

Maximizing Potential

Framework for Recovery in a Slow Growth Economy

A Memorandum to select Cabinet Ministers, the Prime Minister's Office and the Privy Council Office

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SUMMARY

Throne Speeches are an opportunity to set a vision and a course for the federal government over the near and long terms. The overlapping economic and public health crises caused by the COVID-19 pandemic make this a challenging task, but also one of great opportunity.

The purpose of this memo is to provide input into cabinet deliberations leading to the Speech From The Throne, by presenting a framework for Canada's recovery from COVID-19. The policy recommendations in this memo meet both immediate term and medium term goals: in the immediate term, to get through the pandemic by minimizing health and economic impacts and leaving no one behind; and in the medium term, by addressing challenges of post-pandemic world (slow growth, population aging) through maximizing human and economic potential.

Recovery involves several, overlapping economic issues. There will be an increase in on-demand employment, as happens in the wake of every recession. More workers are and will be struggling with income volatility, and not enough paid work. Households and businesses will face more precarious finances. We are in the midst of a 'she-cession' and the low availability of childcare will be a chokepoint of a 'she-covey.' Additionally, with an aging population, the federal government will need to invest in children and training, or increase immigration to meet labour market demands. Both of these options are unpopular and expensive, in different ways.

Given the slow-growth era we have entered, and which will last decades, policies must centre on initiatives that maximize everyone's individual potential which, in turn, maximizes our collective potential. To achieve this, the proposed framework relies on three interconnected pillars of federal action:

1. Jobs - Quantity and Quality
2. Incomes - Adequacy and Stability
3. Services - Accessibility and Optimization

Key recommendations within these pillars include:

- Avoiding accidental deepening of the recession, by investing in excellent early learning and childcare programs across the country so women can take on jobs, and all children can thrive.
- Modernizing federal labour standards and updating policies to raise the federal minimum wage and ensure all workers can access labour protections.
- Setting a long-term fix for paid sick days, leading by example in federally regulated industries.
- Ensuring workers can access income supports in their times of need by bringing EI into the 21st century, and offering support to all workers who are a new parent, upgrading their skills, or dealing with serious sickness.
- Putting more money in people's pockets by investing in essential services, including expanded health coverage, childcare, public transit, high-speed internet, and access to training.

Ensuring people have decent work in all parts of the economy lays the foundation, both in principle and in the tax base, for investments in incomes and services. Canada's recovery and future depends on this.

GOALS

The goals of this memo are to provide both immediate-term and medium-term solutions to addressing the public health and economic crisis caused by the COVID-19 pandemic:

1. Get through the pandemic by minimizing health and economic impacts, and by “leaving no one behind”.
2. Articulate a vision/approach to navigating the predictable elements of a post-pandemic world in the medium term, with focus on maximizing human and economic potential in an era of slow growth.

CONTEXT

The COVID-19 public health and economic crisis has exposed existing cracks in our economy and new issues for concern:

1. The impact of the COVID-19 pandemic and economic crisis has not been felt equally. Communities already excluded have experienced disproportionate sickness and economic impacts, especially: racialized communities, women, migrant workers, low-income people, people with disabilities, and newcomers. Without action, inequality could reach economically and politically destabilizing levels.
2. The immediate period of recovery will involve an increase in on-demand employment (which occurs in the wake of every recession). More Canadians will be struggling with income volatility and insufficient opportunities for paid work. More households will face precarious financial situations.
3. The pandemic accelerated the dynamic of population aging. More retirements than new entries into the labour market will mean more labour shortages and more newcomers, both of which bring their own pressures. Maximizing employability, employment and earnings for Canada’s working age population will help reduce the fiscal burdens, temptation to exploit migrant workers, and potential political backlash against immigrants.

STRATEGIC FRAMEWORK

Thus far the federal government has had success with income support programs that helped Canadians contain the contagion. The transition to a recovery will require some focus on other approaches. The immediate and medium term goals noted above certainly require the right suite of income support programs, but recovery architecture must integrate three pillars of strategy:

1. Jobs – Quantity and Quality
2. Incomes – Adequacy and Stability
3. Services – Accessibility and Optimization

PILLAR ONE: JOBS - QUANTITY AND QUALITY

1A. Implementing a National Childcare Plan: Women took the biggest hit in lost jobs and lost hours of paid work in this recession. Their re-employment is critical to support household purchasing power (the main driver of GDP). But some communities are operating with [half or less of their pre-COVID-19 childcare](#)

[capacity](#) as providers struggle with higher costs and lower revenues. If roads and bridges were at similar risk of collapse, we'd have a national plan. Childcare is critical social infrastructure for households and businesses alike. Without enough childcare, women will not be able to accept jobs as they emerge, and more women who have worked from home while doing childcare and homeschooling for almost six months may decide to drop paid work. Recovery could stall or even reverse course, making for a deeper and longer recession. A federal plan needs to ensure enough money to stabilize capacity in early learning and childcare, and tie transfers to two key outcomes: reducing user costs and improving the quality and quantity of care, which includes ensuring decent work for childcare workers. This will not only optimize the potential for economic rebound; done right, it could help the next generation of workers optimize their learning (and earning) capacity through their lives.

1B. Raise the Wage Floor: Boost the economy from the bottom up. Lower paid workers spend more of their earnings than higher paid workers and it is consumer spending that will lead the recovery. The pandemic, and the success of CERB in stabilizing the economy, underscored the importance of income adequacy; and exposed gendered and racialized labour market segmentation in low-wage but essential sectors (care, food, transport and manufacturing). Walk the talk of “inclusive growth” and lead by example by re-introducing a federal minimum wage of not less than \$15 an hour, indexed thereafter, a long standing community demand. This can be done by Order in Council. Indeed, if we used a notional anchor of 55% of the average wage (\$29.56 in July 2020) we'd be setting a minimum wage of \$16.25.

1C. Modernize Labour Laws: In the wake of every recession, businesses control costs with the use of reduced hours of work and more flexible scheduling or on-demand labour. The predictable rise in non-standard employment will disproportionately impact those already most vulnerable before and since COVID-19: low wage, racialized and migrant workers. As the federal government has already so rightly recognized, changing business practices and labour markets are leaving more workers, particularly those precariously employed, without labour law protections.¹ In 2019 it appointed [the Expert Panel on Modern Federal Labour Standards](#) which provided recommendations to address gaps in federal labour standards, new business models and the misclassification of employees as independent contractors. By clarifying who is an employer and employee and providing joint liability in contracting as recommended by the Panel, the federal government will provide leadership in proactively ensuring protection for workers and a level playing field for employers both in the recovery from COVID-19 and future changing workplaces. See Appendix B for recommendations.

1D. Building and Rebuilding Canada: Both residential and commercial real estate will be repurposed in the wake of the crisis. Renovations, retrofits and new builds should always deliver greater energy efficiency. Thus far, markets are doing more to pivot production away from oil and gas than any public policy, and not just because of the pandemic. All nations are looking for ways to avoid climate catastrophe. Even oil companies are rebranding themselves as energy companies. Canada could take a page from that playbook. From oil superpower to energy superpower, Canada could be seen as a leader in the energy game, through investing in jobs and training workers in research and development in new types of energy generation and large-scale [retrofits](#). This vast, cold country should be exporting, not importing, know-how and technology for energy-smart travel and heating.

¹As part of next steps on modernizing federal labour standards, the Government of Canada created the independent [Expert Panel on Modern Federal Labour Standards](#) in February 2019 to address, in part, non-standard employment in which may not be covered by federal labour standards.

1E. Training For The Future: With over four million un- and underemployed Canadians right now, it's hard to remember that unemployment was at historic lows before the pandemic hit. Population aging was the cause for tight labour markets, and that dynamic is just starting. The pandemic has revealed that the caring economy underpins the essential economy. We will need more workers in early learning and child care, health care, elder care, and the care and feeding of human potential through the education and training system. We must also ensure that these jobs are decent jobs. And based on demographic profiles of the workforce, we will also need more skilled tradespeople and construction workers for the building economy, and soon. Tools like community benefits agreements and social procurement should be built on and expanded to ensure that people from historically excluded communities have real access to training and good jobs. We also must ensure they can access programs for digital literacy and prerequisite supports for post-secondary education. This requires an urgent plan for training, today; and a coherent plan that integrates training and immigration policies for the immediate future.

PILLAR TWO: INCOMES - ADEQUACY AND STABILITY

2A. Paid Sick Days: As the pandemic has demonstrated, people need access to paid sick days for our overall recovery from COVID-19. [Fifty-eight percent of workers in Canada have no paid sick days](#). The Canada Recovery Sickness Benefit recognizes the gap in employer paid sick days in this country. As a short-term strategy, the Sickness Benefit will provide assistance to some employees who are sick or in quarantine due to COVID-19. We need a long-term public health strategy to ensure people can stay home when sick. Whereas Canadian workers are governed by 14 different regimes of labour standards, the federal government should lead by example, providing supports for all federally regulated workers. It should move immediately to extend the requirement under Part III from three employer-paid sick days to seven employer-paid job-protected sick days. Permanent, universal and seamlessly accessible paid sick days are essential. There should be a provision for an additional 14 job-protected employer-paid sick days for public health emergencies in the future.

2B. EI Coverage: Ensure that the employment insurance program functions as an effective social insurance program for workers and employers, and our 'single most powerful automatic stabilizer' when it's responsive to the current labour market. Key to this will be expanding access by maintaining a uniform low-hour eligibility rule, though the duration of benefits could still vary by region. Also key will be the provision of a minimum benefit floor for low-pay workers which also stabilizes consumer spending in local communities (currently \$400 and \$500 under CERB). These measures and others proposed in Appendix A would open up access to more workers including gig workers and re-imagine Special Benefit coverages, giving us a real "EI for the 21st Century". This re-set of the program will require a mandated Consolidated Revenue contribution to the EI Account, akin to pre 1990 contributions, in order that workers and employers do not bear the full burden.

2C. Special Benefits for Workers who are not Eligible for EI: We preface this with a reminder that many workers not currently covered by EI could be if we tackled the wide-spread misclassification of 'self employed', permanently reduced EI qualifying hours, ensured adequacy of benefits for low-income workers, and eliminated or reduced egregious EI disqualifications. Having said this, all workers have times in their lives when work isn't their primary preoccupation: when a new child enters their lives,

when they are sick, when someone they love is sick, when they are trying to get back into the job market or upgrade their skills. The federal government must deal with these realities, as these elements of the 21st century labour market are likely to accelerate, not fade, in the post-pandemic period. See Appendix A for proposed next steps.

2D. Wage Subsidies/Earnings Supports: In the immediate aftermath of the pandemic emergency, and potentially for a longer period, people will have insufficient and/or volatile hours of work and earnings. However, expanding the approach taken by the Canada Recovery Benefit, or expanding a program like the Canada Worker Benefit, is likely to simply institutionalize taxpayer-funded wage subsidies/income top-ups for inadequate pay offered by employers, growing the share of the market that offers low pay and/or volatile earnings. The CRB could incentivize employers to shift more employees to contract work - for example, there is an advantage for employee truck drivers to accept an offer to become 'self employed' and get CRB while earning up to \$38,000 net. A focus on improving jobs and preparing for the predictable labour shortages has the salutary effect of reducing taxpayer costs, and avoiding building in new labour market distortions that run counter to the ultimate goal of decent work and health for all workers. See Appendix C.

2E. Social Assistance: Not everyone of the working age population can work regularly, often due to physical or mental disabilities, or tumultuous life circumstances. One of the most disadvantaged populations in Canada is working age adults who have no, or very limited, connection to the labour market. Since the ubiquitous cutbacks to social assistance rates in the 1990s, those reliant on provincial assistance have been living in unimaginably difficult circumstances. The federal government could offer to upload the last remaining component of income support. Alternatively, it could provide improved income-in-kind to this population through significantly expanded supports in one or all of the following: housing benefit, childcare subsidy, training benefit, enhanced drug/dental/vision benefits, subsidies that offset or eliminate costs of public transit, improved transfers to the provinces (conditionally tied to improved rates and/or services). The federal government could also choose to improve income supplements to working-age people living in deep poverty, but this requires a fundamental redesign of the deeply flawed Canada Workers Benefit (see Appendix C). It is important to note that this is not about creating a basic income (see below).

PILLAR THREE: SERVICES - ACCESSIBILITY AND OPTIMIZATION

In the short term there will be more workers struggling with income inadequacy and income volatility due to a recovery whose progress may stall, and even reverse course. A strategic focus on improving the quantity and quality of jobs and stabilizing incomes is a given. But the third pillar that also stabilizes purchasing power and improves quality of life is an improved social wage: greater access to basic public services. This will become more important as we recognize the pressures that population aging will put on the working age cohort: a growing older cohort will want to avoid inflation (fixed, lower incomes) making wage increases more difficult. How else, then, can we improve the quality of life and wellbeing of the generation on whose shoulders everyone's wellbeing rests?

Public policy can also increase purchasing power by making more high-quality essential services affordable. Like tax cuts, such a policy thrust also puts "more money in your pocket", but with the

additional benefit of creating jobs, filling in critical physical and social infrastructure gaps, and reducing the stress of not knowing if your monthly income will be sufficient for the basics. There is currently a lot of talk about the inevitability of basic income. Without wading into the arguments about whether or not this might act as an incentive for cheap labour practices on the part of employers, or a work disincentive for workers, we still need to ask a fundamental question: are we better off when we have more income, or when we need less of it? Done properly, essential services may be a more promising route, helping a larger share of the working age cohort thrive, with lower net costs, higher net benefits, and building more social solidarity across generations, to boot.

In the past couple of decades, we have seen that a focus on income supports has come at the expense of services that people need. For example, as the pandemic made clear, significant increases by this administration in the Canada Child Benefit and Guaranteed Income Supplement for the elderly did not reduce the need for affordable and high-quality childcare and long-term care. Furthermore, there is a gendered dimension to both poverty and reliance on public services. When tax cuts, deficits and economic downturns lead to service cuts, it is women who pay the highest price. This asymmetry must be of concern to Canada's first self-declared feminist government, particularly since expansion of essential services helps everyone thrive, creating important pathways of opportunity for low-income people.

The list of essential services all Canadians rely on is short: affordable, high-quality childcare and early learning, housing, public transit (in large urban centres, where the majority of Canadians now live), pharmacare, dental care, vision care, mental health care, lifelong learning/training, high-speed internet, green spaces and art, and access to justice (legal aid). The federal government can provide the funding so that no Canadian is left behind because of fiscal constraints where they live. This mostly means tied funding, money that is conditional on outcomes being achieved, ideally in consultation with other jurisdictions; but we should not wait for consensus to show a pathway to what could be achieved, if we work together.

This brings us back to the beginning. Mathematically, there can be no GDP or jobs recovery without acceleration in the number of women who have lost their jobs returning to paid work. Based on current policy, the opposite is poised to occur, as existing capacity to provide childcare is shuttered. Women's contribution to household income has become key. Reductions in household income will result in lower household spending, which is the primary driver of GDP. The possibility of a deepening and lengthening economic recession is real. The kicker is that it would occur by policy design/omission. Let's not do this to ourselves. A federal plan could encourage provinces and territories to take on robust public management of early learning and childcare services that is needed to deliver what's been lacking so far – an expanded, reliable, high-quality system of safe care, with decent work for childcare workers, and broad access at no or low cost to parents. Using a 100 cent federal dollar (not cost shared), and tying that money to clear goals and outcomes, we could develop such a system, increasing focus on early learning for pre-schoolers and before-and-after-school activities and learning supports for the school-aged, with the ultimate goal of making well-trained, well-staffed, high quality early childhood education an integral part of public education. What we can't afford to do is stand by and let capacity collapse. But this is so much more than making sure mommy can go back to work. We are reliant on today's children to maintain everyone's standard of living tomorrow. Whether we invest in these young lives or not, we will reap what we sow.

The federal government has a bona fide role to play in assuring Canadians survive the pandemic and thrive in the economy of the early 21st century. We will be counting on the working age population to support everyone's quality of life in a way never seen before in history. We should be ready to support them in a way they've never seen before, too.

APPENDIX A: EI FOR THE 21ST CENTURY

The government recently introduced positive, well-received Employment Insurance (EI) improvements for a COVID-19 transition year. Now it's time to lay the groundwork for a year from now. What do we want this critical social insurance system, Canada's 'single most important automatic stabilizer,' to look like? EI will need to remain the most hardworking pillar of the working age income security system.

What we do with EI is also a matter of economic necessity. As workers move off CERB, which covered EI-eligible and non EI-eligible workers alike, we are not as of yet on a predictable path of recovery. The rocky road ahead includes more labour market disruption, an unpredictable path for the pandemic itself, and perhaps more recessionary conditions. Consumer spending, aided by CERB payments, staved off deeper recession and worse job losses. Consumer spending will be needed to drive much of our recovery.

EI's role during and post pandemic needs to be capable of meeting the needs of the modern labour market. Many of those currently not covered by EI could be if we tackled the wide-spread misclassification of 'self employed', permanently reduced EI qualifying hours, ensured adequacy of benefits for low-income workers, and eliminated or reduced egregious EI disqualifications. COVID-19 has had disproportionate impacts on women, racialized people, young and low-income workers, who are also the most poorly served by the current EI system.

A comprehensive review of the EI system – one that involves key stakeholders in a meaningful way – is needed, as is a review of all working age income security programs. But, given the fragility of current economic and geopolitical conditions, many of these needed changes can't await a review.

Financing EI from General Revenues

Make permanent federal contributions that expand access to EI and improve its capacity to respond to the modern labour market. The costs of improving macroeconomic resilience, which benefits workers and non-workers alike, should not fall only on employees and employers. Federal contributions to the EI Account were the norm from 1940 until 1990. These funds could offset the costs of higher unemployment or expand access to specific benefits.

Expanding Access for Workers

1. Maintain a uniform Canada-wide eligibility rule with low qualifying hours, currently 120 hours (and a 180 hours equivalent under the previous UI program). This will improve access in a labour market awash with precarious jobs. Duration could still vary by region.
2. Remove or reduce onerous disqualifications that cut off all access to benefits for workers deemed to have an "invalid reason for job separation," the second largest category of premium payers who are unable to receive EI. Disqualifications involve costly administration, and a high rate of appeals.
3. Open up access to migrant workers who pay EI premiums.
4. Maintain a minimal qualifying requirement for EI Special Benefits such as parental benefits, currently 120 hours (and a 300 hour equivalent under the previous UI program).

The first two reforms alone would mean 20% more of the jobless who pay premiums would get EI.²

Ensuring Adequacy of Benefits

1. Continue with a minimum benefit floor for low-pay workers, which stabilizes purchasing power for those who spend most of their pay. The current \$400 is taxable (\$500 under CERB). Benefit adequacy also serves as an equity measure for women, racialized workers and others who, when the only option is an absurdly low EI benefit, are effectively starved into accepting sub-standard jobs. Part of EI's role is providing coverage while the jobless search for suitable work.
2. The current EI benefit rate is set at 55% of previous earnings resulting in an average EI benefit below \$500. It is inadequate and increases should be phased in.
3. Create better alignment between the Working While on Claim provisions of EI and the new Canada Recovery Benefit as a matter of internal labour market equity.
4. Expand EI Sick Benefits to the promised 26 weeks as a first step to improving coverage.

EI Special Benefit Access for Non EI-Eligible Workers

1. Many jobless workers not currently eligible for EI would in fact be in receipt of help if we tackled the wide-spread misclassification of 'self employed'. This goal is made urgent by the predictable rise in precarious work in the wake of COVID-19. Accordingly, move immediately on a legislative and enforcement initiative to weed out such misclassifications, with special attention to temporary help agencies and app-based employers, too many of which have evaded social insurance premiums and coverage for their dependent contractor employees. This would include EI Act adoption of a presumption of 'employee' status and "ABC+ test" to ensure EI access to misclassified employees, alongside similar Canada Labour Code amendments.
2. Workers who are truly self-employed, especially those in low-wage and less secure employment, also need income replacement for parenting, retraining or sickness in the normal course of their working life. In 2005 the Supreme Court ruled on the legitimacy of EI's provision of special benefits, reaffirming that "the social nature of unemployment insurance requires that Parliament be able to adapt the plan to the new realities of the workplace."³ Self-employment is one of those realities.
3. Expand the existing EI Act section providing voluntary "Benefits for Self-Employed Persons" (or potentially a new EI Part III) in order to provide a self-employed 'package' that includes all Special Benefits (sickness, parental, compassionate care, etc) plus the pending EI Training Benefit (proposed at 16 weeks by the Canadian Labour Congress).
4. Establish a modest 'self-employed' premium as the Quebec Parental Benefit QPIP program does, requiring all self-employed to pay premiums with their annual tax filing.
5. The absence of an 'employer premium' for the truly self-employed could be subsumed in overall EI costing. Or this might be an appropriate place to set a government contribution, which also acts as an incentive for government enforcement of phony self-employment.

² Chart 12

www.canada.ca/en/employment-social-development/programs/ei/ei-list/reports/monitoring2018/chapter2/regular-benefits.html

³ 2005 Supreme Court Decision <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2290/index.do>

6. A general 'Employer EI Levy' should be required from any firm without payroll but with net income on their tax returns, as well as platform-based firms like Uber, whose levy should be based on the number of registered contractors.
7. While self-employed status is not a fit with Regular Benefit access, some including former Bank of Canada governor Stephen Poloz have suggested that a CERB-like benefit become part of government's permanent tool kit for wide-spread unemployment as can happen in a pandemic. There were similar recommendations out of the SARS experience.
8. The Canada Recovery Benefit is intended to be temporary but this should be contingent on significant progress on these other recommendations. No one should be left behind.

APPENDIX B: 21ST CENTURY LABOUR LAWS

Gaps were emerging in the ability of labour laws to offer protections and minimum rights to all workers before the pandemic hit. Since COVID-19 struck, the gaps in coverage are growing, and are poised to widen even more. But swift action can reduce the growing gaps, and prevent an acceleration of exploitation of our most vulnerable workers, many of whom work in our most essential industries.

As the federal government so rightly recognized in 2018, changing business practices and labour markets are leaving some, particularly precarious, workers without labour law protections.⁴ Practices such as misclassification of employees as independent contractors or self employed leave workers without protections and reduce contributions to essential social programs (e.g., EI). Indirect hiring through temporary help agencies and subcontracting also shifts risks among entities and down the subcontracting chain, contributing to lower wages, less access to benefits and few protections against violations of statutory rights of workers. Modern business structures are exposing the growing gaps in our labour laws. This has led to significant blurring of our understanding of the employment relationship upon which eligibility for minimum labour standards and employee's protection in inherently unequal relationships rely. Some businesses, including those that use "app-based platforms", have specifically structured their business models to assert that the relationship with workers is a commercial relationship and not an employment relationship. Prior to the pandemic, there had been some growth in these businesses in Canada in particularly low paid work such as driving (Lyft and Uber) and delivering food and/or parcels (Foodora). These practices have grown in a relatively unregulated context. Their use is likely to grow in the wake of the pandemic, as businesses attempt to control costs by reducing hours and increasing flexible scheduling and use of on-demand labour. With such gaps in labour laws, workers have been left to fight individually or through class actions to assert their rights to employment protections and collective bargaining and representation. There is a significant risk, particularly to low wage, racialized and migrant workers, that businesses will expand their use of this business model in COVID-19 recovery strategies.

The government-appointed [Expert Panel on Modern Federal Labour Standards](#) has provided recommendations to address gaps in federal labour standards to address new business models and misclassification of employees as independent contractors. By clarifying who is an employer and employee, and providing joint liability in contracting as recommended by the Panel, the federal government will provide leadership in proactively ensuring protection for workers and a level playing field for employers both in the recovery from COVID-19 and future changing workplaces.

We recommend a three-part strategy to update labour standards in order to address these businesses practices, and reduce growing gaps in labour protections for workers. Problems of misclassification and non-standard work (including informal and platform based work) are poised to accelerate without such changes. It is time to act.

First, Part III of the Canada Labour Code should provide a clear statutory definition of "employee":

⁴As part of next steps on modernizing federal labour standards, the Government of Canada created the independent [Expert Panel on Modern Federal Labour Standards](#) in February 2019 to address, in part, non-standard employment in which may not be covered by federal labour standards.

- We recommend that the definition of employee encompasses any person who performs labour or supplies services for monetary compensation, as well as a presumption of employee status unless the hiring entity can establish that the person is not an employee as set out below.

Second, the Part III of the Code should clarify who is an employee and who is not. We looked to the leading strategies in the U.S. to address ways that employers are pushing employees beyond protections of labour standards. Better known as the AB5, law from California based on the Supreme Court decision in Dynamex outlined the 'ABC' test for determining the employment relationship. The ABC test had been used in 19 States for determining access to social benefits such as unemployment insurance.

The ABC test does 2 things. First it presumes that a person is an employee unless the employer can demonstrate otherwise. Then, it sets out a test that must be met for a worker to be deemed self-employed or truly a business unto itself and not an employee.

- We recommend a test that is structured around four cumulative conditions:
 1. The person is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for performance of the work and in fact;
 2. The person performs work that is outside the usual course of the hiring entity's business;
 3. The person is customarily engaged in an independently established trade, occupation or business of the same nature as the work performed; and
 4. The person has the risk of profit and risk of loss.

Finally, Part III should include a clear statutory definition of "dependent contractor". Dependent contractors should also be deemed to be employees in order to help make it clear that dependent contractors are not to be thought of as belonging to the category of independent contractors. Finally, the wide-spread use of contracting out, temporary help agencies and contracts for services create difficulties in determining who is the "real" employer. Evidence and statistics show temp agency employees and employees down the sub-contracting chain receive lower wages and working conditions, and face increased likelihood of violations of labour standards. Further, when employment functions are shared among entities it makes it hard for employees to enforce their rights.

- We recommend that that a new joint and several liability provision be added to Part III. This would mean that any federally regulated company that enters into contracts with subcontractors or other intermediaries, either directly or indirectly, should be considered jointly and severally liable for wages and statutory entitlements under Part III.

APPENDIX C: THE TROUBLE WITH WAGE SUPPLEMENTATION - THE CANADA WORKERS BENEFIT EXAMPLE

Bad Design: Uses different concepts of income for benefit eligibility/entry (individual earnings) than exit/benefit clawback (family income), creating tax-back rates that exceed 100%. This creates perverse negative effects for people attempting to move from welfare to work, the very group you'd be hoping to incentivize to engage more in paid work, in theory.

Limited Reach: It is not a significant poverty reduction measure because of limited scale/reach. However, expanding scale/reach would effectively make permanent wage subsidies to employers.

Through The Individual Or The Employer? (labour incentives and disincentives): Benefits that go directly to individuals rather than through employers are often viewed by pro-market advocates as creating a disincentive to work, which they view as a "labour market distortion". This was the case with CERB, expanded EI, and now the Canada Recovery Benefit. CWB goes directly to workers, but only if they work; consequently it effectively functions not just as an income top-up, but also as a wage subsidy.

Institutionalizing Labour Market Distortions: Significantly expanding this form of income supplement, to stabilize incomes of those with volatile and low earnings, would trigger a major "labour market distortion" effect by expanding workers' acceptance of job offers with low wages or hours of work, and employers' offers of such jobs. This would lock in higher, tax-payer funded supports for simply going to work than would otherwise be necessary. While perhaps attractive as policy tries to promote more income stability for those marginally attached to the labour market during the early recovery period, in "normal" (not pandemic related) conditions it generates sub-optimal results, because "normal" would be quite tight labour markets due to population aging effects. It also offsets a higher order goal of public policy: good jobs.

Does It Pay For Itself?: It is unclear what the net benefit of such an expenditure would be (whether it would pay for itself because more people would work and contribute more to public revenues than they received; or whether taxpayers – mostly other workers – would be literally paying for some people to work in relatively marginal jobs).

Too little, too late: Functionally, an expanded CWB would not be timely, and would be a poor response mechanism to meet the needs of workers with volatile incomes, because it is based on tax files (income from over a year and a half ago). To speed up eligibility, and make things more CERB-like (through CRA), the burden of the integrity function would be at the end, after tax filing, perhaps more than a year after you ask for and receive help. This model hasn't yet been road-tested (CERB beneficiaries will not be audited until next tax year, and enforcement could prove extremely expensive and slow) so this is an unlikely choice as the best way to stabilize volatile incomes or support marginal incomes. A reminder, too: verification is not the same as dispute resolution, and CRA doesn't have a built-in system for dealing with challenges to decisions.

How to support vulnerable workers: It is common for recovery strategy to turn to income supports as the first response to a bad stroke of luck. We are now in a profound and long period of change, and it's time

to establish the foundations for the future of workers: good jobs, health and social wages (essential services) you can rely on. Ironically, the best support for workers at high risk of being exploited or face volatile earnings may not be through income supports, but through better protections of their rights as workers, a focus on improving the quality of jobs and social insurance policies, and increasing access to essential services, that isn't dependent on your employer or your level of income.

How to support all working-age people living in deep poverty: Although there are structural and transformative ways in which the federal government could better support those living in deep poverty (e.g. uploading social assistance, expanding provision of in-kind income through services as mentioned in Section 3 of this memo), a comprehensive review of income supports for the working aged should look at all options, including for those who are not able to work. However, this could present an opportunity to re-conceptualize the CWB so that it focuses on those with the deepest need, encouraging full engagement if not full employment in the traditional sense for those able to work episodically or at reduced hours, chronically. While there are inherent trade-offs in providing income support for low-income working-age people with wage subsidies, a focus on those living in deep poverty may help to mitigate some of these tradeoffs.