

## FIRST MESSAGE

You are correct that there is no definitive data available on how many people have had their hours reduced due to the ACA's employer mandate. So, my justification for saying in my Wall Street Journal op-ed that the ACA "has caused millions of full-time jobs to become part-time" takes a little explanation. [Shunning ObamaCare](#).

First of all, when I made this statement, I was referring to the ACA's definition of full time employee which is as follows: "The term 'full-time employee' means, with respect to any month, an employee who is employed on average at least 30 hours of service per week." ([26 U.S. Code § 4980H - Shared responsibility for employers regarding health coverage](#)). I was not referring to the Bureau of Labor Statistics' ("BLS") definition of "full-time workers" as "[p]ersons who work 35 hours or more per week." ([BLS Glossary of Terms](#)).

So, the statement in my op-ed referred to employers (public and private sector) reducing the hours of employees who formerly worked 30 or more hours a week to under 30 hours and/or creating additional jobs of under 30 hours per week to pick up the slack from formerly full time jobs that employers reduced to part time.

The BLS data is difficult to use in analyzing the ACA's impact because the BLS considers individuals working less than 35 hours but 30 or more hours per week part time while the ACA considers them full time. If employers reduce the hours of employees who work less than 35 hours a week to under 30 a week (say from 34 hours to 24), there is no change in the BLS data on full or part time employment because such employees were part time both before and after the reduction. But, under the ACA, such workers transition from full to part time employees. As such, the BLS data on part time and full time workers understates the ACA's impact.

Another problem with the data is that the BLS "counts persons, not jobs." ([BLS, Industry Hours and Employment, 5/1/14](#)). For example, the BLS would count someone who works two 20-hour-a-week part time jobs as one full-time worker. We have many employees who now work part time in our restaurants and who also work part time in our competitors' restaurants as a means to increase their hours.

According to the BLS, in 2014 (on average per month) there were nearly 2 million (1.955 million) multiple job holders working two part time jobs (meaning there were 4 million part time jobs but the BLS data reflects only 2 million workers). This is higher than in any year since 1994 when the BLS began tracking the data. This number has steadily increased over the past five years and is 150,000 people (300,000 part time jobs) higher than it was in 2010. The highest month on record was October 2014 (2.172 million people), the second highest was November 2014 (2.127 million people).

By definition, each of these workers actually works two part time jobs but BLS counts them as one either full or part time worker. As such, there are at least 2 million more part time jobs than show up in the BLS data (which only shows the number of part time workers). ([ENR Table A-16](#)).

[historical data](#)). The BLS also fails to disclose how many of these 2 million people show up in the data as full time workers (if their hours from both jobs total 35 or more per week) or part time workers (if their hours from both jobs total under 35 per week). This also results in the BLS data understating the ACA's impact.

The BLS did report in December of 2014 that 6.8 million Americans were working part time for economic reasons rather than by choice (*i.e.*, their hours were cut back or they were unable to find full-time jobs). However, this number did not include the portion of the 2 million people working 35 or more total hours per week at 2 part time jobs but who would prefer one full time job. This is because the BLS considers them full time workers.

Nor does it include any of the 19.7 million people working part time for non-economic reasons (they want part time jobs) who have part time jobs available to them because employers reduced workers hours in response to the ACA's employer mandate. ([ENR Table A-8](#)); ([BLS Labor Force Characteristics](#)).

Looking more broadly, a [2012 Small Business Administration report](#) stated that small businesses (under 500 employees) make up 49.2% of private sector employment. According to the BLS, in December of 2014, the private sector employed 118 million people. Assuming 49.2% remains the correct percentage, small businesses employ about 58 million people. ([ENR Table B-1](#)). In a [2013 Gallup poll](#), 18% of small businesses said they had reduced the hours of employees to part time in anticipation of the Employer Mandate. There is no poll of which I am aware covering the number of jobs for which these employers reduced hours. Nor am I aware of any poll on the percentage of additional large employers who have similarly reduced employees hours.

The bottom line is that, while we can't get any definitive number from the BLS data for the number of people working part time due to the ACA, the data at least discloses that there are potentially millions of American workers who had their hours reduced and are working under 30 hours a week due to the Employer Mandate. There is also nothing definitive to the contrary of which I am aware.

Another way to gage the number of jobs employers have reduced to less than 30 hours is to look at what employers have been saying. Investors Business Daily ("IBD") compiled a list of job actions it states show "strong proof" that the ACA's "employer mandate is behind cuts to work hours or staffing levels." As of September 5th, IBD's "[ObamaCare scorecard](#) included 450 employers that have reduced employees' hours [with more than 100 school districts among them](#)."

IBD's ObamaCare scorecard has links to a number articles and reports with comments on reductions to employees' hours from business leaders across various business segments, including government entities, some of which the ACA's Employer Mandate has hit nearly as hard as the private sector. [ObamaCare Employer Mandate: A List Of Cuts To Work Hours, Jobs](#), IBD 9-5-14.

However, this list also understates the ACA's potential impact. For example, a review of this list reveals relatively few restaurant chains and few franchisees. Our Company is listed but none of our franchisees are listed. Our 230 franchisees own 73% (2,120) of our 2,920 domestic restaurants. The Company owns the other 800 and we employ about 20,000 people (about 25 employees per restaurant). Our domestic franchisees, on the other hand, employ roughly 55,000 people. Companies like McDonalds and Burger King have far more franchisees and their systems have far more employees. (See the [Nation's Restaurant News 2014 Top 100 Restaurants](#) by unit count for a better idea of the number of domestic restaurants)

Based on our Company's experience and conversations I've had with other CEOs, I believe retail businesses who could (not every retail business) adjusted about 20 - 25% of their operations level employees hours to under 30 due to the Employer Mandate. Some are obviously above that number, some are below and I have not done any scientific research on this issue. Except with respect to our company, my information is anecdotal. However, in my opinion, this is a reasonable percentage.

According to the [International Franchise Association. as of 2012](#), there were nearly 750,000 franchise establishments in the United States employing about 8.1 million people. If franchisees lowered the hours of just 20% (rather than 25%) of their 8.1 million employees hours, it would impact 1.6 million employees. Adjusting the hours for 15% of these employees would impact 1.2 million.

This number doesn't include the franchisors employees. In our case that's 20,000 employees. Nor does it include the employees of retail companies that do not franchise.

Looking at a broader measure, the BLS reported that in December of 2014, the Leisure and Hospitality sector employed 13.1 million production and nonsupervisory employees. ([ENR Table B-6](#)). If such employers lowered the hours of 20% of such employees, it would impact 3 million people. Even at 10%, the impact would be 1.5 million. Employees in this sector average 25.2 hours per week ([ENR Table B-7](#))

The [BLS reported that in December of 2014](#), the Food Service and Drinking Places sub-sector alone employed 10.8 million people. If employers lowered the hours of 20% of such employees, it would impact 2.2 million people. Even at 10%, the impact would be 1.1 million. There are, of course, other significant sub-sectors with potential reductions.

I can provide other measures if you would like, but I believe these make my point. None will be definitive. Nonetheless, I believe there is substantial support for the statement that millions of American workers have had their hours reduced and are working part time jobs (as the ACA defines them) due to the Employer Mandate. Again, I am unaware of any definitive analysis to the contrary. If you are, please let me know.

Thanks, Andy

## SECOND MESSAGE

This is from testimony by Lanhee Chen, as further support for my "millions" statement. It states, in part:

“Americans who are currently in relatively low-wage, low-skilled jobs will be most acutely impacted by the ACA’s 30-hour rule. Most broadly, there are currently 7.8 million Americans who working part-time but want full-time work. The 30-hour rule only makes it more unlikely that these Americans can find the jobs they want and need.

“A more precise estimate of the number of Americans who are vulnerable to having their work hours reduced as a consequence of the ACA’s 30-hour rule was performed by the Labor Center at the University of California, Berkeley in February 2013.<sup>8</sup> The Berkeley study defined the ‘vulnerable population’ as those Americans working at firms with more than 100 employees; who were employed between 30 and 36 hours per week; who had family incomes below 400% of the Federal Poverty Level (FPL); and who did not receive health insurance through their employers. Those researchers concluded that 2.3 million workers, or approximately 2% of the United States workforce, were at greatest risk for a reduction of hours because of the 30-hour rule.

“My colleagues and I at the Hoover Institution recently updated and refined the analysis done by the UC Berkeley researchers.<sup>9</sup> We utilize the same definition of the ‘vulnerable population’ and conclude that a total of 2.6 million workers, or 3.1% of the United States workforce, are a part of this group. Table 1 in the Appendix provides a breakdown, by industry, of the number of employees, as well as the percentage of overall workers in the United States workforce, who fall into the “vulnerable population.”

[http://waysandmeans.house.gov/uploadedfiles/chen\\_testimony\\_012814hl.pdf](http://waysandmeans.house.gov/uploadedfiles/chen_testimony_012814hl.pdf)