate reasons for the employer's decision.<sup>124</sup> Australian employment law does not contemplate automated decision making.

Other components of Australia's industrial framework are process driven, including bargaining, which requires fair and good faith engagement by the employer at all times. Justice and accountability must be protected in the workplace. A total ban should be imposed on the use of AI to make employment decisions such as hiring, firing, promoting or disciplining.

The circumstances of how workers should be paid are inherently complicated and can include consideration of a range of entitlements such as loadings, over-time, allowances, weekend and late-night penalties, and payment for higher duties. While it might be tempting to use this form of technology to rectify non-compliant payment of wages, this should still be subject to human review.

For example, the Commonwealth Bank of Australia (CBA) is using surveillance to control how workers use their leave entitlements.<sup>125</sup> As part of their monitoring of workers working from home or hybrid working, CBA has been tracking attendance data via a phone app called Navigate, which workers must have to access their workplaces and book meetings. The tracking via the app takes place without the consent of workers. CBA has also been tracking workers' computer data. Managers have been presented with this data and asked workers to take leave retrospectively where they had been arbitrarily deemed not productive enough.

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<sup>123</sup> McPharlane, P. 2022. "4 Day Work Week in Australia." *4 Day Week Global*. Available at: [4dayweek.io/country/australia#:~:text=4%20Day%20Work%20Week%20in,Australian%20employees%20were%20accustomed%20to.](https://4dayweek.io/country/australia#:~:text=4%20Day%20Work%20Week%20in,Australian%20employees%20were%20accustomed%20to.)

<sup>124</sup> Board of Bendigo Regional Institute of Technical and Further Education and Advancement v Barclay [2012] HCA 3

<sup>125</sup> Bashan, Y and Lacy, C. 2023. "Bank's employees ordered to apply for leave if they're not showing up at their desks enough." *The Australian*, 15 Mar 2023. Available at: [theaustralian.com.au/business/margin-call/banks-employees-ordered-to-apply-for-leave-if-theyre-not-showing-up-at-their-desks-enough/newsstory/2a64afd2499701272d3050ef33c95d3f](https://theaustralian.com.au/business/margin-call/banks-employees-ordered-to-apply-for-leave-if-theyre-not-showing-up-at-their-desks-enough/newsstory/2a64afd2499701272d3050ef33c95d3f)



The Commonwealth Government recently amended the *Fair Work Act (Cth.)* 2009 to implement new wage theft offences - overriding Victoria's existing legislation which asserts that any incorrect payment of workers' wages is deliberate or reckless unless an employer can demonstrate genuine due diligence or a related genuine mistake. This was in recognition of the extensive and rampant extent of wage theft in the workplace and the excuse of 'complexity' used by employers - with particular impacts on vulnerable workers. However, the Commonwealth's new wage theft laws do not set as high a bar, and it will need to be demonstrated that employers knowingly and deliberately failed to comply with minimum wages to be prosecuted for wage theft. Any automation within this system risks allowing employers to side-step many of Australia's employment laws, particularly those pertaining to wage theft.

Applying this kind of technology to hiring and termination decisions is intrinsically irresponsible. ADM software reflects the biases of its designers, its training data and its inputs. It has been found that even where care has been taken to try to limit AI reflecting discriminatory attitudes, it replicates unconscious biases leading to unfair outcomes. An example of this includes Amazon's AI hiring tool which was found to unfairly discriminate against women.<sup>126</sup>

It is also not difficult to see this kind of regulatory technology expand into harmful workplace surveillance. Further detail on workplace surveillance is included above, however it is worth noting that these technologies will make it more difficult for workers to discuss workplace matters collectively and to seek the input of their unions. Given unionised workplaces are safer, with 70% of unionised workplaces having an increased awareness of health and safety, and that unionised workplaces are more well paid, being on average \$312 per week better off, it is important workers feel they can seek the support of their union.<sup>127</sup>

Workers will be reluctant to discuss workplace issues if they feel they're being watched or are having their emails tracked. For example, data from the US tracks union organising and anti-union employers, including their tactics in campaigns where they oppose the establishment of trade unions. Most recent reports (2016-2021) have found that 36% of US employers opposing the establishment of unions used surveillance in their campaign.<sup>128</sup> Anti-union employers were found to monitor workers' social media, surveil their phones, computers, apps, key cards, and track physical movements.<sup>129</sup> The report notes that disclosure of surveillance is not mandatory, and employers can surveil workers without permission, so the actual figures are likely to be much higher.

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<sup>126</sup> Dastin, J. 2018. "Insight - Amazon scraps secret AI recruiting tool that showed bias against women." *Reuters*, 11 Oct 2018. Available at: <https://www.reuters.com/article/idUSKCN1MK0AG/>

<sup>127</sup> Jericho, G. 2022. "ABS data shows being in a union delivers better wages." *The Australian Institute*, 14 Dec 2022. Available at: <https://australianinstitute.org.au/post/abs-data-shows-being-in-a-union-delivers-better-wages/>

<sup>128</sup> Brofenbrenner, K. 2022. Testimony before the United States House Committee on Education and Labor. "*In Solidarity: Removing Barriers to Organizing.*" Cornell School of Industrial and Labor Relations, 14 Sep 2022. Available at: [Bronfenbrenner106%20Housetestimonyfinal9142022.pdf](https://www.cornell.edu/industrial-labor/wp-content/uploads/2022/09/Brofenbrenner106%20Housetestimonyfinal9142022.pdf)

<sup>129</sup> Ibid.

## 6. The Role of Government

If managed correctly, the rollout of AI does not have to diminish the rights of workers so extremely. AI could improve the lives of working people in a variety of ways. Even algorithmic management, applied responsibly, could have positive effects such as:

- Automatically detecting non-compliance with enterprise agreement provisions relating to workers' pay, conditions, and entitlement requirements.
- Automating dangerous or uncomfortable elements of the production process.
- Reducing working hours while keeping output constant with no loss of pay.

To realise these benefits, the trajectory of Australia's AI rollout will need to change. VTHC shares the Australian Services Union's concern that voluntary codes are not sufficient to protect workers.<sup>130</sup> As the Per Capita Institute has noted, employers and **technology giants are using concepts like 'responsible AI' to evade serious regulation** – devising unenforceable guidelines, vague principles, and non-binding 'commitments' to side-step serious checks on their inflating power.

Despite the risks outlined in this submission, Australia is still early enough in the digitalisation process for its effects to be harnessed positively. The window for positive redirection is shrinking – but it remains open.

Victorian unions welcome the Government's Interim Response to the Discussion Paper on the Safe and Responsible use of AI – especially its explicit recognition that:

- AI harms could manifest at the systemic level - compromising political and social cohesion, human rights, and the stability of labour markets,
- That our current regulatory framework does not sufficiently address these risks,
- That there is a broad consensus against voluntary guardrails being sufficient and
- The need for ex-ante initiatives to limit harms before they occur.

Employers and technology firms often argue that new regulatory interventions are unnecessary because AI-related harms are a technical matter – growing pains for a technology in its infancy. This is motivated reasoning. Employers have good reason to frame hiring discrimination or pay cuts as a technical problem – of 'errors' rather than abuses. By framing AI-related harms as the consequence of insufficient training data, they create a conversation where the only solution is to let them amass even more data about the workforce and production.

The problem with this is that, time and again, AI-related harms have not been random or accidental. They are abuses of human dignity motivated by profit, with a deliberate eye to disempowering workers and their unions.<sup>131</sup> More often than not, **when employer-deployed AI undermines workers' rights this is a sign that it is functioning exactly as intended.**

The risks of leniency on this issue are profound. The nature of AI-related harms are to stack, exacerbate and accelerate one another over time: workplace-level changes multiply across

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<sup>130</sup> Australian Services Union. 2024. Submission to the Senate Select Committee on Adopting Artificial Intelligence (AI). *Parliament of Australia*. Available at: [aph.gov.au/DocumentStore.ashx?id=dfb263eb-68a8-48f9-9021-263f876faf72&subId=756351](https://aph.gov.au/DocumentStore.ashx?id=dfb263eb-68a8-48f9-9021-263f876faf72&subId=756351), p. 2.

<sup>131</sup> United Workers Union, "Technology and Power," p. 18.

the labour market, which in turn, reshape the labour-management relationship and the social distribution of wealth. The earlier Government acts, the more likely it will be able to preclude the worst possible outcomes from occurring.

**Recommendation 20: The Federal Government should refuse to procure contracts with AI or other digital technology firms that do not maintain best practice standards.**

**Recommendation 21: The Federal Government should legislate a ban on the use of automated decision making in such high-risk fields as the calculation of welfare payments, migration claims, admission to educational institutions, and the criminal justice system (including determining bail, predicting recidivism and sentencing).**

## 6.1 Safeguarding Democracy

A healthy, functioning democracy is vital for workers, who must be able to have a say over the issues and matters that affect them. Key to a healthy democracy is a robust, independent, diverse and trustworthy news media, able to be accessible to working people. Media's role in democracy includes information provision, investigations, analysis, telling individual stories for social empathy, creating a public forum and democratic education.<sup>132</sup> It is vital that workers can trust Australia's media so that they can fully participate in democracy.

Experts have undertaken experiments using AI to spread misinformation at alarming rates.<sup>133</sup> During the 2023 Referendum campaign, VTHC's social media had an increase of 600% in far-right bots negatively responding to content. Analysis conducted after the Referendum found that international actors used AI in Australia to sow division and create chaos for the purpose of disrupting democracy and security.<sup>134</sup> Workers must be able to trust news sources, so they can be fully informed and engaged democratic participants and 83% of Australians agree that accessing news via social media is important.<sup>135</sup>

The rise of AI and mis and disinformation, spread by algorithms and 'bots' flooding social media channels is a threat to working people, their democratic participation, and social cohesion more broadly. When AI and algorithms flood social media with misinformation, workers are unlikely to be able to determine which information is genuine. Alternatively, they might be overwhelmed with masses of information, unable to determine its truthfulness, leading to workers tuning out from democratic processes altogether. This will significantly impact workers' ability to hold decision makers to account and could lead to a

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<sup>132</sup>Schudson, M. 2014. "How to Think Normatively About News and Democracy," in Kate Kenski, and Kathleen Hall Jamieson (eds), *The Oxford Handbook of Political Communication*, Oxford Handbooks (2017; online edn, Oxford Academic, 13 Jan. 2014). Available at: <https://doi.org/10.1093/oxfordhb/9780199793471.013.73>

<sup>133</sup> Davey, M. 2023. "Alarming": convincing AI vaccine and vaping disinformation generated by Australian researchers." *The Guardian*, 14 Nov 2023. Available at: [theguardian.com/australia-news/2023/nov/14/alarming-convincing-ai-vaccine-and-vaping-disinformation-generated-by-australian-researchers](https://www.theguardian.com/australia-news/2023/nov/14/alarming-convincing-ai-vaccine-and-vaping-disinformation-generated-by-australian-researchers)

<sup>134</sup> McLroy, T. 2023. "Trolls, China Spreading Voice Disinformation", *The Australian Financial Review*, 29 Aug 2023. Available at: [afr.com/politics/federal/trolls-china-spreading-voice-disinformationp5dzvm](https://www.afr.com/politics/federal/trolls-china-spreading-voice-disinformationp5dzvm)

<sup>135</sup> Madden, J. 2024. "Meta's 'news demand' theory debunked as survey finds Australian think news on social media is important." *The Australian*, 28 Apr 2024. Available at: <https://www.theaustralian.com.au/business/media/metas-news-demand-theory-debunked-as-survey-finds-australians-think-news-on-social-media-is-important/news-story/46fc3bb720051115e9e1cc2e6183b4db>

substantial disconnect between the minimum workplace standards that workers and unions know need to be set, and those that are actually legislated. It is also not difficult to envisage the automation of lobbying, run by wealthy individuals with vested interests, leading to political decision makers being obscured from the wishes of their worker constituents.

In 2024, social media platforms have also begun to attach AI-generated prompts to or around users' posts, including political content. This is ethically indefensible - especially given the tendency of these attachments to be biased. On Meta (Facebook), an AI attachment was added to a post celebrating an increase to the Australian minimum wage which guided users to reflect on how this would impact small business. This kind of gentle, nudging propaganda is concerning because of its scale: not a single user who saw the post did not also see Meta's automated commentary on it. Hearing Facebook's perspective is becoming a mandatory part of consuming political content. Such automated influence is being embedded into search engines as well. Ask Bing about the impacts of privatisation and its AI-driven language model will put before you a glittering list of its virtues - with human generated content shoved down below.

At a time when 22.9% of Australians are either not very satisfied or not at all satisfied with democracy, it is fundamentally important that the Government act to ensure news remains truthful and trustworthy.<sup>136</sup> There must be greater regulation of the media sector including ensuring a diverse, independent and truthful media landscape, with media companies, including social media companies, held to account for misinformation. Civics education must also be introduced. Finland is a world leader in this space as they have introduced free online courses for its citizens, and enshrined misinformation education into every component of coursework in schools.<sup>137</sup>

**Recommendation 22: Regulation should be introduced within the media industry to ensure truthful reporting. This should include holding media corporations, including social media corporations, to account for misinformation and disinformation.**

**Recommendation 23: Civics education should be included in all layers of education and training, including schools, universities, trades and certificates and short courses. This will enable workers to be better equipped to participate in democracy in the digital age.**

**Recommendation 24: The Federal Government should legislate a ban on social media platforms attaching AI-generated comments or prompts to political content without the consent of the individual or organisation who made the post. 'Political content' should be defined very broadly as any post related to social issues, elections or public affairs.**

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<sup>136</sup> Biddle, N and Gray, M. 2023. "Australian views towards democracy: Comparisons through time and with the rest of the region." *Australian National University, Centre for Social Research & Methods*, 31 Oct 2023. Available at: <https://csr.m.cass.anu.edu.au/research/publications/australian-views-towards-democracy-comparisons-through-time-and-rest-region>

<sup>137</sup> Zini, A. 2022. "Finland: AI, policy innovation and the future of work and learning." *European Union Digital Skills & Jobs Platform*, 13 Apr 2022. Available at: <https://digital-skills-jobs.europa.eu/en/inspiration/research/finland-ai-policy-innovation-and-future-work-and-learning-2022>; Lake, R. 2023. "Shockwaves and Innovations: How Nations Worldwide Are Dealing with AI in Education." *The 74*, 7 Aug 2023. Available at: <http://www.the74million.org/article/shockwaves-innovations-how-nations-worldwide-are-dealing-with-ai-in-education/>

## Conclusion

The integration of digital technologies into Australian workplaces cannot be reversed. Victorian unions understand this. This does not mean, however, that we believe Australia's only option is to passively allow employers to impose it however they see fit. Governments have the power to secure a digital transition that works to the benefit of all. In light of the risks, this is a power that they have a moral duty to exercise.

In too many industries, employers have deployed AI technology to bring back 19<sup>th</sup> century-style working conditions and labour practices: arbitrary decision-making without explanation or means of redress, unrealistic productivity quotas enforced by irregular disciplinary measures which are above challenge, compelled speech, pervasive surveillance, insecure contracts, aggressive union-busting, micromanagement to the point of dehumanisation. With the threat of deskilling, fragmentation and democratic decay we might also be risking, in the long-term, a return to 19<sup>th</sup> century patterns of wealth and power distribution in our society.

For digitalisation to work for the common good, its direction needs to be tightly steered not only by government but by those it most affects: the working people who are dealing with its effects head on. It is categorically irresponsible to rely on employers to regulate themselves. Workers need to be empowered to negotiate the terms of the digital transformation – checking its power, shaping its course, and sharing in its benefits. Short of this, the miracles of artificial intelligence will not move Australia forward. **They will drag the country back to an industrial dark age.**

## **Appendix 1 - Index of Recommendations**

1. Mandate consultation with unions over major changes to technological processes.
2. Ban the use of AI to make status-altering human resourcing decisions.
3. Embed a right to workplace privacy in the National Employment Standards.
4. Strengthen laws against intrusive surveillance in the workplace.
5. Amend model OHS laws to recognise the risks of AI, AM and workplace surveillance.
6. Empower Health and Safety Representatives to address AI-related OHS risks.
7. Increase redundancy and retraining obligations on employers.
8. Universal Basic Service.
9. Prohibit employers using AI to influence industrial disputes.
10. Mandate protected channels of communication for digital workers.
11. Legislate a right of data reciprocity.
12. Form sector-specific boards and work councils to develop codes of practice for AI.
13. Ensure profit-sharing with workers for worker-generated data.
14. Introduce Collective Intellectual Property Rights.
15. Removed legislated wage discrimination.
16. Ensure all AI-related matters are allowable for enterprise bargaining and that worker protections in relation to AI are mandatory in Awards and Agreements.
17. Give workers greater power to take industrial action in response to AI misuse.
18. Establish Workplace Digital Technology Monitors.
19. Consider how digitalisation can facilitate a reduction in weekly working hours.
20. Establish procurement standards for government contracts with technology firms.
21. Ban automated decision making in high-risk fields.
22. Introduce media regulation to ensure truthful reporting.
23. Include civics education in all layers of education and training.
24. Ban AI-generated attachments to political posts without the consent of the poster.

## Appendix 2 - Glossary of Terms

**Algorithmic management:** the use of automated systems to manage, monitor and control various aspects of tasks or processes within an organisation: scheduling, task allocating, performance monitoring, and decision-making to optimise the objectives defined by human managers such as productivity or efficiency.

**AI Driven workplace surveillance:** artificial intelligence technologies used to monitor and analyse various aspects of employee behaviour, performance and activity.

**Agentic AI:** AI systems interacting with themselves, autonomously planning and executing tasks, interacting without one another, self-selecting prompts without human supervision.

**Algorithmic Work Control:** The direction and evaluation of labour processes through apps, digitalised production infrastructures or wearable devices.

**ADM:** Automated Decision Making.

**Descriptive ADM** makes it possible to refine data that has already been collected such as employee absences, staff turnover and performance feedback. Observes communication behaviour and uncovers internal social networks in the company.

**Predictive ADM:** relies on present related data to describe future development. Forecasts suitable candidates or the likelihood of an employee switch jobs based on emotionality data.

**Prescriptive ADM:** generates solutions for specific questions and provides automated decisions - i.e. logistics software for the delivery of parcels.

**Frontier Models:** powerful new models which exceed the powers of existing models and can generate content quickly and easily.



## Appendix 3 - Collective Agreements over Workplace Digitalisation

Jurisdiction	Parties	Provisions
United Kingdom	GMB Union and Hermes	A collective agreement which mandated company's <b>automated payment system</b> would be <b>reprogrammed</b> so workers always receive at least the minimum wage and are automatically paid any bonuses. <sup>138</sup>
United States	International Brotherhood of Teamsters and United Parcel Service	A collective agreement which <b>bans the use of</b> couriers' <b>location data being used to evaluate</b> their <b>performance</b> and / or issue disciplinary actions. <sup>139</sup>
France	National Federation of Auto-entrepreneurs and Micro-entrepreneurs, the Independent Union and the Association of Independent Platforms	Platforms can only deactivate workers under certain conditions. They have to provide transparent reasoning to the worker if a deactivation occurs. <b>Human intervention is mandated</b> in each deactivation procedure. Workers must have <b>channels to contest deactivations</b> . Workers cannot be penalised for administrative errors or false customer complaints. <sup>140</sup>
Canada	Canadian Union of Public Employees and McMaster University	An agreement which ruled that there shall be no electronic monitoring of employees without written consent from workers which can be withdrawn at any time. Electronic monitoring or surveillance may only be installed for safety reasons. <b>The union shall be notified</b> , and a notice shall be posted in all workplaces in which the <b>employer has installed electronic monitoring or surveillance</b> equipment. Such equipment shall not be used to conduct general, on-going supervision of employees. <sup>141</sup>
United Kingdom	Communication Workers Union and the Royal Mail Group	Existing pay and hours are safeguarded regardless of any future processes or technologies introduced. <sup>142</sup>
Spain	Food Delivery Companies and the General Union of Workers	Workers have <b>a right to be informed</b> by the company of the parameters, rules and instructions on which algorithms or artificial intelligence systems

<sup>138</sup> Atkinson and Collins. 2023. "Worker voice and algorithmic management in post-Brexit Britain." *Transfer: European Review of Labour and Research*. Vol. 29 (1), pp. 37-52.

<sup>139</sup> *National Master United Parcel Service Agreement for the Period August 1, 2018 through July 31, 2023*. Available at: <https://teamster.org/wp-content/uploads/2018/12/ups18-nationalmaster-final.pdf>.

<sup>140</sup> *Agreement governing the terms and conditions for the termination of commercial relations between self-employed workers and networking platforms*. Available at: [Accord-Desactivations-20.04.2023.pdf \(arpe.gouv.fr\)](https://www.arpe.gouv.fr/accord-desactivations-20.04.2023.pdf)

<sup>141</sup> *Collective Agreement Between McMaster University and the Canadian Union of Public Employees*. Available at: [Collective Agreement: Unit 3 | CUPE 3906](#)

<sup>142</sup> Atkinson and Collins, "Worker voice and algorithmic management," pp. 37-52.

		are based that affect decision making that may have an impact on working conditions. <sup>143</sup>
Germany	Railway Trade Union (EVG) and Railway Federation	<b>Worker representatives are involved in the planning, development or introduction of digital innovations</b> at an early stage. The possible effects of the new/extended digital processes or applications are, as far as possible, pointed out by the employer and discussed with these representatives. <sup>144</sup>
Denmark	United Federation of Danish Workers and Hilfr	Mandated consent for the registration and publication of personal data on the platform - given in the form a well-defined confirmation that contains voluntary, specific, informed and unambiguous consent. <b>Freelancers automatically obtain employee status after 100 hours' work</b> via the platform. <sup>145</sup>
Norway	Confederation of Trade Unions and Confederation of Norwegian Enterprise	In Norway, a 'data shop steward / <b>data trade union representative</b> ' is recognised in the 2022-25 main agreement between the Confederation of Trade Unions (LO) and the Confederation of Norwegian Enterprise (NHO). The steward aims to provide information for workers about algorithmic control and make them active participants who can negotiate its limits. <sup>146</sup>
Ireland	Financial Services Union	Won a commitment from banks not to turn employee data into a commodity for sale or trade. <sup>147</sup>
Italy	The CGIL, CISL and UIL unions and food delivery platform firms.	Establishes <b>information rights for AI based systems in the workplace</b> , provides human oversight over technology and limits automated decision-making systems. <sup>148</sup>

<sup>143</sup> President's News, 2021. "Government of Spain and social partners sign a major agreement to guarantee pensioners' purchasing power and ensure the stability of the public pension system." *La Moncloa*, 1 Jul 2021. Available at: [lamoncloa.gob.es/lang/en/presidente/news/Paginas/2021/20210701pensions-agreement.aspx?mode=Dark](https://lamoncloa.gob.es/lang/en/presidente/news/Paginas/2021/20210701pensions-agreement.aspx?mode=Dark)

<sup>144</sup> *Collective Agreement on the Future of Work in the Context of Digitalisation in the DB Group*. Available at: [https://www.evgonline.org/fileadmin/Tarif/Tarifvertraege/Tarifvertraege\\_DB\\_Konzern/TV\\_Arbeit\\_4.0\\_EVG\\_2018\\_internet.pdf](https://www.evgonline.org/fileadmin/Tarif/Tarifvertraege/Tarifvertraege_DB_Konzern/TV_Arbeit_4.0_EVG_2018_internet.pdf); Doellgast V, Wagner & O'Brady S. 2023. "Negotiating limits on algorithmic management in digitalized services: cases from Germany and Norway." *Transfer: European Review of Labour and Research*. Vol. 29 (1), pp. 105-120.

<sup>145</sup> Doellgast V, Wagner & O'Brady S. 2023. "Negotiating limits on algorithmic management in digitalized services: cases from Germany and Norway." *Transfer: European Review of Labour and Research*. Vol. 29 (1), pp. 105-120.

<sup>146</sup> Oosterwijk, GR. 2024. "Algorithmic Management – a codetermination challenge." *Social Europe*, 5 Mar 2024. Available at: [Algorithmic management—a codetermination challenge \(socialeurope.eu\)](https://socialeurope.eu/algorithmic-management-a-codetermination-challenge)

<sup>147</sup> *Public Services International: The Global Union Federation of Workers in Public Services*. "Digital Bargaining Hub." *PSI*, 27 Apr 23. Available at: <https://publicservices.international/digital-bargaining-hub/5-data-rights-and-data-protection?id=13182>.

<sup>148</sup> Stefano and Taes, "Algorithmic Management," pp. 21-28.