Submission from Carnegie UK to Business, Energy and Industrial Strategy Committee inquiry into Post-Pandemic Economic Growth: UK Labour Markets

December 2022

1. We are submitting this evidence to the Committee as a response to the discussion at the hearing on 15 November 2022 which focused on the use of AI in the workplace. We noted the exchanges between the Committee chair, Darren Jones MP, and Committee members with Brian Palmer from Amazon on the way that the company uses AI and data-driven technologies to monitor productivity and the work of individual workers in its fulfilment centres.

2. Workers and people who enter workplaces of all sorts will need protection from the dangers of AI deployed in the workplace. AI and machine learning (ML) might be involved in controlling aspects of those workplace environment that could cause harm. These could range from a moving robotic device, such as is found in a fulfilment centre, to heating, cooling or ventilation systems, to access and security controls, and productivity tools to name but some. AI software might also be involved in a range of activities from processing the data that leads to a series of automated decisions to operate these functions; or (and this would be less common) in more direct control of a device.

3. When considering worker protections in these environments, we hope it is helpful to draw the Committee's attention to the fact that the UK government has already set out its position that existing health and safety law applies to the use of AI in the workplace and, in particular, with regard to the part of the regime that requires safety testing. That the government has an exceptionally clear and comprehensive position on this has received little attention.

4. In 2018, Carnegie UK worked with Lord Stevenson of Balmacara on PQ UIN HL8200, tabled on 23 May 2018 about whether the Health and Safety at Work Act 1974 (HSAW74) applied to 'artificial intelligence' and algorithms used in the workplace (which might cause safety concerns).[1]

5. We set out the Government's answer in full here:

   Section 6 of the Health and Safety at Work etc. Act 1974 places duties on any person who designs, manufacturers, imports or supplies any article for use at work to ensure that it will be safe and without risks to health, which applies to artificial intelligence and machine learning software. Section 6(1)(b) requires such testing and examination as may be necessary to ensure that any article for use at work is safe and without risks but does not specify specific testing regimes. It is for the designer, manufacturer, importer or supplier to develop tests that are sufficient to demonstrate that their product is safe.

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1   https://questions-statements.parliament.uk/written-questions/detail/2018-05-23/HL8200

The Health and Safety Executive's (HSE) Foresight Centre monitors developments in artificial intelligence to identify potential health and safety implications for the workplace over the next decade. The Centre reports that there are likely to be increasing numbers of automated systems in the workplace, including robots and artificial intelligence. HSE will continue to monitor the technology as it develops and will respond appropriately on the basis of risk.

6. This fact that HSAW74 applies to AI has languished in obscurity. It might suit some to ignore it while others might well prefer the displacement activity that comes with trying to dream up complicated new laws for things that are – despite the arguments of the tech evangelists – not in the least exceptional.

7. Insofar as AI/ML is currently used in the workplace, the application HSAW74 is relevant to warehouses with automated picking and productivity software and where employees work in close proximity with robots. Similarly, worker monitoring, productivity and performance management software with an AI or ML component is covered by the regime. With that in mind, those companies that use such technologies in those circumstances could legitimately be asked how far they are compliant with their duties under HSAW74. For example:

   · To what extent has the software used in warehouses been tested for safety under S6 of the HSAW74. Has any software failed such testing and in what way?

   · What risk assessments have been carried out of (a) the potential for harm arising from the operation of AI, ML and other software that controls systems and processes in warehouses and (b) monitoring and performance management of staff working in warehouses?

   · What risk assessment and mitigation processes are in place for rapid software releases for robotics in close contacts with workers or worker productivity software? (We note that Mr Palmer referred twice to improving processes "on the fly".)

8. We hope that this contribution – belated as it is to the discussion on these matters in Committee – will assist members in developing the inquiry's report and recommendations. We are happy to discuss this further, if helpful.

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