

## **Negotiating the new economy**

### **The effect of ICT on industrial relations**

Report prepared by Andrew Bibby, 29 Aug 2000

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#### **The end of 'industrial' relations?**

There is an argument which suggests that traditional industrial relations will have little place in the workplace of tomorrow. As we move towards the information age, the old models of labour relations - with all the assembled baggage of collective bargaining between employers and workers' representative bodies - will become increasingly inappropriate to the new realities of work.

According to this point of view, the very term 'industrial relations' is itself a giveaway. It harks back to the industrial age, the time when the growth of large-scale production in hierarchically structured organisations led to a need for the collective regulation of employment relationships.

The development of trade union organisations, for example, was predicated upon the existence of the factory system, bringing large numbers of workers together in a central workplace. What if this is no longer the way in which work is organised? What if new technologies permit a new flexibility in the way work is undertaken?

For much of the twentieth century, industrial relations focused on what was seen as the normative way of working. The paradigm has been that of a full-time worker (or indeed 'man', since historically the assumption was that the male was the main bread-winner), working under an employment contract for one employer and remaining with their company for many years or until the time came to draw the company pension. This paradigm further was based on a clear separation between work and home spheres of life, between the hours of work and the hours of non-work and indeed also between a person's years of working and their abrupt transition into retirement.

It is possible to discuss the extent to which this paradigm ever adequately reflected working life – the critique has been advanced that it left out of the picture the work undertaken by women, particularly part-time and casual employment, for example. It also ignored working realities in most of the developing world. But nevertheless for most of the developed countries, this paradigm provided a basis not only for the structuring of industrial relations but also for social protection systems and retirement pension arrangements.

The argument now is that, in any case, this paradigm fails to be appropriate for a network economy where value comes from the manipulation of information and knowledge much more than from the production of material goods. In the process of change, a 'job' is becoming redefined simply as 'work'.

AT&T's vice president for human resources James Meadows put it this way, in a quote attributed to him in the New York Times:

**People need to look at themselves as self-employed, as vendors who come to this company to sell their skills. In AT&T we have to promote the concept of the whole work force being contingent, though most of our contingent workers are inside our walls. 'Jobs' are being replaced by 'projects' and 'fields of work', giving rise to a society that is increasingly 'jobless but not workless'.<sup>1</sup>**

Many writers have engaged with this subject. Research on the growth of flexible working practices undertaken for the OECD identified a number of developments, including changes in the design of jobs, greater complexity, higher skill levels, greater use of team working and also increased delegation of responsibility to lower levels of staff.<sup>2</sup>

Ulrich Klotz, from the German trade union IG Metall, has described changes in work organisation thus: "Work is splintering into many forms... As the new company models proliferate, forms of work are spreading that we still refer to as 'atypical': part-time work, temporary work, limited contracts, telework, contract work and other forms of (pseudo) entrepreneurial work... In short, work is still with us but the stable job is not". He warns that as a consequence trade unions are in danger of losing their traditional 'business base'.<sup>3</sup>

ICT permits both the spatial and temporal relocation of work, challenging the idea of a discrete workplace and a discrete working day. However it would be wrong, of course, to see changes in work organisation as simply the result of technology. These changes are being driven by a number of factors. We can identify trends in management practice, including such things as the outsourcing of non-core activities and the reengineering of business processes as also contributing to workplace transformation. However, these

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<sup>1</sup> New York Times, 13 February 1996, quoted in Chris Benner, Shock Absorbers in the Flexible Economy, the Rise of contingent employment in Silicon Valley, Working Partnerships, San Jose, 1996

<sup>2</sup> OECD, Working Party on Employment, Paris, 1999

<sup>3</sup> Ulrich Klotz, Die Neue Ökonomie, in Arbeiten in der Informationsgesellschaft, DGB, Berlin, n.d. (2000), p9

developments are closely intertwined with developments in ICT. In an early essay, Manuel Castells suggested that there are two overarching inter-related processes at work, driving change in the workplace: the technological revolution based on microelectronics is one of these, the growing interdependence of the economic system – globalisation - is the other.<sup>4</sup>

In terms of labour relations what all these changes mean, effectively, is a new implied contract between a company and a worker. The old employer/employee relationship, which offered security and reward to the individual in exchange for corporate loyalty is to go. Instead, individuals are told to take responsibility for their own working life and career, including the responsibility of ensuring that they constantly update their skills. In exchange a company undertakes to empower them in their work, by removing old-style supervisory practices and replacing these by new types of team working, based on performance management. The old master/servant basis to the employment relationship, in other words, is replaced with something more, well, modern.

This sounds a seductive idea, though it blows a gaping hole in the way in which industrial relations, institutionalised in the relationship between employers' representative bodies and trade unions, have traditionally been conducted. If correct, it would inevitably lead also to major changes in social and welfare protection and employment law. In the process, it would also leave today's trade union bodies cast up and redundant, rather in the way that antique steam engines, previously employed huffing and puffing their way through their working day, were left silent and fit only for scrap with the arrival of electricity.

The question explored by this chapter is whether, and if so to what extent, the argument for the end of traditional industrial relations is justified. We will begin by exploring further the challenges which face the social partners, considering how the services they currently offer could be provided in other ways by other agencies. We will then investigate the state of industrial relations in one particular sector which has encountered radical change in recent years, the telecommunications industry, to see what evidence for a paradigmatic shift can be found there.

We will move on to consider in some detail two examples of new work organisation (call centre working and telework) and two areas where 'atypical' working has been growing (agency work and self-employment), to ask whether these are or are not being adequately accommodated within organised industrial relations.

We will then turn to consider the degree to which the traditional industrial relations negotiating agenda has been extended by ICT. This will take us into a number of areas, including on-line rights for workers, questions of privacy

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<sup>4</sup> Manuel Castells, High technology and the new international division of labour, Labour and Society, vol 14. 1989

and electronic surveillance and the increased relevance of copyright and intellectual property rights.

We shall look at examples of how the social partners, and in particular the trade unions, are themselves making use of ICT opportunities. Finally, at the end of this journey, we shall return to the issue posed at the start of this chapter, hopefully in a better position to offer some conclusions.

### **Industrial relations: privatisation and disintermediation?**

It may be appropriate to begin this section by asking if there is empirical evidence of a decline in trade unionisation over the past decade. Unfortunately comprehensive international statistical data are not readily available. However the ILO maintains a database of statistics of trade union membership for 36 countries, taken from a variety of sources. (It should be noted that figures are not directly comparable between countries.)

As the tables below show, a clear trend can be identified.

	<b>Australia</b>		<b>Canada</b>		<b>Denmark</b>		<b>Finland</b>		<b>Germany</b>	
	Number of union members (millions)	% of total paid employees	Number of union members (millions)	% of total paid employees	Number of union members (millions)	% of total paid employees	Number of union members (millions)	% of total paid employees	Number of union members (millions)	% of total paid employees
1990	3.42		4.03	36.2	2.10		1.86			
1991	3.38		4.06	36.3	2.11		1.99		11.80	34.8
1992	3.13		4.09	37.4	2.15				11.01	33.1
1993	3.00				2.17		2.12		12.20	37.2
1994	2.89				2.15	93.6	2.10		9.77	30.0
1995	2.75				2.16	91.6			9.35	29.0
1996					2.17	91.2	2.12		8.97	27.9
1997					2.16	88.7	2.12		8.62	27.0
1998					2.17	88.8	2.11			
1999										

	<b>Guatemala</b>		<b>India</b>		<b>Ireland</b>		<b>Japan</b>		<b>Korea</b>	
	Number of union members (millions)	% of total paid employees	Number of union members (millions)	% of total paid employees	Number of union members (millions)	% of total paid employees	Number of union members (millions)	% of total paid employees	Number of union members (millions)	% of total paid employees
1990	0.07	2.9	7.01	26.6	0.36	42.2	12.26	25.2	1.88	18.4
1991	0.07	2.9	6.10	22.8	0.41	46.3	12.39	24.5	1.80	17.2
1992	0.08	3.0	5.74		0.40	46.3	12.54	24.4	1.73	16.4
1993	0.08	3.0	3.13	11.5	0.44	48.8	12.66	24.2	1.66	15.6
1994			4.09	15.0	0.42	45.4	12.69	24.1	1.65	14.5
1995			4.25	15.2	0.48	52.0	12.61	23.8	1.61	13.8
1996					0.47	47.1	12.45	23.2	1.59	13.3
1997					0.46	43.6	12.28	22.6	1.48	12.2
1998							12.09	22.4	1.40	

1999										
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	<b>Norway</b>		<b>Philippines</b>		<b>Singapore</b>		<b>Sweden</b>		<b>Switzerland</b>	
	Number of union members (millions)	% of total paid employees	Number of union members (millions)	% of total paid employees	Number of union members (millions)	% of total paid employees	Number of union members (millions)	% of total paid employees	Number of union members (millions)	% of total paid employees
1990	1.29		3.05		0.21	15.5			0.95	
1991	1.29		3.11		0.21	16.4	3.89	97.5		
1992	1.31		3.14		0.22	16.8				
1993	1.33		3.19		0.23	17.1	3.94			
1994	1.35		3.51		0.23	16.4	3.93		0.93	
1995	1.38		3.58		0.23	15.7			0.91	
1996	1.42				0.25	17.1	3.88		0.89	
1997	1.45				0.26	16.4	3.79		0.86	
1998					0.27	16.9	3.79		0.86	
1999										

	<b>Turkey</b>		<b>UK</b>		<b>USA</b>	
	Number of union members (millions)	% of total paid employees	Number of union members (millions)	% of total paid employees	Number of union members (millions)	% of total paid employees
1990	1.92	54.9	9.94	44.7	16.73	16.1
1991	2.07	58.1	9.58	43.7	16.56	16.1
1992	2.19	60.8	9.04	41.9	16.39	15.8
1993	2.34	63.5	8.70	40.2	16.59	15.8
1994	2.60	68.0	8.27	37.7	16.74	15.5
1995	2.66	69.3			16.36	14.9
1996	2.69	67.8			16.26	14.5
1997	2.71	66.0			16.11	14.1
1998	2.85	66.9			16.21	13.9
1999	2.98	68.6			16.47	13.9

Source <sup>5</sup>

Whilst there are exceptions, such as Turkey, the Philippines and Finland, nevertheless the years from 1990 onwards show a decline in many countries both in total union membership, and in the percentage of the employed workforce holding union membership. In Germany, for example, the union density rate fell from 34.8% to 27.0% over seven years. In India, the decline was from 26.6% to 15.2% over six years. In Japan, the decline was from 25.2% to 22.4% in nine years. In the UK, 44.7% to 37.7% over five years. In the USA, 16.1% to 13.9% over ten years.

This evidence, therefore, would seem to suggest that, on the workers' side at least, traditional industrial relations structures are indeed in decline. We should be cautious, however, in assuming that this decline is simply the result

<sup>5</sup> Source: From statistics collected by the ILO. For details of the methodology see Statistics of Trade Union Membership, ILO, 1997 (unpublished)

of new ways of working encouraged by new technology. Economic and political factors in individual countries may be important; for example, the 1990s were times of economic depression and unemployment in several parts of the world, when a decline in union strength could be anticipated.

Taking a longer view, we should also bear in mind that trade union density has fluctuated up and down over the decades. The development of the institutions of industrial relations in the twentieth century was not a straight linear development, but something altogether more irregular and cyclical. Trade unions in many countries, for example, suffered a serious setback in their strength and influence during the long depression years of the 1920s and early 1930s, before recovering thereafter.

Nevertheless, in looking ahead there is certainly an argument that new ways of working require forms of service delivery which unions will not necessarily be best placed to provide. The table below is based on an exercise which seeks to identify the likely work-related needs which a new breed of flexible worker - perhaps working on a contract basis rather than in a traditional employment relationship, perhaps working away from a central workplace, perhaps working for a number of different clients - could be expected to have. Whilst in many ways these needs resemble those which are currently met through the familiar industrial relations structures, it is suggested that other agencies could equally well step in to service them: a problem at work could be guarded against in the same way, say, as a motorist arranges vehicle breakdown protection or a householder organises a service contract for domestic appliances.

Negotiation on pay or contract fee	<ul style="list-style-type: none"> <li>• Agents</li> <li>• Commercial training courses in negotiating skills/assertiveness for individuals negotiating for themselves</li> </ul>
Health and safety advice	<ul style="list-style-type: none"> <li>• Commercial telephone helplines</li> <li>• Web based advice services</li> <li>• Specialist consultants</li> <li>• Doctors</li> </ul>
Employment rights	<ul style="list-style-type: none"> <li>• Attorneys/lawyers</li> <li>• Specialist consultants</li> <li>• Commercial telephone helplines</li> </ul>
Disciplinary representation	<ul style="list-style-type: none"> <li>• Attorneys/lawyers</li> <li>• Specialist consultants</li> </ul>
Taxation advice	<ul style="list-style-type: none"> <li>• Accountants</li> <li>• Commercial helplines</li> <li>• Specialist tax advisory services</li> </ul>
Social activities	<ul style="list-style-type: none"> <li>• Web-based associations</li> <li>• Informal networks</li> <li>• More focus on neighbourhood rather than workplace socialising</li> </ul>
Legal advice	<ul style="list-style-type: none"> <li>• Attorneys/lawyers</li> </ul>

	<ul style="list-style-type: none"> <li>• Legal insurance (perhaps as add-on to other insurance)</li> </ul>
Psychological and physical health	<ul style="list-style-type: none"> <li>• Doctors/health services</li> <li>• Private practice therapists</li> </ul>
Pensions/social protection	<ul style="list-style-type: none"> <li>• Private insurance companies</li> <li>• Private financial advisers/brokers</li> </ul>
Equal opportunities	<ul style="list-style-type: none"> <li>• Specialist consultants</li> <li>• Commercial telephone helplines</li> </ul>
Finding work	<ul style="list-style-type: none"> <li>• Informal networks</li> <li>• Web based services (monster.com etc)</li> <li>• Professional associations/member co-operatives</li> </ul>

Source <sup>6</sup>

The vision of a shop steward replaced by a fee-charging adviser or consultant amounts to an effective privatisation of the whole process of labour relations and may be one which many people find uncomfortable. Nevertheless the needs of workers provide a 'business opportunity' which can be met in future in one of three ways:

- by traditional industrial relations organisations/labour unions
- by new forms of mutual association, co-operation or networking
- by the private sector

In taking this issue further, a key question to consider is to what extent workers' needs will continue to be met primarily on a collective, rather than an individual, basis. It should be noted that ICT offers considerably more opportunities for employers to maintain very detailed data on each of their workers, and to build a closer personal relationship with each based on the analysis of those data. The situation is comparable to the techniques of data mining whereby companies attempt to build up detailed personal profiles of their customers.

This would enable a company if it so chose to relate directly to its individual workers without having that relationship mediated by workers' representative organisations. Disintermediation (the disappearance of the role played by traditional intermediaries, agencies who engage in brokerage of various kinds) has been identified as a feature of the growth of the internet and e-commerce: for example, an airline passenger can choose to purchase a ticket direct from an online booking service rather than from a local travel agency; motor insurance can be purchased direct, avoiding the need to use an insurance broker. Is it possible to see a similar process of disintermediation also taking place in industrial relations?

Any assessment of trade unions' ability to maintain their role would identify a number of potential weaknesses. One, perhaps, is their image. Another is

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<sup>6</sup> From work by Andrew Bibby

their internal management structures. This point is addressed by Ulrich Klotz of IG Metall: “Owing to the origins of the unions, their internal organisation corresponds to that of a classical Taylorist factory for mass production: control is exercised from the top to the bottom of the power pyramid... As long as markets and membership structures remained stable and easy to manage, it was possible to operate successfully on this principle. Since then, however, the environment has changed radically. Unions are increasingly seen by (potential) members as service providers. But service providers require a completely different structure to succeed...”<sup>7</sup>

Another issue is the fragmented nature of the trade union movement and its relatively weak international links. At a time of globalisation, foreign direct investment and the spread internationally of multinational corporations, trade unions continue to be almost entirely based in nation states.<sup>8</sup>

On the other hand, history suggests that trade unions have in the past successfully adapted the role they perform, sometimes markedly. For example, there was a time when many unions controlled much more tightly than at present the process of access to employment, performing many functions now typically performed by private sector recruitment or employment agencies. Before the development of the welfare state model in the period after 1945, many trade unions occupied a more important role in social protection schemes and pensions. Going further back, to the craft unions and craft guilds, their role in establishing standards for new entrants to their craft was akin perhaps to that performed today by organisations setting vocational training standards and competencies.

The familiar model of collective bargaining between employers and workers organisations, where workers are employed on open-ended employment contracts, itself is primarily a product of the post-1945 years. Although now the majority of workers in OECD countries are engaged as employees on permanent contracts, this was not the case during an earlier period of industrialisation. As has been pointed out, the late nineteenth and early twentieth centuries saw various forms of labour sub-contracting widely used.<sup>9</sup>

The message therefore is that the development of industrial relations has always been a dynamic process, with the principal players to an extent redefining their roles through the years.

We have focused up to now on trade unions. What, however, of employers' associations? They too face challenges at a time of rapid technological change.

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<sup>7</sup> Ulrich Klotz, Die Neue Ökonomie, in Arbeiten in der Informationsgesellschaft, DGB, Berlin, n.d. (2000), p25

<sup>8</sup> Exceptions include unions organising in both the USA and Canada, and those operating in the United Kingdom and Ireland

<sup>9</sup> David Marsden, Breaking the link: has the employment contracts had its day?, Centrepiece magazine ([www.centrepiece-magazine.com](http://www.centrepiece-magazine.com)), Winter 1999



Collective bargaining has been of advantage to employers as well as to workers. For example, nationally negotiated agreements establishing uniform levels of pay for a sector enable companies to compete on the quality of their products, on their productivity or efficiency, or on their ability to recognise new business opportunities, instead of by driving down labour costs. This offers a stability in employment relations which could otherwise be as damaging to employers as to workers.

However this approach works only if all companies are prepared, or obliged, to buy into the process. It may also mean that structural change, because it is subject to negotiation, can be slow to bring about. The post-1945 social contract on which much industrial relations has based may need to be renegotiated as new companies, and new sectors, emerge.

Even ignoring the very recent dotcom companies such as amazon.com and Yahoo!, it is may be appropriate to recall that many relatively recent start-up companies are now major international corporates. Both Intel and Microsoft, for example, were founded during the last quarter-century. One in three of the present top 25 companies in the US did not exist in 1960.

Employers' association face an issue of legitimacy if they do not represent the interests of companies exploiting opportunities in the knowledge economy as much as those operating in the old economy. There is evidence that they are aware of this. For example, the Confederation of British Industries organised a meeting with executives of new economy companies in Britain in mid-2000. According to the CBI's Director-General: "Eight years ago these people did not exist. We have got to address these new businesses and their new problems and provide services for them and learn from them". The CBI is investigating inserting a virtual forum into its policy-making framework.<sup>10</sup>

In Norway, Næringslivets Hovedorganisasjon (NHO), the Confederation of Norwegian Business and Industry, has created a private internet site for its members, in addition to its public web site. The aim is to allow members access to more information about the NHO's activities, and to provide a mechanism for internal discussion groups and questionnaire evaluations.<sup>11</sup>

In Italy, a new President of the employers' confederation Confindustria, Antonio D'Amato, was appointed in May 2000. Mr D'Amato has called for an 'alliance for modernisation' and has proposed that Confindustria is transformed into an organisation able to adapt rapidly to market changes and globalisation. Mr D'Amato has also criticised some aspects of the traditional social partnership with Italian unions, criticising unions for resisting moves to more flexible working as well as changes to the welfare system.

Unusually for Confindustria, Mr D'Amato was appointed after an contested election, which saw him standing against a candidate supported by the major

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<sup>10</sup> Kevin Brown, The real world begins to catch up with e-business, Financial Times, London, 17 August 2000

<sup>11</sup> EIRO, Unions make increasing use of Internet, EIRO Observer 6/1999, Dublin, 1999, p13

Italian industrial groups. Mr D'Amato's background, by contrast, is from a small and medium-sized enterprise background.<sup>12</sup>

### **An industry in transition: the example of the telecoms sector**

It is time to narrow the focus, to look at developments in industrial relations in a particular sector. The telecoms industry is a suitable candidate on several counts. It puts the 'C' in ICT; or, in other words, it comprises one half of the two strands of information and communication technology. It is one of the sectors driving the new economy. It is also one of the sectors most directly affected by globalisation.

The telecoms industry has in recent years gone through a profound process of restructuring. Only a few years ago the majority of telecoms operators were publicly-owned monopolies delivering little more than standard voice telephony. Now many privatised or partly privatised state corporations are competing for business in a fast changing environment. In some countries, data communication comprises a larger share of traffic than voice telephony.

As a result, recent years have seen radical transformation also in terms of employment. Where once telecoms workers could have taken comfort from the security of working in a stable, slow-moving state-owned concern, now they may find themselves in a highly volatile commercial business environment.

The telecoms sector has historically seen high levels of trade union organisation. The table below compares, for selected countries, actual union membership with total potential membership in the sector in 1992, or in other words just about at the stage when the industry was entering into transition in many countries. (Some caution is needed in interpreting these figures, which are taken from returns submitted by affiliated unions to the international trade union federation PTTI, now UNI, and which cannot be independently validated. The apparent density rate in the Czech Republic of more than 100% may be the result of maintaining retired employees as union members).<sup>13</sup>

Country and trade union	Actual trade union membership	Potential membership	Union density rate
Argentina, FOESITRA (1996)	25,000	25,511	98%
Australia, CEPU	47,979	66,000	73%
Czech Rep, UCW	35,036	24,750	142%
Egypt, GTUCW	60,000		99%
Hungary, MATASZ	12,344	21,537	57%

<sup>12</sup> EIRO, New president for Confindustria: new phase in relationships between social partners?, EIRO Observer, 4/2000, Dublin, 2000, p7-8

<sup>13</sup> Source PTTI (now UNI)

Ireland, CWU (incl postal wkers)	16,484		99%
Japan, ZENDENTSU	236,832	236,832	100%
Lithuania, LCWTU	4,150	10,300	40%
Malaysia, NUTE (1996)	16,992	22,000	77%
Morocco, UMT	2,400	4,000	60%
Netherlands, ABVAKABO	9,047	34,017	27%
Portugal, SINDETELCO	3,604	11,464	31%
Slovakia, OZS	9,284	10,212	91%
Sweden, SEKO	30,327	44,000	69%
Taiwan, CTWU	35,796	35,796	100%
UK, CWU	101,700	140,000	73%

A symbolic start date for the process of transformation in the telecoms sector is perhaps January 1<sup>st</sup> 1984, when the former near-monopoly company in the US, AT&T, was dismantled and the seven regional Bell operating companies established. Also in 1984 the British government began the process which led to the privatisation of British Telecom and the opening of the UK telecoms market to competition. The Japanese telecom company Nippon Telegraph and Telephone was partially privatised in 1985. Korea Telecom was privatised in 1982.

What has become a global wave of telecom liberalisation grew rapidly thereafter. One significant milestone was a European Union directive requiring member states to open voice telephony services and infrastructure to competition from 1998 (a small number of EU states were permitted to delay this measure). On 15 February 1997, an agreement signed by 68 states under the auspices of the World Trade Organisation effectively opened the door to complete liberalisation and globalisation of the telecoms industry. The 68 states together account for more than 90% of the total turnover of the industry.

This process of telecom liberalisation has been accompanied by sometimes sharp reductions in employment levels. For example<sup>14</sup>:

- **Australia:** employment in Telstra fell from 94,000 in 1986 to 68,000 in July 1996, with the company planning for a further fall to 37,000 by the start of 2000 [a]
- **France:** employment in France Télécom rose until about 1994, but has since fallen, from 157,000 in 1994 to 143,000 in Jan 1999.[b]
- **Germany:** employment in Deutsche Telekom fell from 233,100 in 1993 to 191,034 in 1997 and to 172,000 in 1999 [c,d]
- **Greece:** employment levels at OTE fell from 26,140 to 21,195 in 1998 [e]
- **Hungary:** employment in Matav fell from 18,998 in 1993 to 14,950 in 1997 [f]

<sup>14</sup> Sources as follows. [a]: Research by Prof Anil Verma, published in Structural and regulatory changes and globalization in postal and telecommunications services: The Human resources dimension, ILO Sectoral Activities Programme, ILO, Geneva, 1998. [b]-[n]: Information assembled by UNI, from the following sources. [b], CFDT, 16 February 1999. [c], DPG Gewerkschaftliche Praxis 1/98. [d], NZZ 20 April 2000. [e], OME-OTE, February 1999. [f] CI (now UNI) Ameritech Alliance newsletter, April 1998. [g] FSTC, February 1999. [h] PTN union, 8 February 1999. [i] SC, 14 May 1999 [j] CWU, February 1999. [k] SLC-CGIL, February 1999. [l] Financial Times, 19 November 1998. [m] PTTI News, 11 November 1997. [n] CWU research

- **Romania:** employment levels at Rom Telecom fell from 55,300 in 1994 to 49,000 in 1998 [g]
- **Czech Republic:** employment in SPT Telecom fell from 25,429 in 1994 to 22,277 in 1998 [h]
- **Switzerland:** employment cuts in Swisscom are expected from 22,000 in 1997 to 18,000 by 2001. [i]
- **Ireland:** employment levels at Telecom Eireann (now Eircom) fell from 15,000 in 1994 to 11,000 in 1998 [j]
- **Italy:** employment levels at Telecom Italia SpA fell from 104,000 in 1994 to 81,000 in 1998 [k]
- **Spain:** domestic employment in Telefónica fell from 72,000 in 1994 to 55,000 at the end of 1998 [l]
- **Sweden:** employment levels in Telia fell from 49,000 in 1993 to 32,000 in 1997 [m]
- **Japan:** employment in NTT was 300,000 in 1985 and 216,000 in 1993 [a]
- **UK:** employment in BT fell from 241,124 in 1984 to 132,351 in 1995 and 116,493 in 1998. At the peak of its downsizing exercise, the financial year 1992/3, the company shed 31,115 posts. [n]
- **USA:** the overall workforce employed in the sector fell from 965,000 in 1983 to 872,000 in 1992. AT&T shed more than half its unionised employees during the 1984-1992 period [a]

In an industry which has been undergoing the sort of changes which can see more than 20,000 people leaving a single company's employment on a single day (as happened in the case of British Telecom), one might predict that industrial relations would enter a meltdown situation.

In fact, this has in general not been the case. It is true that in many parts of the world trade unions have fought bitterly against telecoms liberalisation and privatisation at the time when the proposals have first been advanced. This was the case in the early 1980s (for example, at the time of the first privatisation of British Telecom), and it is still the case today. In Costa Rica, for example, the year 2000 started with a major strike against government proposals to remove the monopoly from the state telecoms company ICE.<sup>15</sup> Other examples of union mobilisation against telecoms liberalisation have taken place in Mexico, India, Ghana, South Africa, and Norway, among many others.<sup>16</sup>

In a report prepared for an ILO tripartite meeting on the postal and telecoms sectors in 1998 the following assessment was offered:

“In the communications sector, labour relations as a whole have deteriorated in the 1990s as a result of the structural and regulatory changes brought about by liberalization, privatisation and globalization. Employees and their trade unions, accustomed to the stability of the public sector monopoly or of a private sector in which competition was distorted by the regional division of

<sup>15</sup> Information taken from [www.virtualwer.org](http://www.virtualwer.org), August 2000

<sup>16</sup> ILO, Structural and regulatory changes and globalization in postal and telecommunications services: The Human resources dimension, ILO Sectoral Activities Programme, Geneva, 1998, p79-82

markets and entry barriers, have reacted rather negatively to the reorganizations and job suppressions..”<sup>17</sup>

It is also true, however, that once the process of structural reform has been commenced collective bargaining processes have generally continued to function, often with perhaps surprising facility.

Among the large telecoms players, the shedding of jobs has largely been undertaken without compulsory redundancies. In Germany, for example the German postal workers union DPG obtained such a commitment from Deutsche Telekom in 1995 as part of the country’s Alliance for Jobs initiative. The agreement, initially until 1997, was later extended.

In Japan, the reduction in overall employment at NTT, the world’s largest telecoms company, has also been successfully achieved by collective agreement. NTT set up a joint consultation mechanism on employment, conditions of work and management.<sup>18</sup>

Compulsory redundancies have also to date been avoided at British Telecom. At BT, as also with NTT, Bell Canada, Belgacom in Belgium, Deutsche Telekom and Telenor in Norway early retirement has played an important part in reducing staff size.<sup>19</sup> The advantage in each case to the company concerned is that the average age of the workforce is reduced; younger staff are also less expensive than their older colleagues.

In Germany, the DPG has for the past two years ensured that the collective agreement with Deutsche Telekom includes provision for young trainees to enter employment with the company. Deutsche Telekom undertook during 2000 to employ on full-time open-ended contracts all trainees who successfully completed their training programme. The company also offered 2,600 places for new trainees.<sup>20</sup>

At the European regional level, the machinery of social partnership also appears to be functioning smoothly. In March 2000 the telecoms employers and trade unions jointly submitted a statement for the EU Lisbon summit, called among other things to address the issue of Europe’s progress to an information society. The joint statement stressed the importance of the telecoms sector for economic growth in the EU and stated that training and the modernisation of work organisation were two key elements to the sector’s development. The statement ended as follows, with a commitment from both sides to ensure that:

- **before the end of 2001 all employees in our companies have the opportunity to raise their awareness of information technologies and receive essential ICT training**

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<sup>17</sup> *ibid*, p73

<sup>18</sup> *ibid*, p76

<sup>19</sup> *ibid*, p43-44

<sup>20</sup> Information taken from [www.union-network.org](http://www.union-network.org) website, August 2000

- IT skills are developed and made portable by means of appropriate certification arrangements which are recognised across Europe
- a European strategy is developed to utilise Internet based ICT training within the sector, leading to certified and portable qualifications for all employees
- during the current and coming year (2000 and 2001) they will develop a set of voluntary Europe-wide guidelines for telework<sup>21</sup>

It is fair to say, however, that there are a number of particular industrial relations issues which have arisen as a result of the liberalisation process in the telecoms sector. The first of these concerns civil service status, which (as employees of state-controlled enterprises) many telecoms workers traditionally enjoyed. This issue was the focus of trade union attention in France, where 90% of France Télécom's employees have civil service status and as a result have protection from dismissal. The unions have so far successfully protected the status of these workers.

In Germany, staff employed since 1995 have been taken on as private sector staff. However existing staff have been given the chance to maintain civil service status. In Denmark, TeleDanmark staff have also retained this status. However this is not the case in other countries, including BT in Britain, Telia in Sweden and the telecoms company OPT in Benin.<sup>22</sup>

Civil service status offers job protection and good employment rights, but can mean that trade union rights are restricted. As part of the liberalisation process of telecoms in Japan, staff of NTT gained the right to strike.<sup>23</sup>

A second issue concerns the nature of union representation and industrial relations in the powerful new telecoms companies. International and British trade union bodies lobbied against the proposed MCI/BT merger, concerned that MCI did not share the same traditions of collective bargaining or union recognition as BT. UNI also lobbied strongly at the European Commission against the proposed MCI Worldcom/Sprint merger, accusing both companies of engaging in anti-union activities.

More recently the Communications Workers of America took strike action in August 2000 at Verizon, a company formed by the merger of Bell Atlantic and GTE. The industrial action, successfully resolved after about two weeks, had among its aims the right to recognition of the union in new areas of the company's business, in particular Verizon Wireless.<sup>24</sup>

### **Industrial relations: business as usual?**

<sup>21</sup> Joint statement for the Lisbon summit, Employers and trade unions in the European telecom sector, March 2000

<sup>22</sup> ILO, Structural and regulatory changes and globalization in postal and telecommunications services: The Human resources dimension, ILO Sectoral Activities Programme, Geneva, 1998, p57ff

<sup>23</sup> *ibid*, p76

<sup>24</sup> CWA, CWA announces path-blazing settlement ending Verizon strike by 37,000 workers, (press release), Washington DC, 2000

What conclusions can we draw from this survey of the telecoms industry? Perhaps surprisingly, the rapid process of change which the sector has been going through in recent years does not appear to have led to a similarly radical transformation of traditional labour relations – or at least if we exclude from the picture the new entrants to the industry in the United States. In telecoms, it would seem, there is considerable life yet for old-style industrial relations.

Are there specific reasons why this could be the case? Perhaps the high level of unionisation and the long tradition of paternalistic labour relations in some state-run monopolies are still strong factors at work. Furthermore, despite liberalisation, the big national telecoms companies - firms such as Deutsche Telekom, Telecom Italia, France Télécom and NTT - continue to dominate their home markets. It could be argued that, in reality, little has actually changed and that it is too early to make any meaningful assessment.

In a moment, therefore, we need to bring the focus back to the broader picture, to ask if there are more general signs that industrial relations institutions are adapting to the new economy.

#### *Global collective agreements and institutional reform*

We remain briefly, however, with the telecoms sector. Early in 2000, what can be described as the first global collective agreement in the ICT industries was successfully negotiated between the international telecoms company Telefónica and UNI, Union Network International. The agreement originated in negotiations with the two union federations in Telefónica's home country of Spain, but was broadened so that the eventual agreement covers Telefónica's employees throughout the world, about 120,000 in all. Both sides to the agreement commit themselves to accepting five core principles:

- **Compliance with the ILO conventions on freedom of association and trade union rights**
- **Recognition of the right to organise and recognition of the right of trade unions to represent and negotiate on behalf of the workers**
- **Strict respect of standards applicable to the environment, security, health and safety at the workplace**
- **An agreement to provide and furnish a high-quality service that is both affordable and universally accessible**
- **An agreement to provide a high level long-term investment in local companies in order to develop and expand services and employment**

Both the General Secretary of UNI Philip Jennings (who talked of a 'great breakthrough') and the then President of Telefónica Juan Villalonga emphasised the significance of the agreement. Villalonga told an international union conference: "We need the unions and they need the company, since in the face of something... that is going to change or already is changing the

ways we inter-relate, if we are able to anticipate the direction to take and run a fast race it will be to the benefit of all.”<sup>25</sup>

UNI, which was established by merger on 1<sup>st</sup> January 2000, is itself of interest, since the merger can be seen to be a consequence of changes brought about by ICT. The new trade union body brought together four international trade secretariats, FIET (covering private sector employees), Communications International (telecoms and postal workers), the International Graphical Federation and the Media and Entertainment International. The four agreed to merge in large part because of an understanding that technology was leading to convergence between these formerly distinct sectors. (A similar rationale is being followed in Germany where five unions hope to come together in 2001 to form a new union ver.di).

One example of UNI’s desire to address the issues raised by globalisation in a practical way is its ‘passport’ scheme. This is designed for professionals, particularly those in the IT sector, whose work takes them abroad. The ‘passport’, in reality a card the size of a credit card, gives members of a UNI affiliate the right to request services from the union in the country where they are working.

At the apex of the international union structures, the International Confederation of Free Trade Unions (ICFTU) is itself reassessing its role. The need for a ‘millennium review’ was debated in detail at the ICFTU’s World Congress in Durban in April 2000. The review is intended, in the words of ICFTU’s General Secretary Bill Jordan, to be ‘the most far-reaching rethink ever carried out since the birth of international trade unionism’.<sup>26</sup>

### *Vocational training and lifelong learning*

Changes in working practices require new skills from workers, and the issue of vocational training has been high on the agenda of both employers associations and trade unions.

In South Africa, for example, the Information Systems (IT), Electronics and Telecommunications Technologies sector education and training authority (ISETT SETA) was established in March 2000. ISETT SETA is one of a number of bodies created under the government’s Skills Development Act of 1998. It is a tripartite initiative, with members of the ISETT SETA Authority drawn from employers associations (three representatives from the IT and electronics sector), trade unions (three representatives from unions in the sector) and the government (three appointees). Three further Authority members represent special interest groups. The cost of vocational training in South Africa is met from an employers’ payroll levy (currently 0.5%, due to rise to 1.5%).<sup>27</sup>

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<sup>25</sup> Information taken from [www.union-network.org](http://www.union-network.org) website, August 2000

<sup>26</sup> UNI, Where to now for the world trade union movement?, UNInfo, 3/2000, Geneva, 2000

<sup>27</sup> Personal communication, and information taken from [www.isett.org.za](http://www.isett.org.za) web site, August 2000



In Singapore, the National Trades Union Congress (NTUC) has participated in major training initiatives, including the Skills Redevelopment Programme launched in 1996 (in which to date about 24,000 workers have participated) and the Critical Enabling Skills Training (CREST) programme (about 30,000 trainees, with another 100,000 workers due to participate in the forthcoming year). The NTUC's education training fund subsidises union members where employers cannot or will not pay for staff training.<sup>28</sup> The NTUC's skills development department has been given the surrogate status as an employer body, to enable it to apply for public funds for this work.

In Germany, the tripartite Alliance for Jobs, Training and Competitiveness (Bündnis für Arbeit) was established in December 1998. It includes structures for issue-related working groups as well as regular high-level conferences between the social partners. At the July 2000 conference, it was agreed to aim for 60,000 training places in IT and the media in the years up to 2003.<sup>29</sup> A similar tripartite initiative in Ireland, Partnership 2000, was negotiated in 1997 and aims to encourage life-long learning in the workplace.<sup>30</sup>

In the USA, a partnership between AT&T and the union Communications Workers of America (CWA) has been in place since as long ago as 1986 when a joint body, Alliance for Employee Growth and Development, was established through the collective bargaining process. The Alliance is a nonprofit organisation with representatives from both trade union and company sides, which offers distance learning and on-site training. The Alliance claims that 125,000 active and displaced workers have participated in training activities in the years since its formation.<sup>31</sup>

### *Occupational safety and health*

Compared with the industrial age, the workplaces of the information age can seem very 'clean' environments.

However, trade unions have suggested that such a view can be misleading. The introduction of computer terminals and PCs have raised considerable concerns over keyboard-induced musculo-skeletal disorders (such as carpal tunnel syndrome and repetitive strain injury), which some have described as almost a white-collar epidemic.

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<sup>28</sup> Tong Kok Yeo, General secretary, Union of Telecoms Employees of Singapore (UTES), speech at Organising in the network economy conference, Edinburgh, 18 July 2000

<sup>29</sup> EIRO, Alliance for Jobs adopts joint statement on employment-orientated bargaining policy, EIRO Observer 2/2000, Dublin, 2000, p8-9. Also information taken from [www.buendnis.de](http://www.buendnis.de) website, August 2000

<sup>30</sup> European Trade Union Institute, Collective Bargaining in Western Europe 1998-1999, quoted in Duncan Campbell, Implications of ICT for Labour Migration, the Organization and representation of Workers and Employers and Social Protection Systems, ILO Regional Conference, ILO, Geneva 2000

<sup>31</sup> Information taken from [www.employeegrowth.com](http://www.employeegrowth.com) website, August 2000

Perhaps the most innovative example of an international initiative in this area is the environmental and ergonomic labelling scheme for computer hardware developed by the Swedish confederation of professional employees, TCO. Since the end of the 1980s TCO has been involved in influencing the development of IT equipment in what it describes as a more user-friendly direction. Its TCO 92 and TCO 95 quality standards were influential in the IT industry far beyond the borders of Sweden. TCO Development is currently launching its third quality mark, TCO99. This covers portable computers and flat panel visual display units, and includes requirements for maximum electrical and magnetic emissions, energy saving features, electrical safety and keyboard usability.

## **Two examples from the new economy**

### **1: Call centres**

The very rapid growth of call centres has been a striking feature of work life in many developed countries in recent years. Their development has changed the nature of white-collar work for the hundreds of thousands of people who spend their working days handling telephone calls in these purpose-built units. Call centres have had a profound effect on the structuring of some industries, including the banking, travel and telecoms sectors.

Call centres are the first distinctly new form of work organisation to have emerged from the information and communication technology revolution. Yet there is a curious paradox here, for call centres – far from representing the new flexibility in working space and time promised in the information age – carry forward into the new realm of white-collar work the traditional assembly line working model associated with Henry Ford and Taylorism.

Call centre technology can increase productivity in telephone call handling to an often astonishing degree. Automated call distribution, computer-telephony integration (such as 'screen popping' of customer information to agents' screens) and the use of standard scripts by staff mean that the time taken to deal with calls, and free time between calls, can be pared to the bare minimum. What was once a day's work can be undertaken in an hour, according to one call centre manager<sup>32</sup>.

This technology-induced efficiency requires the human agents to submit to a highly controlled work regime. Some have described call centres as the electronic sweatshops of the twenty-first century. The degree of surveillance necessary has also invited unfavourable comparisons; one call centre worker compared his work with that of Roman slave ships: "You feel like you are on a galley boat, being watched, answering calls every thirty seconds, monitored and told off..."<sup>33</sup>

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<sup>32</sup> Personal communication

<sup>33</sup> Channel 4 TV (UK) Special Report, broadcast 14 December 1999

As the International Confederation of Free Trade Unions (ICFTU) has pointed out, the nature of call centre working should make it amenable to traditional industrial relations: “The call centres are the modern version of mass production, usually fertile ground for the trade unions. Centres often employ several hundred operators in vast premises.”<sup>34</sup> However, the experience to date suggests that, in some countries at least, trade unions have found difficulties in organising and representing call centre staff.

The case of Citibank’s call centre in Duisburg, Germany, is perhaps emblematic. The call centre, which employs about 800 workers, was established by the US-based parent company outside the collective agreements for the banking sector. Staff were employed on a new salary structure, which abolished the thirteenth month holiday pay, traditionally a feature of German pay agreements, and which necessitated changed arrangements for working hours and annual leave. The non-recognition of the German banking unions HBV and DAG has led to an ongoing dispute, which was heightened by union accusations that the opening of the Duisburg centre had involved the closure of several other centres and the loss of over a thousand workers. The dispute included limited strike action in 1998 and an attempted boycott of the company.

Non-recognition has also been an issue in the banking sector in Ireland, where a number of call centres have been established outside the traditional industrial relations agreements in the sector. One example was the AIB 24 Hour Banking centre in Naas near Dublin, where the company did not initially recognise the Irish Bank Officials Association. In its attempts to organise and retain the workers, the IBOA offered to waive their membership subscriptions. Eventually a formal partnership agreement between the company and union was negotiated and the IBOA received recognition at Naas in February 2000. The union is now turning its attention to other non-unionised direct banking centres in Ireland.<sup>35</sup>

In other countries, however, call centres have been subject to national collective agreements. In Spain, a two year national agreement covering workers engaged in telemarketing activities of all kinds was negotiated between employers organisations and the union federations UGT and CC.OO. in 1998.<sup>36</sup>

Call centres originated in the United States, and according to a recent UNI report American management techniques have been exported to the rest of the world along with the technology. The report identified a number of characteristics of call centres, which it argued mitigated against traditional industrial relations. They included:

- An ‘informal’ work culture and management style, which does not emphasise differences of status or work hierarchy

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<sup>34</sup> ICFTU, Call Centres – the new assembly lines, Brussels, 1998

<sup>35</sup> Andrew Bibby, Organising in Financial Call Centres, UNI, Geneva, 2000, p13, p10

<sup>36</sup> Primer convenio colectivo para el sector de Telemarketing, años 1999 y 2000, Madrid, 1998. The full text of this agreement is available (in Spanish) at [www.euro-telework.org](http://www.euro-telework.org)

- Very flat management structures, with only one or two layers of management
- Very restricted opportunities for staff to talk to each other informally
- Very high turnover of staff
- High percentage of women workers; high percentage of young workers
- A 'green field' approach to the call centre operation, which may extend to a deliberate attempt to exclude trade unions. Non-adherence to existing collective agreements which apply to other employees of the same company.
- The high use of agency staff by some employers, so that call centre staff may not be directly employed by the parent company<sup>37</sup>

In a number of countries, trade unions have engaged in organising campaigns directly targeted at call centre workers. In New Zealand, for example, the financial sector union FinSec promotes itself as 'Your call centre union' and has a dedicated web site for these workers. In the Netherlands, FNV Bondgenoten has a series of web pages of information on call centre working, available both to members and non-members. In Australia, trade unions have invited unhappy call centre staff to ring a hotline to report on poor practices in their places of work.<sup>38</sup> Perhaps the most ambitious initiative was an international Call Centre Action Day, organised for 4<sup>th</sup> November 1999 jointly by FIET and Communications International (now both merged into UNI). Standard leaflets were made available on the Internet, and use of these leaflets was reported from a number of countries, including Australia, Sweden, UK, Germany, France and Ireland.

A typical call centre will be organised into a series of teams, each with a team leader. Recent years have seen a trend in many call centres away from straightforward servicing of customer enquiries towards a more sales-orientated approach, seeking to add value to calls made and received, and competition between teams may take place over call handling performance and particularly sales. Prominently displayed sales targets are a feature of many call centres. An element of American-style razzmatazz may also be introduced, particularly in anglo-saxon countries. For example: "a 12 foot [4 metre] electronic totem pole in the middle of the trading floor [is set off] when the combined sales force meets its monthly target: inconceivably apocalyptic roars, shrieks, whoops, yells and the eruption of a flashing blue light, ex-police, on the top of the tower..."<sup>39</sup>

Trade unions have been concerned to ensure that performance-related pay tied to sales (either made by an individual or their team) does not result in lower basic wages. One example of a successful agreement over bonus payments is that which was struck in Denmark between Codan and the insurance union DFL.<sup>40</sup>

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<sup>37</sup> Andrew Bibby, *Organising in Financial Call Centres*, UNI, Geneva, 2000, p5

<sup>38</sup> *ibid*, p12

<sup>39</sup> Ian Cotton, You don't have to be mad to work here, *Telegraph Magazine*, London, 12 August 2000

<sup>40</sup> Andrew Bibby, *Organising in Financial Call Centres*, UNI, Geneva, 2000, p 17

From a management point of view, the task of running a successful call centre can be made more difficult by the high levels of staff turnover. So-called 'churn' rates of 30%, 40% or even 50% a year are a feature of the industry in many countries, a symptom of the low wages normally paid, of the stress and boredom of the work but also of the fact, as one French worker told his trade union, that call centre working is not really a proper job: 'pas vraiment un métier'.<sup>41</sup> There is some evidence that both employers and trade unions are increasingly choosing to collaborate to develop longer-term strategies for employment. In New Zealand, for example, the Electrotechnology Industry Training Organisation is working with employers and the union FinSec to develop a National Certificate in Call Centre Operation. In Holland, a number of call centre employers have invited FNV Bondgenoten to engage in collective bargaining, even in centres where the union has no history of recruitment or organising.

In the longer term, however, there is a question mark over the future development of call centres, with some analysts suggesting a slow down in growth.<sup>42</sup> Technological innovations such as touch-tone phones and interactive voice response, as well as the Internet, allow customers to obtain information and undertake transactions without human mediation. The call centre industry is now looking to move towards broader 'customer relationship centres', enabled not only for telephone call handling but also for email, web and digital TV customer contact.

Increasingly, call centres are operating across national borders. International call handling (where calls are routed abroad and automatically answered in the appropriate language for the caller) have long been a feature of the European scene, with both Ireland and Britain major centres. In 1999, for example, Air France located its European reservations centre in London, in a move which led to criticism by the union federation CGT that the company was side-stepping tighter labour controls in France.<sup>43</sup>

However, there are also signs of a migration of call centre work from the developed to the developing world. One example is GE Capital, which set up a wholly owned subsidiary GE Capital International Services (GECIS) in 1996, to offer transaction processing and call centre services (both for its own company and for non-GE companies worldwide) from a centre near Delhi, India. GE Capital recently announced that some credit card operations would move from Britain to Delhi.<sup>44</sup>

Finally, some analysts have suggested a growth in the number of so-called virtual call centres, where instead of working in large centralised units call

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<sup>41</sup> CFDT, Call centers: y'a l'téléphon qui son.. tout l'temps, CFDT magazine no 255, January 2000, p41

<sup>42</sup> See for example: European Call Centres in 2003, published by Datamonitor, London, 2000

<sup>43</sup> Le call center européen d'Air France emploiera 240 personnes à Londres, Le Monde, Paris, 13 April 1999

<sup>44</sup> Sheila Jones, Offshore customer service plan angers Harrods, Financial Times, London 18 August 2000

centre agents are located in their own homes.<sup>45</sup> The advantages for employers, it is suggested, include greater flexibility in establishing work rosters, greater staff retention, a reduction in absenteeism and higher productivity. For unions, however, the use of home-based teleworkers in this way raises some significant additional issues and challenges. This leads us conveniently on to explore further the issues raised by telework.

## **Two examples from the new economy**

### **2: Telework**

For almost twenty years, interest in new ways of working made possible by ICT has been focused to a large extent on the somewhat vague concept of telework. The issue has received considerable attention from academics, from trade unions, from policy-makers and from international organisations such as the ILO<sup>46</sup> and the European Commission<sup>47</sup>.

Indeed, in the European context, telework was given something approaching talismanic status in the influential Bangemann report of 1994 'Europe and the Information Society' for its role in creating 'more jobs, new jobs, for a mobile society'. More recently, the proportion of the workforce engaged in telework has been stated to be one of the indicators to be used in assessing the success of the European Union's current eEurope initiative.<sup>48</sup>

Telework has also been specifically identified by the European Commission in its current consultations with the social partners in Europe on modernising and improving employment relations as one of two areas to receive specific attention (the other is that of quasi-employees without formal employee status). In a first stage consultation undertaken in mid- 2000, the Commission identified a number of issues, including:

- Definition of telework
- Arrangements for the introduction of telework
- Suitability of job for teleworking, and selection of teleworkers
- Arrangements regarding the home office
- Rules and procedures for communications, including consultation
- Training requirements
- Company security policies
- Terms and conditions of employment (working hours, pay and benefits, trade union rights)

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<sup>45</sup> See for example: Virtually There: the Evolution of Call Centres, The Institute for Employment Studies for Mitel, Portskewett (Wales), 1999

<sup>46</sup> See for example ILO Conditions of Work digest, vol 9 (1/1990), ILO, Geneva, 1990

<sup>47</sup> See for example Homeworking in the European Union, Social Europe supplement 2/95, European Commission DG V, Brussels 1995; Telework 1999 (Status Report on European Telework), European Commission DG Information Society, Brussels 1999; also Telework 2000 (forthcoming)

<sup>48</sup> European Commission, eEurope 2000, Action Plan, Brussels, 2000. See also eEurope, An Information Society for All, communication for the Special European Council of Lisbon, March 2000

- Monitoring and review of telework<sup>49</sup>

The Commission suggests that 'framework provisions' on telework be developed at EU level, for implementation in individual member states. The Commission has previously pondered the case for a formal European directive on the issue.

Despite this high-level interest, however, telework can be a surprisingly slippery concept to pin down. It is perhaps not surprising that the first item on the European Commission's consultation list for the social partners is an attempt to find an agreed definition.

In earlier years telework (and the closely analogous term telecommuting, used particularly in north America) tended to be restricted to home-based working, made possible by IT and telecommunications links. In more recent years, however, the definition has been stretched to include those working remotely in neighbourhood telecentres or community telecottages, and mobile workers (for example, those who operate from their cars or from touch-down office facilities). For some, telework can stretch still further to include jobs relocated to remote back offices, offshore data processing centres and even call centres<sup>50</sup>.

The central idea behind telework, however, is based on two features: that of work which has been *relocated*, because of the opportunities inherent in *technology*. Taking these two points, the UK Trades Union Congress has come up with a definition of telework simply as 'distance working facilitated by information and communication technologies'<sup>51</sup>.

Given problems of definition, it is not surprising if it is difficult to find definitive figures for the numbers of people teleworking. The only country believed to be collecting statistics formally is the United Kingdom, which uses both a 'teleworker homeworker' and 'occasional teleworker' definition of what constitutes teleworking in its Labour Force Survey. Using the broader definition, about 5.5% of the total British workforce (about 1.5 million people) were teleworking in early 2000.<sup>52</sup>

The situation in other European countries was investigated in research undertaken in 1999 for a European Union funded project ECaTT. This research suggested that there were then about six million people regularly teleworking in the fifteen EU countries. This figure included those regularly working a day or more per week away from the office, at home or on the road, and making use of computers and online connections. (This is a looser

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<sup>49</sup> European Commission DG Employment & Social Affairs, First stage consultation of social partners on modernising and improving employment relations, Brussels, 2000. This consultation follows the Green Paper, Partnership for a new organisation of work (DG V, Brussels 1997) and the European Commission communication Modernising the Organisation of Work – a positive approach to change (DG V, Brussels, 1998)

<sup>50</sup> The current Euro-Telework project of the European Trade Union Confederation ([www.euro-telework.org](http://www.euro-telework.org)) includes call centres in its area of research, for example

<sup>51</sup> TUC, New information and communications technologies at work, London 1998 p21

<sup>52</sup> UK Office for National Statistics, Labour Force Survey, Spring 2000

definition than that used in the UK survey). The number rose to about nine million if more occasional teleworking was also taken into account.

	home-based teleworkers	regular teleworking (incl home-based)	regular and occasional teleworking	% of labour force
Denmark	121,000	176,000	280,000	10.5%
Finland	142,000	229,000	355,000	16.8%
France	272,000	499,000	635,000	2.9%
Germany	538,000	1,562,000	2,132,000	6.0%
Ireland	14,000	26,000	61,000	4.4%
Italy	315,000	584,000	720,000	3.6%
Netherlands	285,000	593,000	1,044,000	14.5%
Spain	162,000	259,000	357,000	2.8%
Sweden	207,000	313,000	594,000	15.2%
UK	630,000	1,273,000	2,027,000	7.6%

Source: empirica for ECaTT <sup>53</sup>

Estimated figures for teleworking in the USA (15.7 million) and Japan (2.09 million) were included in a European Commission report published in 1999, though it is not clear how rigorous was the methodology employed in either case. Regrettably, it has not been possible to find statistics for telework for other parts of the world.<sup>54</sup>

More useful than absolute figures, perhaps, may be indicators which suggest that telework is increasing as a form of work. The ECaTT findings (above) could be compared with similar research findings undertaken in five EU countries in 1994. Such a comparison suggests an annual telework growth rate over the period of 34% in Germany, 29% in Italy, 11% in Spain, 10% in France and 8% in the UK.<sup>55</sup> The UK's official statistics show a 19% increase between early 1999 and early 2000 in number of individuals occasionally teleworking.

Initial trade union concerns that telework might replicate the worst sweatshop conditions found in traditional homeworking have tended to be modified more recently, with a recognition that the flexibility inherent in telework may benefit both employees and employers. This approach is predicated, however, on the introduction of telework being properly negotiated and monitored. The resolution passed by FIET (now part of UNI) at its World Congress in 1995 still sums up many unions' position:

<sup>53</sup> Benchmarking Telework in Europe 1999, Auswertung des 'General Population Survey', empirica, Bonn, 1999. These findings are also available on the website [www.ecatt.com](http://www.ecatt.com). See also European Commission DG Information Society, eWORK 2000 (Status Report on New Ways to Work in the Information Society), Brussels 2000, p28ff

<sup>54</sup> Source: European Commission DG Information Society, Telework 1999 (Status Report on European Telework), , Brussels 1999, p26

<sup>55</sup> Benchmarking Telework in Europe 1999, Auswertung des 'General Population Survey', empirica, Bonn, 1999.



**Telework may be, on the one hand, a tool for employers to move work to geographical areas where working conditions, salaries and collective bargaining rights are the poorest.**

**But on the other hand telework, where regulated through a negotiated framework, may be an interesting alternative for employees in certain phases of their lives, eg as an attractive alternative to physical mobility due to structural changes.<sup>56</sup>**

The need to develop an appropriate 'negotiated framework' for telework has attracted the attention of trade unions internationally. In South Africa, the Congress of South African Trade Unions (COSATU) has identified teleworkers and homeworkers as contingent workers who may not be adequately covered under the country's current legal framework, the Labour Relations Act and the Basic Conditions of Employment Act.<sup>57</sup>

In Australia, an early collective agreement between the main telecoms operator Telstra and the Communication Workers Union of Australia was agreed in 1994. Also in 1994 a Home Based Work agreement was negotiated between the Australian federal government and the Community & Public Sector Union, though in practice few civil servants have taken advantage of this arrangement.

However it is perhaps not surprising if most of the examples of telework collective agreements have come from within Europe. National sectoral agreements on telework have been agreed in Italy for the commerce and banking sectors and in Austria for the industrial sector and the oil industry. In France the telecoms sectoral agreement signed in June 2000 also deals *inter alia* with telework.

Model telework agreements have been developed by unions in Austria (GPA), Sweden (TCO) and Denmark (HK). A raft of company-wide agreements have also been agreed; they include, in Germany, IBM and Deutsche Telekom, in Austria IBM, in Italy Telecom Italia, in Belgium SITEL, in the UK the Co-operative Bank and in Sweden Siemens Nixdorf. Public sector telework agreements have also been made in a number of European countries.<sup>58</sup>

The German post and telecoms union Deutsche Postgewerkschaft (DPG) has been responsible for establishing an innovative telework helpline service, OnForTe (Online Forum Telearbeit). OnForTe, funded from the German federal government, Deutsche Telekom and the union itself, began operating in December 1997 from a small call centre in Regensburg. Web-based access to advice was subsequently added, and two other unions HBV and IG Medien also became involved.

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<sup>56</sup> Resolution 3 (extract), FIET World Congress 1995, quoted in Andrew Bibby, *Teleworking and Trade Union Strategy*, FIET, Geneva 1996

<sup>57</sup> Charley Lewis, *Why should unions bother with E-commerce?*, COSATU, n.d., Johannesburg,

<sup>58</sup> The best collection of collective telework agreements is that undertaken by the Euro-Telework project ([www.euro-telework.org](http://www.euro-telework.org)). Euro-Telework is a follow-up to a previous EU-funded project Mirti (Models of Industrial Relations in Telework Innovation), and resources developed by Mirti can be accessed through the Euro-Telework web site.

The service is designed to offer the public, including non union members, the self-employed and works council members, an access point for information about all aspects of telework. Simple queries are dealt with by the call centre agents, with more specialist enquiries passed to a second tier of advisers who can assist on issues such as legal rights, telework contractual agreements and problems of self-employment.<sup>59</sup>

It is also worth noting that the DPG has introduced telework for its own employees, under a collective agreement signed in June 2000 between the union and its staff representatives. The main aim of telework is to improve service to union members, to enhance flexibility and to increase staff job satisfaction. The DPG agreement is believed to be the first example of a trade union formally introducing teleworking arrangements.<sup>60</sup>

At the national governmental level, initiatives have been undertaken in both Spain and Ireland. In Spain, the white paper for the improvement of public services, published in February 2000, sets out a strategy for public sector management in Spain in the twenty-first century. Telework, to be introduced initially on a pilot basis, is seen as one of the best tools for improving the quality of services.<sup>61</sup> In Ireland, the government established a National Advisory Council on Teleworking, with representatives from, among others, Chambers of Commerce, business, trade unions and universities. This Advisory Council reported in June 1999, with a series of recommendation for government action in areas such as employment legislation, taxation and education and training. The Council has also drawn up a Code of Practice on Teleworking.<sup>62</sup>

Any synthesis of this now considerable bank of work can identify a number of common features. Trade unions in particular are concerned that telework is undertaken voluntarily and not by managerial diktat, that the decision to telework can be reversible, that employment status remains unchanged, that teleworkers continue to have access to their representatives, and ideally that telework is undertaken only for part of the working week (sometimes called 'alternating telework'). Telework agreements also typically include issues such as safety and ergonomics for home workplaces, privacy, and access to training. Some, but not all, telework agreements arrange for a payment by employers to teleworkers to cover costs incurred by working from home.

Where telework is being undertaken from home, it is worth recalling that the 1996 ILO Convention on homeworking is likely to be relevant. The Convention covers employees and the pseudo-self-employed, although not the genuinely self-employed home-based worker. The ILO's Encyclopaedia

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<sup>59</sup> Information taken from [www.onforte.de](http://www.onforte.de) website, August 2000 and personal communications

<sup>60</sup> The text of the agreement is available (August 2000) at [www.euro-telework.org](http://www.euro-telework.org)

<sup>61</sup> El Libro Blanco para la mejora de los servicios públicos, Madrid, 2000

<sup>62</sup> New Ways of Living and Working: Report of the National Advisory Council on Teleworking, Dublin, June 1999

of Occupational Safety and Health also includes detailed information on telework.<sup>63</sup>

### **Industrial relations and the ‘atypical’ worker – agency workers**

It was suggested at the start of this chapter that the traditional paradigm of the ‘typical’ worker (the full-time employee with a linear career progression) is unlikely to reflect the complexities of work in the modern economy. For convenience we may choose to describe workers who do not fit this model as ‘atypical’. We should be aware, however, that increasingly the atypical may be becoming the norm. For example, the temping agency Manpower, which worldwide has more than two million temporary workers each year, is effectively the largest private provider of work in the USA.

For the trade unions, the issue of the ‘atypical’ worker may be regarded almost as a touchstone in assessing how well they are adapting as institutions to changing work realities. Are these workers looking to trade unions as their representative bodies, and are unions successfully meeting their needs and requirements? Or are they choosing to go elsewhere for assistance in areas relating to their work?

This section will explore the implications of agency work; we shall then move on to consider the recent growth in self-employment.

The use of agency staff cannot be put down simply as a consequence of ICT. Changes in corporate organisational structure and management introduced by companies in the 1980s and 1990s – the decision to identify ‘core’ business activities and use outsourcing for non-core activities, for example – are arguably more important factors. Nevertheless, it is highly significant that the world’s most famous IT centre, Silicon Valley in California, relies so heavily on agency staff. Silicon Valley can be seen not only as an innovative powerhouse for technological development but also as a trendsetter for labour practices, likely to be copied both elsewhere in the US and elsewhere in the world.<sup>64</sup>

Employment data for Santa Clara county, the administrative district which includes Silicon Valley, show striking growth in non-standard forms of employment, including agency work. The table below is taken from a recent American academic study.<sup>65</sup>

#### **Contingent workers in Silicon Valley, California**

	1984	1997	Percent change

<sup>63</sup> J Tessler, Telework, in Encyclopaedia of Occupational Safety and Health, vol 3, 1998

<sup>64</sup> Chris Benner, Building Community-Based Careers: Labor Market Intermediaries and Flexible Employment in Silicon Valley, University of California Berkeley (paper presented to the Association of American Geographers Annual Meeting, April 2000)

<sup>65</sup> *ibid.* Data analysed from California Economic Development Data (EDD).

Temporary workers	12,340	33,230	159%
Self-employed	45,700	69,900	53%
Total, all types of non-standard workers (upper estimate)	242,700	389,770	51%
Total, all types of non-standard workers (lower estimate)	189,300	254,080	34%
Total, civilian workforce	761,200	933,200	23%

According to this research, somewhere between 27% and 41% of the total workforce are 'non-standard', a category which also includes part-time workers and independent consultants.

The same study investigates the role played by temporary agencies in the operation of the Silicon Valley labour market.<sup>66</sup> The six largest operating in 1997 are given as follows:

#### Temporary work agencies in Silicon Valley, California

Name of company	Total number of temporary placements in valley, 1997	Number of recruiters in valley, 1997	Offices in valley, 1997
Manpower Staffing Services	39,100	145	20
Adecco Employment Services	18,750	12	12
Barrett Business Services	7,702	21	3
American Technical	4,793	9	2
Accustaff Inc	5,525	18	4
Crossroads Staffing Services	11,250	29	6

It is relevant to note that the role performed by temporary staffing agencies such as these was one which, in previous times, would have been much more readily performed by trade unions. In fact, a number of US unions have attempted to continue the tradition of the 'hiring hall' in the modern labour market. During the fall-out period from regulatory reform of the telecoms sector in the USA, the Communications Workers of America union (CWA) set up pilot employment centres in Cleveland, southern California and later Seattle, designed to help workers made redundant from AT&T and the 'Baby Bell' telecoms companies find other jobs in the sector.<sup>67</sup>

Nevertheless, the rapid growth of web-based companies such as [www.monster.com](http://www.monster.com) suggests that work search and hiring services are now areas where the private sector is dominant.

<sup>66</sup> *ibid.* Data analysed from San Jose Business Journal 1999

<sup>67</sup> Source: Chris Benner, *Shock Absorbers in the Flexible Economy, the Rise of contingent employment in Silicon Valley*, Working Partnerships, San Jose, 1996

Temporary workers have featured strongly in the efforts of the US trade union federation AFL-CIO to organise workers in Silicon Valley's IT sector, an initiative closely associated with the policies introduced after the election in 1995 of a reforming AFL-CIO president John Sweeney. The AFL-CIO's South Bay Central Labor Council focuses on the Santa Clara and neighbouring San Benito counties. Its director Amy Dean, who is in her mid-thirties, has sought to develop community links through the creation of Working Partnerships, a non-profit institute based in San Jose. Working Partnerships undertakes a range of research and educational activities but also explores new models for employee representation. Its Temporary Worker Employment Project offers agency workers both the functions of a professional association and also a placement agency service linking them with job opportunities.<sup>68</sup>

Hundreds of kilometres north of Silicon Valley, the CWA union has been attempting to organise the many thousands of temporary workers (about 6,000 in 1998, or about 35-40% of the workforce) employed by Microsoft at its Seattle, Washington, headquarters. Microsoft's policy in excluding temporary workers (including so-called 'permatemps') from standard employee benefits was challenged in a long-running class legal action *Vizcaino v Microsoft*. As an indirect result of this case, Microsoft recently introduced sweeping changes in its approach to temporary workers. From July 2000, Microsoft has obliged agency workers to take a 100-day break after working for the company for a year; the company claims that, through this means, the workers involved do not become entitled to standard employee benefits. Since early in 2000, however, Microsoft has increased significantly the number of regular, full-time jobs available to contract employees. Former agency workers who join Microsoft's payroll receive medical coverage, paid holidays, sick leave and access to the company's share option scheme; the base salary, however, may be less than that paid previously.

Microsoft, like other IT companies in the USA, is not by tradition a unionised firm. The closest thing to an organisation attempting to undertake a traditional representative role for employees is the Washington Alliance of Technology Workers (WashTech), which appropriately enough uses a web site as its main way of reaching members and potential members. Although part of the CWA, it is interesting that WashTech does not stress this link. Its web site comments: "Because traditional labor organizations have been slow to adapt to the changing nature of the American workforce, we are building a new type of organization. We are committed to being democratic and worker-driven, and to addressing the unique challenges faced by high-tech workers."<sup>69</sup> WashTech attempts to address concerns both of agency staff and directly employed staff at Microsoft.

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<sup>68</sup> Chris Benner, *Building Community-Based Careers: Labor Market Intermediaries and Flexible Employment in Silicon Valley*, University of California Berkeley (paper presented to the Association of American Geographers Annual Meeting, April 2000)

<sup>69</sup> See: [www.washtech.org/about/join/jointext.html](http://www.washtech.org/about/join/jointext.html)

The emphasis we have given to these developments on the USA's west coast can be justified by the importance the companies based there play in global ICT developments. However it would be wrong to give the impression that the issue of agency workers applies only in the USA. Concern about the growth of agency workers was one of the factors behind industrial action taken in Britain against BT by the Communication Workers Union. A one-day strike in 1999, the first in BT for thirteen years, focused in particular on call centre working and the extensive use which BT had been making in its call centres of agency staff. The settlement of the dispute saw BT commit itself to reduce agency staff use considerably – from 60% to 20% in one division, for example.<sup>70</sup>

In the wider European context the European Trade Union Confederation made proposals in 1999 to the employers' bodies UNICE (Union of Industrial and Employers' Confederations of Europe) and CEEP (European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest) for the negotiation of a framework agreement on temporary agency work. ETUC's approach followed the conclusion of an agreement between the European social partners on the regulation of fixed-term contracts.<sup>71</sup>

### **Industrial relations and the 'atypical' worker – self-employed**

Tom Malone of MIT has suggested that independent freelance workers, networking together electronically, will increasingly comprise the backbone of a new way of working and doing business in what he calls the 'e-lance economy'.<sup>72</sup>

It is certainly true that the number of people who work on a self-employed basis, rather than under a traditional employer/employee relationship, has been growing during the last ten years. The OECD, which has looked in detail at the situation in the OECD member countries, reports that the growth in self-employment has been concentrated in the fastest-growing parts of the economy. Some countries, such as Canada and Germany, have seen particularly marked increases in the numbers of people self-employed. There has also been a significant increase in the number of women self-employed.

The OECD's study of self-employment is reported in its Employment Outlook 2000 report, from which the following table is adapted.

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<sup>70</sup> CWU, BT call centre strike called off as best practice deal is agreed (press release), London, 8 December 1999

<sup>71</sup> EIRO, European Industrial Relations Observatory 1999 Annual Review, Dublin, 2000

<sup>72</sup> Thomas Malone and Robert Laubacher, The Dawn of the e-lance economy, Harvard Business review 9/10-1998, p145-152

**Average annual growth of self-employment and total civilian employment, 1990-1998**<sup>73</sup>

	Self-employment	Total employment
Australia	0.0	1.1
Austria	2.5	1.2
Belgium	1.2	0.3
Canada	4.7	0.9
Denmark	-0.1	0.4
Finland	0.6	-1.0
France	-1.2	0.4
Germany	5.6	3.2
Greece	1.1	1.3
Iceland	5.7	2.3
Ireland	4.6	4.6
Italy	0.0	-0.3
Japan	-1.4	0.7
Korea	3.8	2.1
Mexico	10.0	6.5
Netherlands	5.0	2.3
New Zealand	4.1	2.2
Norway	-0.1	1.6
Portugal	2.4	0.5
Spain	1.5	1.1
Sweden	1.4	-1.3
Turkey	2.0	2.7
UK	-0.9	0.1
US	0.4	1.3
Unweighted average	1.7	1.0

The OECD also suggests that the boundaries between self-employment and employee status are increasingly becoming blurred, and that there has been an increase in what can be called false self-employment. This is the situation where an apparently self-employed worker works predominantly for one company in what is close to a traditional employer/employee relationship. This sort of quasi-self-employment may be advantageous to the company, as a way of sidestepping labour employment obligations and social protection measures. It may be also advantageous to the individual, if it means that they can save on their overall tax bill (in many countries self-employed people have opportunities to pay less tax on their income than employees), though there can also be profound disadvantages with forfeiting the protection of employment.

The same trend towards an increasingly grey area between employee and self-employed status has been identified in a high level expert report prepared for the European Commission under the chairmanship of Prof Alain

<sup>73</sup> OECD Employment Outlook, Paris 2000. Excludes agricultural employment and unpaid family work. Unweighted average excludes Greece, Korea, Mexico, New Zealand and Turkey.

Supiot, and presented in June 1999.<sup>74</sup> The Supiot report offers a radical critique of conventional labour law, which it suggests is rooted in an industrial model which is being rapidly undermined by technological changes. Among other recommendations the report suggests that the occupational status of a worker should be based not on the restrictive concept of employment but on the wider concept of work. Labour law would be broadened to include self-employed workers.

Supiot himself has elaborated on this argument. He maintains that the emphasis in labour law on the employer/employee relationship is based on the traditional view of a typical worker in a large industrial enterprise, and as such is now increasingly becoming outdated. He also warns that most social protection systems are based on the same model. Interestingly, he suggests that national industry-wide collective bargaining is under pressure from two directions: “industry-wide representation at the national level is being undermined both by the decentralisation of collective bargaining to the enterprise level and by the process of consolidation into new higher-level bargaining units (groups, networks, territories, Europe)”, he writes.<sup>75</sup>

However, whilst Supiot suggests that these changes pose profound challenges to industrial relations organisations and to employment law he ultimately comes down in favour of ‘some adjustment rather than an all-out overhaul’ of existing forms of collective worker representation.

The debate at European Union level has been influenced both by the Supiot report, and also by a 1997 Green Paper, Partnership for a New Organisation of Work produced by the European Commission which was followed by a 1998 Commission communication.<sup>76</sup> In its 2000 consultation with social partners the European Commission identifies economically dependent workers as an area where greater legal certainty is necessary. It defines this class of worker as those ‘who do not, or may not, correspond to the traditional notion of employee, but are economically dependent upon a single source of employment’. Areas where these workers may need greater protection include health and safety, information and consultation, working time minimum requirements, updating of skills, equal treatment and social protection.

From the trade union perspective, one can perhaps distinguish two quite separate challenges to be addressed. On the one hand there is the question of false or quasi-self-employment, or what the European Commission calls ‘economically dependent workers’. As we saw above in relation to the specific issue of telework, the first response from labour organisations has been to try to insist on the maintenance of an individual’s traditional

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<sup>74</sup> Alain Supiot (ed), *Au-delà de l’emploi*, rapport pour la Commission européenne, Flammarion, Paris, 1999

<sup>75</sup> Alain Supiot, *The transformation of work and the future of labour law in Europe: A multidisciplinary perspective*, *International Labour Review*, vol 138 (1999) no 1, Geneva, 1999

<sup>76</sup> European Commission DG V, *Green Paper, Partnership for a new organisation of work*, Brussels 1997. European Commission DG V, *Communication: Modernising the Organisation of Work – a positive approach to change*, Brussels, 1998



employment status. Where this is not possible, another strategy is to redefine these people back as employees. The European Trade Union Confederation, for example, has argued that “the concepts ‘company’ and ‘employee’ must be broadened to take into account work conditions in the information society”.<sup>77</sup>

Governments may prove allies in this task. In a number of countries, including Germany, Greece, Belgium and Italy, governments have recently taken steps against the spread of false self-employment.<sup>78</sup>

The more substantive question, however, is to what extent trade unions should engage with the (genuinely) self-employed.

If the age of e-commerce will really be a time for the ‘e-lance’ worker, organisations which claim to be agents of industrial relations may need to address this constituency.

There is some evidence that trade union bodies are already aware of this issue. At the international level, for example, UNI has identified the organising of freelance workers as a priority area for its organisation.<sup>79</sup> At national level, some unions have begun to establish organisations specifically for the self-employed. In the Netherlands, the Allied union in the FNV federation created FNV Zelfstandige Bondgenoten in 1999, described as the first Dutch union for the self-employed.<sup>80</sup> Other Dutch unions which accept self-employed members include the Dutch journalists association and the Building and woodworkers union.<sup>81</sup>

In Sweden, the union of technical and clerical employees Svenska Industritjänstemannaförbundet (SIF) debated the issue of self-employed members in 1996 and after what was described as a lively debate agreed to admit them to the union. According to a report, “opponents saw the decision as a breach of the fundamental trade union principle of looking after workers’ interests in relation to their employer. Those in SIF who were in favour of admitting the self-employed stated that this was just a natural response to labour market developments. An increasing amount of work in industry is performed by consultants, subcontractors and one-person companies”.<sup>82</sup> The new arrangement began in 1998, and since then approximately 500 self-employed people have joined SIF, primarily consultants in the information technology field.

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<sup>77</sup> Willy Buschak, Problems encountered in the representation of interests in the information society, ETUC, in *Arbeiten in der Informationsgesellschaft*, DGB, Berlin, n.d. (2000)

<sup>78</sup> OECD Employment Outlook, Paris 2000

<sup>79</sup> Philip Jennings, General Secretary UNI, speech at Organising in the network economy conference, Edinburgh, 18 July 2000

<sup>80</sup> FNV Zelfstandige Bondgenoten, *Eigenbaas* (newsletter), 1999.

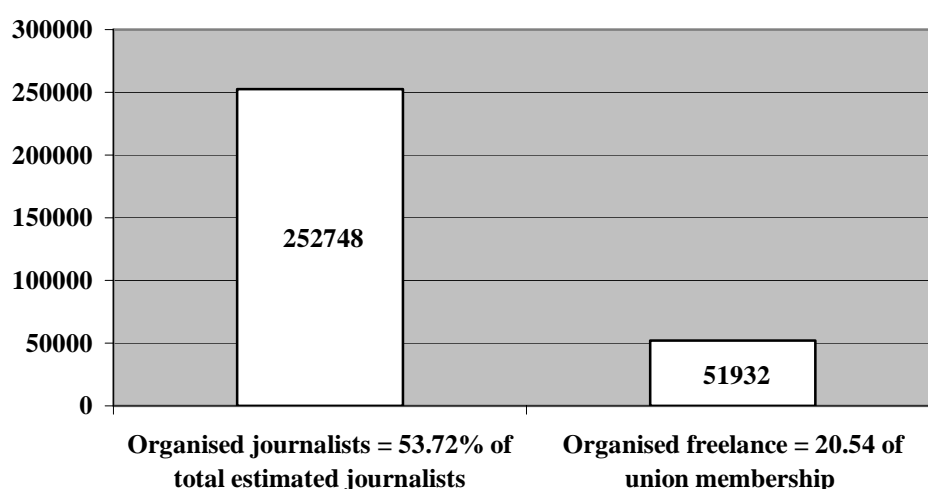
<sup>81</sup> EIRO, Self-employed people without employees seek place in consultation, EIRO Observer, issue 5/1999, Dublin, 1999, p10

<sup>82</sup> EIRO, Trade unions open doors to the self-employed, EIRO Observer, issue 5/99, Dublin, 1999 p13

Interestingly, the Swedish trade union federation LO takes a more restrictive view of the place of the self-employed in the union movement. One 1998 LO report argued a union's role is to assist members forced into self-employment but not those voluntarily opting for self-employment.<sup>83</sup>

It is the media and entertainments industries that trade unions have most experience of organising the self-employed, including performers, actors, musicians and writers. For example, most journalists' unions accept self-employed freelance journalists as members, and for many unions they comprise a substantial percentage of the total membership. According to a study of 98 countries conducted by the International Federation of Journalists, about 80,000 of the 336,000 journalists organised in unions are freelance, representing about 23% of the membership. In the 28 European countries (whose unions represent the majority of IFJ's membership) about one in five organised journalists are self-employed, as the table below shows.

### Unionisation of freelance journalists in 28 European countries, compared with overall levels of union membership



The significance of freelances is even more marked in central and south America, at 17,300 out of 35,200 union members, or almost exactly 50%.<sup>84</sup>

Unions organising in the media and entertainments sector are particularly acutely aware of the issues raised by the new digital media, made possible by ICT. Negotiating for reproduction rights in new media has become a major preoccupation; we shall return to this issue later in this chapter.

Trade unions which choose to develop their services to organise the new 'e-lance' workers will have to bear in mind the implications. The needs of employees who work together in centralised workplaces may be satisfied by traditional union models of collective bargaining and representation, but self-

<sup>83</sup> *ibid*

<sup>84</sup> International Federation of Journalists, *Freelance Futures: World survey on the social and economic status of freelance journalists*, Brussels, December 1999

employed members will require a more individualised service. Increasingly, unions will be called upon to answer individual enquiries from members – perhaps on legal or contractual matters, taxation or an occupational health matter. Unions' own staffing structures – which typically reproduce the traditional hierarchical model of industry – may be ill-equipped to undertake this role. New methods of service delivery, such as advice hotlines or email newsletters, may need to be considered. Issues of trade union democracy, traditionally focused on the workplace branch, may also arise.

There may also be legislative restraints, in particular under anti-trust legislation, on the ability of unions to collectively organise what can be seen as individual competing micro-businesses. In the US, the CWA was restricted by anti-trust laws in the help it could offer to members of the Graphic Artists Guild. In the United Kingdom, the National Union of Journalists has in the past been required to convince the government's Office of Fair Trading that its work in setting recommended fees for freelance members did not constitute promotion of a cartel.

Whether self-employed people choose to turn to unions to represent their interests perhaps depends on how much power they feel they have in relations with their clients – or put another way to what extent the prices they charge for their services are effectively externally set rather than being under their own control. It may also depend on whether they are employers of staff themselves.

There are other options open to them. For example, there are specialist small business organisations in a number of countries, operating separately from the main employers' associations. These include Bundesverband der Selbständigen (Germany), Freier Wirtschaftsverband Österreich (Austria), Patrons Indépendants (France) and the Federation of Small Business (UK).

### **Widening the negotiating agenda: on-line rights**

We turn now to consider ways in which the negotiating issues of industrial relations have been broadened to include new concerns as a consequence of new technology.

The first such issue is that of employee access to corporate email services, corporate intranets and the internet itself. Many companies have recently begun to address this area, for example by introducing email and internet policies for their employees. There are examples from a number of countries of cases where recourse to employment law has been required to resolve disputes.

The trade union federation FIET (now UNI) was one of the first international organisations to identify this issue as one needing attention, in its *On-line*

*rights for on-line workers* campaign launched early in 1998. FIET set three demands:

- The right of free access by employees and by trade unions and works councils to corporate e-mail systems, so that employee members can receive information and communicate with their representatives.
- The right of free access to the Internet (and to corporate intranet networks) by employees, to enable them to access trade union web sites and other information relevant to their rights at work.
- No electronic monitoring by employers of e-mail sent or web sites visited by employees<sup>85</sup>

The campaign has been endorsed by the International Confederation of Free Trade Unions (ICFTU).

There are, in fact, a number of separate issues here.

Firstly, there is the demand of workers' organisations to have access as of right to electronic means of communication to reach members and potential members and to engage in the normal process of industrial relations. This includes the right of individual workers to use facilities such as email and the internet to reach their representatives.

There is another issue, as to the extent to which individual employees should be able to use corporate electronic facilities for personal use. This is analogous to the tacit acceptance by some employers of use of the telephone at work for private calls.

A third issue arises if employees are accused of using these facilities to access objectionable material, such as racist or pornographic web sites.

Finally, there are questions of employer surveillance of email communications and internet usage, and the degree to which this could conflict with employee privacy and basic human rights.

FIET developed its campaign with the production of a model electronic facilities agreement, discussed in detail by participants from about twelve countries (primarily European, but also including Australia) at an ICT Forum held in France in late 1998 and then subjected to further debate via an internet discussion forum. Based on this work, model electronic facilities agreements have now been published by FNV Bondgenoten (Netherlands)<sup>86</sup>, MSF (UK)<sup>87</sup> and the GPA (Austria)<sup>88</sup>. Collective agreements covering electronic access rights have been signed by, among others, Deutsche Telekom/DPG (Germany), Digital-Compaq/LBC-NVK (Belgium), Société

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<sup>85</sup> FIET, *On-line rights for on-line workers*, Geneva, 1998. Reproduced in Andrew Bibby and Gerhard Rohde, *Online-Rechte für Online-Arbeitnehmer*, in *Arbeiten in der Informationsgesellschaft*, DGB, Berlin, n.d. (2000)

<sup>86</sup> FNV Bondgenoten, *Model Protocol, privacy in the use of the internet and e-mail*, n.d.

<sup>87</sup> MSF Information Technology Professionals Association, *Model Electronic Facilities Agreement*, London, n.d.

<sup>88</sup> GPA, *Works agreement on intranet access and the use of an e-mail system*, Vienna, n.d.

OLSY/CFDT,CFTC,CGT,CGC (France) and Digital Equipment/CGIL,CISL,UIL (Italy).<sup>89</sup>

In Australia, the right of union delegates to 'reasonable access to telephone, facsimile, photocopying, internet and email facilities' is included in the Charter of Workplace Union Delegates Rights, adopted by the Australian Council of Trade Unions. A Code of Practice, giving this right to public sector employees, has already been introduced in the Australian state of New South Wales.<sup>90</sup>

This demand has also been taken up in South Africa by COSATU, the trade union federation. COSATU's Special Congress in August 1999 adopted a Declaration on Organisational Renewal, which included the following action: "To specifically launch a campaign to ensure dedicated access for each shop steward to computer, internet and e-mail facilities at each workplace".<sup>91</sup>

Trade unions argue that access to electronic facilities is an integral aspect of the right to worker representation. As UNI put it, "The traditional forms of communication among trade unionists, works councils and their members are no longer sufficiently effective in the electronic workplace. A notice on a notice board in the canteen or a newsletter for distribution in the workplace, for example, will not reach those employees working flexibly with the help of new technology, such as teleworkers based at home or at outside telecentres or mobile workers."<sup>92</sup> UNI [held/is holding] an international conference on on-line rights in Brussels in November 2000.

Perhaps the most striking example of the issue being subjected to scrutiny under employment legislation can be found in Australia, in the Maria Gencarelli case. Ms Gencarelli, a delegate of the Australian Services Union, was sacked by her employer the airline Ansett for distributing a union bulletin to her colleagues by email. In April 2000, the Australian Federal Court found in her favour, ruling that the employer had breached the Workplace Relations Act in dismissing her. The ASU claims that the ruling effectively gives workers the right to use new technology to communicate with each other.<sup>93</sup>

The issue of email or internet access by employees for private purposes is perhaps more problematic. In 1999, a British firm of management consultants dismissed a member of staff who had made 150 searches over a four day period on the internet to look for a holiday. This decision was

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<sup>89</sup> Andrew Bibby, Des droits en ligne pour les travailleurs en ligne, in Internet/intranet et droit syndical, Guide d'action syndicale Betor-Pub CFDT, Paris, June 2000

<sup>90</sup> Workers demand internet access to organise, Workers online (workers.labor.net.au), 31 March 2000

<sup>91</sup> COSATU, Declaration on Organisational Renewal, adopted by COSATU Special Congress, 20 August 1999, Johannesburg, 1999

<sup>92</sup> FIET, On-line rights for on-line workers, Geneva, 1998. Reproduced in Andrew Bibby and Gerhard Rohde, Online-Rechte für Online-Arbeitnehmer, in Arbeiten in der Informationsgesellschaft, DGB, Berlin, n.d. (2000)

<sup>93</sup> Maria wins historic email test case, Workers online, 7 April 2000

subsequently upheld by an employment tribunal.<sup>94</sup> In the United States, twenty-three staff were dismissed by the New York Times in November 1999 for emailing jokes or pornographic pictures. The newspaper's policy declares that 'communications must be consistent with conventional standards of ethical and proper conduct, behavior and manners'.<sup>95</sup>

At least in the USA and United Kingdom, companies are increasingly aware that they may also be held legally responsible for the content of emails sent by employees. In the UK, an insurance company paid £450,000 (\$650,000) to a rival insurer after its staff were found to have sent libellous messages about the other company.<sup>96</sup> It is perhaps also worth recalling that private emails written by Microsoft chairman Bill Gates were used by the US Justice Department as part of its anti-trust case against the software company.

However if employers are to have the ability to know if their employees are using electronic communications for inappropriate or illegal purposes, they require some way of monitoring the usage. In practice, most web browser and corporate email software comes with sophisticated monitoring and tracking features already built in, so that there are unlikely to be technical difficulties. There is, however, the issue of privacy to address.

This is an issue which currently remains very confused. For example, within the European Union member states, there have been suggestions that the European Commission directive on telecommunications data protection effectively prohibits employers from monitoring emails. This interpretation was the subject of a dispute between the British government and the Confederation of British Industry during debate on controversial new legislation proposals introduced by the government.<sup>97</sup>

On a practical note, UNI's Model electronic facilities agreement offers one suggestion for a way forward:

"The employer undertakes that e-mail will not be routinely read or monitored. E-mail will be monitored and retrieved only if the employer is legally obliged to do so or has reasonable reason to believe that an employee has committed a criminal offence or serious disciplinary offence. In these situations, e-mail will be monitored and retrieved only in the presence of a trade union representative or employee selected representative".

### **Widening the negotiating agenda: electronic surveillance and privacy**

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<sup>94</sup> Jimmy Burns and Jean Eaglesham, Workplace net surfers run risk of wipeout, Financial Times, London, 27 November 1999

<sup>95</sup> Helen Hague, Caught on the net, The Guardian, London, 3 December 1999

<sup>96</sup> Paul Taylor, Searching for the improper search, Financial Times, London, 19 June 1999

<sup>97</sup> Jean Eaglesham, Industry forces climbdown over e-mail intercepts, Financial Times, London, 19 August 2000

The monitoring of email or internet usage is, however, only one aspect of a wider issue of individual privacy in an increasingly digitised workplace.

Information and communication technology, and in particular the facility to effortlessly record and store enormous quantities of digitised data, offers considerable opportunities for electronic surveillance.

According to one author, the technology used to monitor employees can extend to every aspect of a worker's life: "Miniature cameras monitor behaviour. 'Smart' ID badges track an employee's movement around a building. Telephone Management Systems (TMS) analyse the patterns of telephone use and the destinations of calls. Psychological tests, general intelligence tests, aptitude tests, performance tests, vocational interest tests, personality tests and honesty tests – many of which are electronically assessed – raise a great many issues of privacy, control and fairness."<sup>98</sup>

An employer can monitor productivity levels by recording the number of keystroke depressions made by a wordprocessing employee. For example, one US firm undertaking 'offshore' data processing in Barbados has reported that the employees there average 13,000 keystrokes an hour, at 99.98% accuracy.<sup>99</sup> Because of the stress involved, it has been argued that keyboard monitoring is more likely to lead to musculo-skeletal disorders such as repetitive strain injury.

The issue of monitoring and recording of telephone conversations has arisen in the context of call centre work. In general, standard call centre technology allows supervisors the ability to know which of their staff are currently handling calls, who is waiting for a call, and who is taking a break. This electronic monitoring is also possible in the case of staff working remotely, for example from their own homes. Supervisors are also likely to have the facility to listen in secretly to conversations taking place. The recording of these telephone conversations may also be automatic.

The legal position regarding these practices varies between countries. However, the increasing use of call centres for making financial transactions or ordering goods means that there is a growing tendency to maintain records of telephone conversations for security and auditing purposes.

The GPA union in Austria has proposed that monitoring is strictly controlled, offering the following code of practice:

- Monitoring is only undertaken for training purposes
- The process gives staff greater confidence in the way they handle conversations
- Monitoring is agreed in advance with the members of staff affected

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<sup>98</sup> Simon Davies, *The Wired Workhouse*, New techniques and technologies of surveillance in the workplace, London School of Economics, MSF Information Professionals Association, London, n.d.

<sup>99</sup> Andrew Bibby, *My byte's gone to the West Indies – information processing in Barbados*, Flexible Working, London, August 1997

- Monitoring is undertaken from nearby, and not from a centre elsewhere<sup>100</sup>

It has also been pointed out that surveillance can be used to inhibit employee representation in the workplace. The International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) comments that "New technologies used for surveillance and control reduce the amount of social interaction between workers in the workplace and this undermines union activity, as well as workers' capacity to organise in non-unionized workplaces"<sup>101</sup>

Closed circuit television can be used in environments where employees work in a central workplace. For staff on the move, other uses of technology are available. In a building or complex, active badges or electronic tags track the movements of individual workers as they move from room to room. In one reported American case taken up by the Communications Workers of America, a casino installed a network of sensors and smart badge transmitters which even monitored whether staff washed their hands after visiting the toilet.<sup>102</sup>

Vehicles can be fitted with software which records a driver's working hours, mileage and speed. The development of satellite based global positioning systems also allows an employer to track with great accuracy the position of cars or trucks.

To what extent are employers choosing to make use of the opportunities for monitoring and surveillance provided by technology? A survey of about 2,100 major US firms undertaken in 2000 by the American Management Association found that nearly three-quarters recorded and reviewed employee communications and activities. The degree of monitoring appears to be increasing sharply.

#### **Electronic monitoring by employers, United States of America**

	1997	1998	1999	2000
Recording & review of telephone conversations	10.4%	11.2%	10.6%	11.5%
Storage & review of voice mail messages	5.3%	5.3%	5.8%	6.8%
Storage & review of computer files	13.7%	19.6%	21.4%	30.8%
Storage & review of email messages	14.9%	20.2%	27.0%	38.1%
Monitoring Internet connections	N/A	N/A	N/A	54.1%
Video recording of employee job performance	15.7%	15.6%	16.1%	14.6%
Telephone use (time spent, numbers	34.4%	40.2%	38.6%	44.0%

<sup>100</sup> GPA, Arbeit im Call Center, Vorschläge zur Gestaltung, Vienna, 1999

<sup>101</sup> European Trade Union Institute, Collective Bargaining in Western Europe 1998-1999, quoted in Duncan Campbell, Implications of ICT for Labour migration, the organization and representation of workers and employers, and social protection systems, ILO, 2000

<sup>102</sup> Haidee Allerton, Big Brother is Monitoring, Training and Development, December 1997, quoted in Simon Davies, The Wired Workhouse, New techniques and technologies of surveillance in the workplace, London School of Economics, MSF Information Professionals Association, London, n.d.



called)				
Computer use (time logged on, keystroke counts etc)	16.1%	15.9%	15.2%	19.4%
Video surveillance for security purposes	33.7%	32.7%	32.8%	35.3%

Source <sup>103</sup>

The point must be made that these uses of technology can, of course, can be beneficial to the individual employee as much as to their employer. CCTV can help to protect vulnerable staff (for example, staff working in late-night stores or banks). Telephone call monitoring can be used for training purposes, to help workers to improve their skills. Journey monitoring software can encourage safe driving practices and discourage a culture where risky working practices are condoned. Nevertheless workers have legitimate concerns if surveillance technology is imposed on them. Clearly this is an area where agreement by negotiation is desirable.<sup>104</sup>

### **Widening the negotiating agenda: copyright and intellectual property rights**

In the age of information, value will lie increasingly not in physical assets but in intellectual property. What is sometimes seen as the arcane world of copyright and IPR raises profound public policy issues concerning access to and ownership of information. The framework is being built now which will establish, perhaps for several generations, the way in which public and private interests are met.

The World Intellectual Property Organisation (WIPO) published in mid-2000 a comprehensive overview of the issues posed by the growth of the internet, e-commerce and electronic forms of data storage.<sup>105</sup> As WIPO says: "Materials protected by copyright and related rights, spanning the range of information and entertainment products, will constitute much of the valuable subject matter of electronic commerce".

Although the WIPO Primer does not concern itself with industrial relations issues, there are significant concerns relating to the intellectual property rights of workers. Perhaps not surprisingly, it has been the international trade union organisations representing workers in the artistic and creative sectors which have taken a lead in raising this issue.

The International Federation of Journalists launched an international authors' rights campaign at a conference, Authors' Rights for All, held in June 2000. The background to the campaign has been moves in recent years by several

<sup>103</sup> AMA, 2000 AMA Workplace Testing: Monitoring and Surveillance, New York, 2000

<sup>104</sup> See for example ILO, Workers' privacy, Part II Monitoring and surveillance in the workplace, Conditions of Work digest, vol 12 1/1993, Geneva

<sup>105</sup> WIPO, Primer on Electronic Commerce and Intellectual Property Issues, Geneva, 2000

international publishers to seek to ensure that they have the rights necessary to exploit created material in new digital media, as well as in other media not yet invented. These moves (dubbed a 'rights grab' by journalists) have been controversial and have been the subject of a number of legal cases.

In the US, Jonathan Tasini and other freelance members of the National Writers' Union first challenged in 1993 the right of the New York Times to republish material contributed by them for use in the print edition in a commercial electronic database. A interim court ruling in 1997 found for the newspaper, but this was reversed on appeal in 1999 in a judgment which appears to establish that freelance writers should be paid for electronic publication of copyright material. A similar class action, initiated by freelance writer Heather Robertson, was launched in Canada in 1999, and the issue has also been subject to court action in the Netherlands.<sup>106</sup>

However, there are also examples where the issue of electronic publication rights has been resolved through collective agreements. Some examples are those between Les Echos and the French union of journalists, Guardian Newspapers Ltd and the National Union of Journalists (UK) and the Danish newspaper publishers association and the Danish union of journalists.<sup>107</sup>

The IFJ's Authors' Rights campaign draws attention to differences between countries, and to the distinction between copyright and authors' legal moral rights. There are also differences between the rights enjoyed by employees and the self-employed. Copyright in work produced by workers under employment contracts is generally acquired automatically by the employer.

The International Federation of Actors (FIA) and the International Federation of Musicians (FIM) have both drawn attention to issues raised by performance rights in new electronic media. For actors, the FIA has identified the creation and development of mechanisms for obtaining secondary payments for the use of performances as perhaps the most challenging issue facing actors' unions worldwide. The FIA claims that "the balance of power in the bargaining relationship between the performer and producer means that rights can be easily transferred to the producer, and in most film contracts the actor is required to assign to the producer all rights in all media in perpetuity".<sup>108</sup>

Audiovisual performers' rights (which, although protected by multilateral treaties remain currently outside the WIPO Copyright Treaty and WIPO Performances and Phonograms Treaty, negotiated in 1996) are to be the focus of a WIPO diplomatic conference called for December 2000.

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<sup>106</sup> ILO, Symposium on Information Technologies in the Media and Entertainment Industries: Their impact on Employment, Working Conditions and Labour-management relations, ILO Sectoral Activities Programme, Geneva, 2000

<sup>107</sup> International Federation of Journalists, Authors' Rights for All Summit 2000, background document, Brussels, 2000

<sup>108</sup> Katherine Sand, Actors and the International Audiovisual Production Industries, ILO Sectoral Activities Programme, ILO, Geneva, 2000, p xv

The distribution of music electronically over the internet and the challenge posed to the established music industry has been the subject of much attention. Recent developments include an agreement between Warner and music website mp3.com<sup>109</sup> and a court case by the recording industry against web service Napster.<sup>110</sup>

For individual musicians, there are similar problems to writers and performers in maintaining any control of the exploitation of their work electronically. The International Federation of Musicians (FIM) has drawn particular attention to the situation facing musicians in developing countries. In a study of musicians in Asia, Africa and some Latin American countries, FIM has pointed out that the usual self-employed status of musicians and the common lack of written contracts leaves individuals vulnerable. FIM has called for the establishment of efficient structures for collecting royalties and paying artists in these regions.<sup>111</sup>

For individual creative artists, the task of policing copyright and obtaining payments for use are almost insuperable. In many countries, therefore, copyright creators have chosen to work collectively through established collecting societies. As intellectual property rights become increasingly important, these collecting societies will become more directly of relevance in industrial relations. The IFJ's Authors' Rights campaign calls for a focus "on the importance of close co-operation between licensing systems for authors all over the world and the possible advantages of creating one worldwide author-controlled licensing system".

Whilst IPR is an issue primarily facing freelance and 'e-lance' workers, workers' representatives may wish to ensure through collective bargaining that individual employees receive adequate remuneration for the benefits to their employer from their creative efforts. This concerns not only workers in the media and entertainment industry but also software writers of computer programs.

### **Making use of the opportunities of new technology**

Something of the latent power of ICT in industrial relations is apparent in this letter from a South African trade union negotiator, published in the COSATU publication *The Shopsteward* in mid-2000:

**On 8 and 9 May I led wage negotiations in the cotton textile sector. On the evening of 8 May I downloaded my e-mail, scanned the Daily Labour News update, and got a very interesting article about the relationship between**

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<sup>109</sup> Richard Waters, Warner and BMG settle web rights dispute with MP3, Financial Times, London, 10 June 2000

<sup>110</sup> Paul Talacko, Keys to copyright harmony, Financial Times, London, 28 July 2000

<sup>111</sup> FIM, *Etude sur la situation des artistes-interprètes de la musique en Asie, en Afrique et en Amérique latine*, Paris, 1998, quoted in ILO, *Symposium on Information Technologies in the Media and Entertainment Industries* (op cit).

**wages and inflation (very intellectual article, with references to Keynes, etc, I must admit).**

**The next morning (completely unexpectedly) as their opening gambit, the employers tabled a copy of the article. I could respond immediately and authoritatively, having read the article and thought about the implications – they were stunned.<sup>112</sup>**

The idea that information acquired electronically could be an integral part of the collective bargaining process has a long history. As far back as 1972, Charles ‘Chip’ Levinson, the then head of the international chemical workers federation (ICF, now ICEM) suggested the use of what he called computerised information banks for trade unionists negotiating with large transnational companies.<sup>113</sup> By 1992, when a pioneering conference on international trade union use of telematics was held in Britain, a number of trade unions had developed email and bulletin board services for members, often spurred on by a particular enthusiastic union member.<sup>114</sup>

Since then, the internet has radically increased the opportunities available. One writer has suggested that the internet permits a rediscovery by trade unions of the nineteenth century principle of internationalism.<sup>115</sup>

At the creation of the newly merged UNI in 2000, its General Secretary Philip Jennings announced that the new organisation aimed to be an ‘on-line organisation’. He subsequently outlined an agenda for ‘web-friendly’ unions which could include on-line recruitment, virtual union branches, e-campaigns, and e-solidarity during disputes.<sup>116</sup>

However, despite the Internet’s fast growth throughout the world, the digital divide remains a daunting obstacle to visions like this . For example, only about 400 (slightly less than half) UNI’s affiliate unions had internet connectivity in mid-2000. The organisation is encouraging north-south solidarity between affiliates with the aim of ensuring that all UNI unions have internet access by mid-2001.

The example of WashTech, the Washington Alliance of Technology Workers which works primarily via the web, has been described above. Members can join WashTech via the website, completing their membership form online and paying membership subscriptions by credit card. A similar arrangement applies at [Alliance@IBM](#), another initiative undertaken by the Communications Workers of America.

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<sup>112</sup> Andre Kriel, Use the news on the internet (letter), The Shopsteward vol 9 no 2 (July 2000), COSATU, Johannesburg.

<sup>113</sup> Eric Lee, The Labour movement and the internet, Pluto Press, London, 1997, p46

<sup>114</sup> Celia Mather and Ben Lowe, Trade Unions On-line, the International labour movement and computer communications, Lancashire Polytechnic. Preston (England) 1990.

<sup>115</sup> Eric Lee, op cit, p166ff

<sup>116</sup> Philip Jennings, General Secretary UNI, speech at Organising in the network economy conference, Edinburgh, 18 July 2000

In South Africa, COSATU first included an electronic membership application form on its comprehensive web site in mid-2000. Workers who wish to join one of COSATU's affiliate unions can complete the form online and email it direct to COSATU, who will forward it to the relevant union for processing. However, because some affiliates are yet to have internet connectivity, the actual procedure involves COSATU staff printing out the form for onward delivery by fax or post.<sup>117</sup>

The issue of on-line membership recruitment may raise legal difficulties and uncertainties. In Canada, one union has questioned whether on-line applications satisfy the country's existing labour laws, particularly in relation to legislation on union recognition in non-recognised companies. In the US, however, the entertainments union IATSE is investigating using digital signatures (now legal in the country) for gathering signatures in organising drives.<sup>118</sup>

A number of unions have taken concrete steps to encourage their members to acquire personal computers. In Singapore, the National Trades Union Congress (NTUC) has launched its Easy PC Plan, in collaboration with PeoplePC. Union members are offered a brand-name PC with internet access and an email account at a discount of up to 40% of normal shop price. Credit facilities are also available, for a payment of S\$1 a day (\$29.99 a month). The Easy PC Plan includes access to a 24-hour help line.<sup>119</sup> NTUC says that 10,000 people signed up immediately at the launch of the scheme in May 2000. NTUC also offers heavily subsidised IT courses.

In Australia, the Australian Council of Trade Unions has arranged a similar scheme for members of affiliate unions, who can acquire an IBM Aptiva computer with software and internet access for less than A\$10.95 a week. The ACTU deal, arranged with Virtual Communities company, also includes a 24-hour help line.<sup>120</sup>

In South Africa, COSATU are investigating a similar scheme for members of its affiliate Teachers union.

The internet offers a new tool which can be used in the event of industrial dispute. Unofficial web sites established by strikers during industrial action date back at least to a newspaper dispute in San Francisco in 1994. An issue which has only recently come to the fore, however, is the extent to which a company can and should have the power to control critical information about it posted on the internet.

This issue has arisen in Korea, as a consequence of an industrial dispute which followed from the dismissal of 580 workers after the takeover of Sammi Speciality Steel corporation in 1996 by Pohang Iron and Steel Co Ltd (POSCO). Supporters of the dismissed workers (some of whom have

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<sup>117</sup> Personal communication

<sup>118</sup> Personal communications

<sup>119</sup> Information taken from [www.ntucworld.org.sg](http://www.ntucworld.org.sg) website, August 2000

<sup>120</sup> Information taken from [www.actu.asn.au](http://www.actu.asn.au) website, August 2000

appealed against the decision) have been maintaining an 'anti-POSCO' website, with details of the dispute and appeals for international solidarity. The anti-POSCO site deliberately parodies the design of the official company site.

The company applied for a legal injunction against the site, claiming that it violated the copyright of its own homepage. This allegation was in turn attacked by the Korean Labour network NodongNet, which argued that the company was attempting to restrict freedom of expression on the internet.

A somewhat similar case occurred in South Africa in 1998 at the time when the South African Municipal Workers Union (SAMWU) was fighting an attempt by British-based multinational Biwater to operate privatised water services in parts of the country. Criticism of the company was placed on an NGO web site, but lawyers representing the company persuaded the site managers to remove the material. In response, however, the same material was mirrored in several other web sites around the world, including those of the Public Services International and the International Confederation of Free Trade Unions (ICFTU). The ICFTU also reports of strong on-line campaigns run by the International Federation of Chemical, Energy, Mine and General Workers Unions (ICEM) against multinationals Rio Tinto and Bridgestone.<sup>121</sup>

The legal ability of workers (or indeed disaffected customers) to take their complaints into cyberspace by using a website which includes the company name is by no means clear. The issue is related to, though not identical to, that of so-called cybersquatters (individuals or companies who deliberately register web domain names for major companies, hoping later to sell the names back to the companies at a profit). The adoption in December 1999 of the Uniform Domain Name Dispute Resolution Policy (UDRP) by the Internet Corporation for Assigned Names and Numbers (ICANN) has led to the creation of the WIPO Arbitration and Mediation Center which rules on disputed web domain registrations, including cases of alleged cybersquatting. As of July 2000, WIPO's panel of neutral experts had ruled in about 350 cases, with about 80% of decisions going in favour of the company making the complaint.<sup>122</sup>

However, in the case of the web domain [www.bridgestone-firestone.net](http://www.bridgestone-firestone.net) the WIPO panel has ruled against the multinational tyre company Bridgestone/Firestone in favour of Jack Myers, a former employee of the company who had established the web site to highlight a pension grievance he held. The WIPO panel recorded in its judgment the observation "The Panel concludes that the exercise of free speech for criticism and commentary also demonstrates a right or legitimate interest in the domain

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<sup>121</sup> Duncan Pruett, Internet: the trade union web, Trade Union World, ICFTU, Brussels, 1 December 1999

<sup>122</sup> WIPO, Dot country codes turn to WIPO for help in resolving cybersquatting disputes, WIPO update 106/2000, Geneva, 2000

name.. The Internet is above all a framework for global communication, and the right to free speech should be one of the foundations of Internet law".<sup>123</sup>

The right of unions and workers to set up web sites using the name of the parent company may become clearer in the future. One possibility being discussed between the International Confederation of Free Trade Unions (ICFTU) and ICANN is the creation of a new generic top-level domain *.union*, comparable to the familiar *.com* and *.org* suffixes. If introduced, this might be an acceptable and easily recognisable way to identify trade union sponsored web sites for individual companies. However, this issue is still subject to debate.

Trade union leaders should perhaps be aware, however, that the internet's powerful role as a means of communication and information potentially opens up union's own internal procedures and structures as never before to individual members. This may on occasions be uncomfortable. The writer Eric Lee has recounted one anecdote from the US where a union had negotiated what it considered a successful agreement for its members in the aviation industry. The members, however, had to ratify the agreement by direct ballot. "One of them read through the contract very carefully and decided that the union had done a bad deal. He began sending out email messages every day to the members of his union, telling them line-by-line, word-by-word, what was wrong with the contract... When the vote came, the union leadership was overwhelmingly defeated.. It came as a complete shock to the union leaders, who were absolutely clueless about the internet."<sup>124</sup>

The innovative use of both the internet and call centres by the German telework advice service OnForTe has already been mentioned. In the United Kingdom, two unions have also explored the potential of call centres as a way of servicing their members' needs more closely. The Royal College of Nursing opened an RCN Direct operation in 1998, providing advice for its 310,000 members from a well-equipped call centre operating twenty-four hours a day. RCN Direct staff are highly qualified, and advise both on employment related issues and on professional nursing and clinical concerns. The RCN also uses the telephone advice service as a recruitment mechanism to reach new members.

Also in the UK, the largest union Unison has recently piloted a call centre operation. Unison, which organises public sector workers, has attempted to mesh the call centre with its shop steward network, by referring callers where appropriate back to their workplace representative.<sup>125</sup>

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<sup>123</sup> WIPO Arbitration and Mediation Centre administrative panel decision case no D2000-0190, Geneva, 6 July 2000

<sup>124</sup> Eric Lee, How the Internet empowers, democratises and internationalises unions, *The Shopsteward* vol 9 no 2 (July 2000), COSATU, Johannesburg.

<sup>125</sup> Andrew Bibby, Unions on the line, *Flexible Working* vol 3 no 5 (July 1998), London 1998

## Conclusion

We started this chapter with the thesis that traditional industrial relations could be heading for an abrupt demise. The institutions engaged in social partnership, it was suggested, might struggle to remain relevant in an information age.

The evidence of this chapter would seem to suggest that such an argument is too simplistic. Indeed quite the reverse could be argued: that the mechanisms of industrial relations are coping surprisingly well at a time of work reorganisation and economic transformation. We have seen how traditional collective bargaining appears to be functioning efficiently in the telecoms sector. We have looked at the way in which developing forms of work organisation (call centres and telework) and developing types of work status (agency work and self-employment) are being embraced within the overall ambit of industrial relations, and we have also seen how the negotiating agenda has been extended to include such new issues as on-line rights, electronic surveillance and privacy, and copyright and intellectual property. We have looked briefly at a few examples of the way in which ICT itself is being adopted within industrial relations.

It might seem perverse to conclude, therefore, by reiterating that the challenges to conventional industrial relations posed by the transformations wrought by ICT are real ones.

We suggested earlier that the services traditionally provided by labour organisations to individual workers could be supplied in other ways, by new forms of member association or by commercial concerns. This is already going on.

Where would a woman software programmer in Silicon Valley, for example, be likely to turn for services she needed to further her career or protect her conditions of work? It's possible that she might visit a web-based service run by a trade union, such as [Alliance@IBM](#). It is more likely, however, that she would go elsewhere. She might, for example, decide to visit the website of an organisation which offered to provide 'a forum for women in or interested in new media and technology to network, exchange job and business leads, form strategic alliances, mentor and teach, intern and learn the skills to help women succeed in an increasingly technical workplace and world'.

This is the mission statement of Webgrrls International, an informal networking organisation first set up by a group of women in New York in 1995. Its slogan, which seems to bear an uncanny resemblance to an earlier, more famous, slogan, is 'Webgrrls Unite!'<sup>126</sup>

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<sup>126</sup> Information taken from [www.webgrrls.com](http://www.webgrrls.com) website, August 2000. For a discussion of the role of network organisations like Webgrrls see Chris Benner, Building Community-Based Careers: Labor Market Intermediaries and Flexible Employment in Silicon Valley, University of California, Berkeley (paper presented to the Association of American Geographers Annual Meeting, April 2000).



In fact, the woman programmer would not need to work in Silicon Valley to benefit from Webgrrls, since in the past five years it has developed chapters across north America, in Europe, Japan, China, South Africa, Australia and New Zealand. Someone attending recent meetings in Hong Kong, for example, would have been able to discuss work-related issues (such as how to find work on the internet) as well as more technical subjects such as Wireless Application Protocol (WAP).

Traditional labour organisations might envy the ease at which, using the internet, Webgrrls has developed an international presence in five years. In general, trade unions have only taken a few first steps towards building effective international operations. Industrial relations remains something which happens primarily at, or below, the level of the nation state. Yet globalisation is demonstrating that the primacy in international law and governance of the nation state (the so-called Westphalian model) may be becoming increasingly inadequate.<sup>127</sup> The debate over core labour standards at the World Trade Organisation is one sign of the internationalisation of labour issues. Greater use of international institutions, including the ILO, would seem a likely feature of the twenty-first century.

The head of the European Commission's directorate-general for Employment and Social Affairs Allan Larsson called early in 2000 for a rethink in the organisation of work and the rules of working life, ready for an emerging information society. He went on, "This does not mean deregulation. What it does mean is finding a new balance between flexibility and security... What it means, more than ever, is partnership in change".<sup>128</sup>

Assessments of the prospects for healthy industrial relations in an information society might suggest that companies have more cause than in the past to develop good relations with their workers. No longer are underlying capital assets the most important factor in the valuation of companies; now it is the intangible capital represented by the collective knowledge held within a company which is becoming more significant. As has been pointed out, "an increasingly large part of the asset base of many organisations disappears as workers leave after their employment finishes for the day".<sup>129</sup>

But on the other hand, rapid technological change risks leaving many individual workers trapped with inadequate skills and experience. The digital divide between those with and those without access to the new technology is in danger of being replicated at work, in a divide between those lucky few

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<sup>127</sup> David Held et al, *Global Transformations*, Polity Press, Cambridge (UK), 1999

<sup>128</sup> Allan Larsson, *The Social Partners and the modernisation of work organisation*, speech at conference on the Future of Workers' Co-determination in the Netherlands in a European Context, The Hague. 6 April 2000

<sup>129</sup> Peter Skyte, *Ghosts in the machine*, in *Arbeiten in der Informationsgesellschaft*, DGB, Berlin, n.d. (2000), p57

with the skills necessary for a knowledge based economy and those whose skills have become outdated.

The 'balance' between innovation and social protection sought by Allan Larsson is surely possible. But to reach it is likely to mean moving beyond the post-1945 paradigm of industrial relations. What constitutes work, what constitutes a workplace, what constitutes a worker, these are all questions where the old answers no longer necessarily apply.