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Agency Work and its Regulatory Challenges: Lessons Learnt Through a Comparative Overview of Australian and Italian Approaches

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I Introduction

Growth in the use of agency work, or 'labour hire', as it is more commonly referred to in Australia, dates back to the 1980s and to a broader phenomenon known as the 'vertical disintegration of the firm' and the consequent proliferation of non-standard forms of employment.[1] This form of triangular work arrangement, whereby a worker is hired and paid by an agency to work for a different entity, is widely regarded as a legitimate business practice that contributes to the economy and facilitates the convergence between the supply and the demand of labour. Australian law allows businesses to resort to labour hire and, as a result, to outsource to a third party (the agency) a set of responsibilities normally connected to a direct bilateral employment relationship. At the same time, however, the regulation of this type of work arrangement presents significant challenges. Anecdotal evidence suggests that in some sectors of the Australian economy, the practice is connected with breaches of workplace laws and ineffective enforcement of workers' rights.[2] Some labour hire workers are underpaid and overworked and ultimately left with an action against an insolvent agency, with little to no chance of seeing their claims enforced against the user company.

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1 See J Fudge, 'Blurring Legal Boundaries: Regulating for Work' in K Sankaran and S McCrystal (eds), *Regulating Work: Challenging Legal Boundaries* (Hart Publishing, 2012) 3.

2 MA Tranfaglia, 'Australian Dream a Nightmare for many Labour Hire Employees', *The Conversation* (18 February 2015) <http://theconversation.com/australian-dream-a-nightmare-for-many-labour-hire-employees-37479>.