

## **(De) regulation of working time, employer capture, and 'forced availability': a comparison between the UK and Cyprus food retail sector**

Anastasios Hadjisolomou, University of Stirling

Kirsty Newsome, University of Sheffield

Ian Cunningham, Strathclyde University

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**Abstract:** This article is concerned with exploring how working time is regulated and experienced in the international food retail sector in the UK and Cyprus. Following Martinez-Lucio and Mackenzie the article accepts that regulation in employment relations is a multifaceted phenomenon shared by a number of competing actors at different institutional levels. The paper highlights the limitations of working time regulation in the two countries and argues that employers are increasing their control over the timing and allocation of shifts and working time. The paper illustrates how employers 'capture' working time regulation by exercising their prerogative to more closely match working time with the exigencies of customer demand. In this environment, the paper reveals how employees are experiencing practices such as 'forced availability', coupled with pressure to extend working hours as well as facing increasing levels of unpredictability as to when they are required to attend AQ4 work.

## Introduction

This article is concerned with exploring how working time is regulated and experienced in the highly competitive international food retailing sector in two EU countries – the UK and Cyprus. Working time across the EU is regulated through the European Working Time Directives. The Regulations are enacted in the domestic legislation of member states with considerable differences across national boundaries (Boulin et al, 2006). Variations and gaps in state intervention imply scope for other actors (i.e. employers, employees and unions) to influence and shape the regulation of working time in their own interests.

To capture the interaction of different employment relations actors shaping the regulation of working time in supermarket retail, this paper adopts a theoretical perspective developed by Martinez-Lucio and Mackenzie (2004 and 2005). This perspective on regulation does not privilege one site or actor such as the state in terms of the focus of analysis, but accepts that regulation in employment relations is a multifaceted phenomenon shared by a number of competing public and private actors at different institutional levels. Moreover, the dismantling or absence of state mechanisms does not mean that regulation does not exist, or is dormant. Rather, it suggests a shift or a recasting of regulation across different sites and between the different actors. These actors include the state, industrial relations institutions, such as collective bargaining at sector or firm level and/or unilateral management decision-making at firm/enterprise level (Martinez-Lucio and Mackenzie, 2004; Mackenzie and Martinez-Lucio, 2005). Within a ‘regulatory space’ (in this case working time), these actors deploy a range of mechanisms, of social control for a multiplicity of different purposes. Regulation is thus fluid implying shifts and movement across different sites and boundaries (Martinez-Lucio and Mackenzie, 2004; Mackenzie and Martinez-Lucio, 2005).

This article utilizes the Martinez-Lucio and Mackenzie framework (2004 and 2005) in several ways. Firstly, in the literature section the framework is used to outline how working time regulation in the grocery retail sectors of UK and Cyprus is shared by a number of competing public and private actors. At the same time, this section argues that employers have become more dominant and captured key aspects of working time regulation in the face of inadequate legislative protection and weakened unions. In doing so, it highlights how this ‘capture’ by employers in the context of recession and competition leads to greater management efforts to make working time increasingly flexible. This flexibility in terms of the allocation of working time has the effect of undermining terms and conditions of employment of front-line workers in the UK and Cyprus retail sectors. The second use of the framework is to empirically

explore the implications of this ‘capture’ (Martinez-Lucio and Mackenzie, 2004). In particular, how employers are introducing new ways to regulate working time, the impact on employees and the degree to which these changes are contested. Thirdly, the framework recognises that a decline in influence of regulatory actors (e.g. the state or unions) does not preclude a reassertion of their role (Martinez-Lucio and Mackenzie, 2004). In the light of the study’s findings, options for the reorganisation and re-regulation of working time away from the enterprise level are explored.

The retail supermarket sectors in the UK and Cyprus provide interesting sites of international comparison regarding the themes of this paper. This is because although there are differences in working time setting regimes, these are narrowing. Similar to the UK, Cyprus is becoming a more liberalised economy with increasingly deregulated labour markets (Gialis and Leontidou, 2014). Unions and the institutions of collective bargaining in each of the national sectors are weak, with diminishing influence of collective agreements in Cyprus, placing greater emphasis on enterprise-level decisions. Moreover, each country’s retail sector is experiencing shifts in the statutory regulation of working time that directly (Cyprus’s extension of Sunday trading) or indirectly (the continuing legality of zero hours contracts in the UK) support a climate where employers are given greater discretion and control over rostering and scheduling.

The article begins with the aforementioned literature section. The next section outlines the method. The results are then presented from a comparative qualitative study in food retailing. The final section presents a discussion of the article’s contribution. This contribution includes the key finding that increased employer control over the timing of shifts and rotas leads to the phenomenon of ‘forced availability’ for workers in food retail. Such strategies can emerge through formal (UK) contractual processes and informal (Cyprus) line management behaviour and practices. These employer strategies disrupt home and family life among retail workers, causing tensions with the front-line. In Cyprus, these tensions are exacerbated by accompanying forced moves from full-time to part-time work, and management flouting national and EU-based statutory protections for employees regarding working time.

### **The Regulation of Working Time in Food Retail in the UK and Cyprus**

As with other sectors the regulation of working time in food retail is shared by multiple competing actors, including the European Union (EU), nation states, collective bargaining

institutions and enterprise-level decision-makers. The EU introduced the Working Time Regulations to offer some protection for workers' rights. The aim of these EU measures was to introduce limits to working hours and introduce rest breaks on the grounds of health and safety (Eurofound, 2016). The measures introduced maximum average 48 hour working weeks (based on a 17 week period) over seven days, limits on the hours of night work, a rest period of not less than eleven consecutive hours in each 24 hour period, and finally a break of not less than 24 hours uninterrupted in a seven day period. Employees whose working time is more than six hours in a day, were also entitled to a rest break (Devlin and Shirvani, 2014). Responsibility for enacting these measures was passed onto member states leading to considerable differences both in the organisation and regulation of working time and in how the directives are translated into policy instruments (Boulin, et al, 2006).

In the UK the Working Time Regulations 1998 (amended 2003) were introduced against a background of concerns regarding their potential disruptive impact on the country's deregulated and flexible labour market (Hurrell, 2005). Indeed, costs to the UK economy of this form of employee protection were estimated at £1.8 to £2.3bn (Gilman, 1997). As a result of such concerns, legislation was applied in what many saw as a minimalistic way, with considerable employer derogations (Hurrell, 2005). Most controversially was the 'Agreement to exclude the maximum' which stipulated that the 48 hour maximum shall not apply in relation to a worker who has agreed with her/his employer in writing that it should not apply in her/his case. This derogation can relate to a specified period or apply indefinitely. At the same time, the agreement can be terminated by the worker by giving not less than seven days' notice to his employer in writing (HMSO, 1998). In the UK, this derogation handed considerable discretion for employers to influence and regulate individual working time arrangements among their workforces at enterprise level.

In Cyprus, the transposition of EU legislation showed a much more pluralist regulation of working time, as the Directive was fully aligned to the provisions of existing collective agreements through the Law 63 (I)/2002 Organisation of Working Time (Eurofound, 2016). The standard time norm of the working week has been a 38 hour, 5 day week. This is a consequence of efforts prior to the 2008 financial crisis to reduce working time through a Framework Agreement between employers and unions that aimed for a reduction in working hours from 40 to 38 hours. In addition, reductions in overall hours is thought to reflect the entry of greater numbers of women into the workforce through part-time work (Eurofound, 2016). Moreover, in Cyprus, in terms of the length of the working week, retail sales, unlike

the rest of the economy (five days per week), were subject to a six day week (EurWORK, 2009). Prior to the crisis, however, it was the case that under the law, the working week for shop workers could not exceed 38 hours or eight hours in a day. There were also stipulations regarding overtime compensation for working weekends; rest breaks and free afternoons for those working a six day week. These figures indicate relatively low working hours and mean the Working Time Directive did not make any significant impact when introduced in Cyprus (EurWORK, 2009).

Beyond the derogations outlined in the above UK legislation, there are weaknesses in the protections afforded to workers from the EU's and the UK and Cyprus's regulation of working time. There are general concerns, for instance, regarding weak enforcement mechanisms pertaining to the EU's working time regulations leading to fears of the growth of unregulated overtime across the single market (Eurofound, 2016). Furthermore, the regulations do not provide any protection concerning scheduling or rostering of time, leaving this aspect in the hands of national governments, and industrial relations institutions and other actors. In the majority of member states in the EU, employer power in this regard is mediated because the EU's statutory measures merely set the general framework for further working time regulation (including rostering) through collective agreements (Eurofound, 2016).

In contrast, in the UK, employer discretion over rostering is stronger because unlike other EU states, there are very few accompanying sector-level collective negotiations and agreements on working time. Therefore, in the UK the regulation of working hours below the 48 hour limit is decided almost unilaterally by employers at the enterprise level (Eurofound, 2016). Studies in other front-line service occupations reveal how UK employers have used discretion over the allocation of working-time to match staffing levels to periods of high demand. This has several consequences most notably; reducing costs by not rewarding work-related time periods that are not high or direct customer related, the intensification of work during periods of high customer demand (Rubery, et al, 2015), and work (especially part-time) becoming increasingly fragmented (Blyton, 2011; Blyton and Jenkins, 2012). In the case of UK retail authors have noted that flexible working arrangements, have grown significantly in recent years (Allan et al, 2000; Grugulis and Bozkurt 2011).

Moreover, the rise in the management prerogative following the 2008 financial crisis and downturn presented governments and employers in the UK and Cyprus with opportunities to further capture working time and introduce more flexible and unpredictable working

arrangements under their tutelage (Eurofound, 2016). In the UK, for instance, the lack of regulatory protection concerning the scheduling or rostering of working time is illustrated by its high proportion of part-time work, standing at 23.7% of the employed labour force in 2015 (Eurostat, 2017). It is estimated that 77% of private sector employers employed part-time workers in 2011 (Wanrooy, et al, 2013). Those working part-time in the UK on average work 16.2 hours a week (ONS, 2016). Moreover, there has also been a reported increase in other numerical flexibility practices such as proliferation of zero-hour contracts (ZHCs). ZHCs are where the employer does not guarantee the employee a minimum number of hours. Studies reveal an upward trend in the numbers of workers employed on such contracts (Adams and Deakin, 2014). Indeed, retail is reported as employing 11% of its workforce on ZHCs (CIPD, 2015). The growing presence of ZHCs is seen to be symptomatic of a UK labour market that is increasingly dominated by unilateral management prerogative, and characterised by demands for ever more employee flexibility, and greater uncertainty for workers regarding the scheduling of work.

Cyprus has been following the path of other Mediterranean EU partners (Greece, Italy and Spain) (Gialis and Leontidou, 2014) in pursuing de-/re-regulation trade-offs designed to help firms recover from reduced demand in the post-2008 crisis era and help reduce high levels of youth unemployment. These trade –offs are achieved through using flexible employment strategies. The Mediterranean, EU countries in post-2008 have moved towards introducing de-regulatory policies that have allowed employers to introduce labour market flexibility and lower levels of employment security. In the former case, this includes flexible working time practices, i.e. encouraging part-time employment and atypical employment (Gialis and Leontidou, 2014).

For Cyprus, the country has some way to go compared to the UK in terms of labour market flexibility, because of low levels of part-time work. Although the level of part-time work is steadily increasing over the years, standing at 12.9% in 2015, is still behind that of the rest of the EU28, which currently stands at an average of 19% (Eurostat, 2017). Nevertheless, recession and economic crisis are accelerating change. Economic problems have led to increasing unemployment, especially for young graduates at 17.5%. Cyprus also had the highest increase of unemployment within the Eurozone in 2013. Subsequently, efforts to increase employment in Cyprus were made, in parallel with calls from employers' organisations to increase flexibility within the workforce to keep pace with economic change

and allow time scheduling to be directly connected to variations in demand (Eurofound, 2016).

In retail, in 2013 the Cyprus Government at the peak of the recession, in an attempt to tackle increasing unemployment, provided an important revision and ‘trade off’ relating to the ‘Regulation of the operation of shops and the Employment Terms’. This involved instituting an extension of opening hours for employers within the retail sector, extending the working week to seven days: following a path in the rest of the EU towards greater Sunday Working (Eurofound, 2015). The new regulations specified an extension to the opening hours for retail shops, so that they were allowed to remain open between 7am-10pm daily and 9am-9pm on Sundays. Previously, they only remained open until 8pm on weekdays, with the exception of Wednesdays when they closed at 3pm. This state sponsored de-regulation and re-configuration of working time was a turning point for the Cyprus employment relations system, signifying a move to a more liberal economy. The government’s intention was that the additional working time would be covered by firms recruiting from the unemployed. At the same time, it must be stressed that the measure involved no compulsion on employers to recruit staff from the unemployed (Eurofound, 2015), leaving them considerable discretion regarding how the additional shifts from extended opening times were to be rostered.

In each country, state and employer efforts to reorganise working time in food retail in the interests of the latter, are in the context of a highly restricted role for other actors in this regulatory space, particularly trade unions. Retail work is poorly unionised throughout the EU (Eurofound, 2016). Supermarket retail, unsurprisingly shares this characteristic. In the UK, there are high profile partnership agreements, such as in Tesco and its recognition of USDAW. This is the biggest private sector collective bargaining agreement in the UK, and one of the biggest in Europe (Blythman, 2005). The agreement covers issues such as pay structures, attendance, disciplines and work-life balance (Engage for success, 2012). Yet, Williams (2014, p.196) notes, ‘the partnership agenda ‘is to a large extent a reflection of trade union weakness’ and in the case of Tesco, the union was concerned that the company was contemplating de-recognition.

In Cyprus, Katsourides (2013) reports general fall in union density as a result of aggressive employer strategies to union organization, especially during the recent recession. The outcome of lower density, according to Ioannou (2011), is that the unions have abandoned strikes as a tool to generate change. Therefore, as Katsourides (2013, p.21) reports: ‘trade

unions today are mostly perceived as organizations that offer services, rather than vehicles of struggle'. As Ioannou (2014, p.121) concludes, 'the current crisis, exacerbated the already existing processes of labour market regulation, trade union decline and deterioration of employment relations'. Moreover, in retail, like the UK, Cyprus's collective sectoral agreements covering working time are increasingly giving way to enterprise level decision-making (Eurofound, 2016).

The above summary illustrates how a central aspect of the employment relationship such as working time encompasses a variety of processes of social control (statutory and non-statutory) and a multiplicity of competing actors operating at different levels (Martinez-Lucio and Mackenzie, 2004 and 2005). It reveals, however, how employers have had considerable scope to capture and unilaterally regulate essential areas of working time such as rostering and scheduling. This capture is because of the limited scope of statutes by the EU and national governments, and the weakness of other actors such as trade unions. Of concern is the degree to which this greater employer discretion and capture of working time at a time of recession further degrades employment conditions through allowing creating more precarious and fragmented forms of work. Moreover, the article seeks to understand how these changing patterns of working time are experienced by retail workers and the relevance, if at all, of EU and national statutory protections.

## Methodology

This article draws on qualitative data from four case study organizations, two in the UK and two in Cyprus. This multiple international case study strategy allowed both the within-case, cross-case, as well as cross-national analysis. The selection of the cases aims for consistency of comparison on the organizational level, while the emphasis on deregulation across both countries allows a comparative cross-national analysis of how the regulatory regimes in the two countries, which emphasises on labour market flexibility and flexible working time practices, impact on the organizational level within the same sector.

The case study organizations were selected based on their size and their market share in the local and the global market. The UK organizations are both leaders in the global and the UK food retail sector. UK1 is a British-grown multinational grocery retailer, whilst UK2 is a multinational company that holds a significant share of the UK market. Similarly, the Cyprus case study organizations are leaders in the country's food-retail market. Cy2 is a world leader



grocery-retailer with presence in 33 countries, including Cyprus since 2005. On the other hand, Cy1 is a smaller 'family-owned' organization with only seven stores and approximately 700 employees. Although this is a smaller organization, it is a developing company and is steadily increasing its market share. It is a leader in its region and is expanding its business to other areas of the island, becoming today the second biggest home-grown food retailer in the country. The research in both organisations took place in 2013/4 in the period of austerity following the 2008 financial crisis. Cyprus at this time was facing particularly acute recessionary pressures.

Qualitative research data were secured using semi-structured interviews with respondents in each of the case study organisations. The qualitative research involved 90 interviews across the two countries and specifically 44 in the UK and 46 in Cyprus. In the UK the interviews were conducted in English, whilst in Cyprus they were conducted in Greek and translated in English. In total four stores were examined in the UK in the west of Scotland. One large store was examined for UK1, whereas three stores were explored for UK2. In Cyprus, three stores were examined in total, all located in the North east of the island. Two stores were examined for Cy1 (the head/store and store2, which is located in a tourist area), while one store was explored for Cy2. In each store the interviews were conducted with HR, senior and line managers, union representatives, and shop-floor employees, aiming to understand the different perspectives on the problem examined. Interviews lasted between 35-90 minutes and focused upon a number of key themes, including the nature of the work, the job process, the regulation and organization of working time and working time scheduling.

The following data illustrates the consequences of employer capture of key areas of working time regulation. The data is organised around two substantive sections; the first covering the UK; and the second Cyprus. In each of these sections the data is themed by first identifying the competitive, economic and regulatory drivers of change in the retail grocery sectors of the two countries. This is then followed by an analysis of how management is using its capture of rostering and scheduling to introduce work practices and innovations designed to extract even greater flexibility from their workforces. Moreover, this section includes an analysis of the reactions of employees to such changes.

## **UK: (De) regulation, Employer Capture and new forms of fragmented working-time**

Intensified pressure for cost control resulting from the recent recession allied to changing consumption patterns were key drivers for management's efforts to recast and reshape working time in the UK. The impact of the intensified cost pressures meant the UK grocery sector is characterized by fierce price competition amongst a small number of dominant players. The evidence from the two UK case studies confirms this cost focus. As the store HR Manager in UK1 argued:

'Everything is driven by cost...it is a low cost business...everybody is predominantly driven by cost and sales'. (Store.HRM.UK1)

In the same vein, one HR manager in UK2 discussed the financial pressures as a result of the recession and the increased competition, describing the lower cost strategy in the organization:

'Our culture has always been a better service, but because of the changes in the economy over the years, the challenge is to still get the best service but [with] lower costs, because UK2 [organizations name] is all about cost and you want to get the best possible price for the customer; but you really need to control your cost. So cost are tighter now than they ever were...I think, years ago it was about people and it was about how customers get serviced. It's still about that, but we have to do it in a more budgetary controlled way.' (HRM2.UK2)

Both organizations aggressively pursued policies to cut labour cost and introduce lean staffing. Attempts to reconfigure working time were at the heart of this approach, whereby the reconfiguration of working-time was predicated upon changes in the allocation of shift patterns and the emergence of new type of contracts.

At the same time, management also reported that there were changes in consumption patterns that demanded alterations in working time. The Regional HR manager in UK1 commented:

'From a flexibility point of view, most supermarkets tend to have a high workforce of part-time workers. Full-time contracts are very rare....We need flexibility to respond to peaks and the changing nature of retail...Most stores trade between 5pm and 9pm, far more than any other time during the day, which

is been a big change on retail. A lot of people do shop on the way home from work or during the night, so that's probably changed quite a lot, that is where you need part-time workers.' (Regional.HRM.UK1)

The two UK organizations offered working contracts significantly shorter than the EU upper limit of 48 hours per week. These contracts were increasingly staffed using part-time employees. Typical staff ratios across the two UK cases were 80% part-time, 20% percent full time.

For employees, a central feature of this part-time work was the fragmentation of their working life into small blocks of paid work. The majority of employees, across both cases, particularly those on the front-line, were on 3.5 hours shifts, whilst the weekly working hours varied across the two organizations between 8-27 hours, depending on the contract type and the amount of overtime work. For example, an HR manager in UK1 commented:

'Not a lot of people are on full time, but we do have a lot of part time hours. On checkouts they do 3,5 hours shifts, but if there's overtime a colleague would pick up an extra shift on that...we have quite a few colleagues that work more than 30 hours [through overtime]' (HRM1.UK2)

Part-time work was not the only method deployed by employers to control working time and cut costs. Employers further introduced other forms of 'fragmented' and highly flexible employment in the form of flexi-contracts. As will be shown, these flexi-contracts provided management with considerable power to shape working time, and bring in new forms of employment degradation.

### **Flexi-contracts and 'forced availability'**

UK1 introduced the 'flexi-contract' to more closely co-ordinate staffing levels with the exigencies of customer flow, while simultaneously managing cost pressures. Flexi-contracts were introduced to complement the increasing recruitment of young students who required flexibility in their working hours to match the demands of their university timetable. The contracts differ from zero-hour contracts (ZHCs) as the 'flexi-employees' were guaranteed minimum contracted hours that could be extended. Employees on flexi-contracts usually worked during busy periods on the shop floor, such as weekends, and covered night shifts. Employees could also be asked, typically at short notice, to work additional shifts in order to

cover emergency labour needs such as absence. In essence, flexi-contracts firmly strengthen employer control over the allocation and organisation of working time, leaving the responsibility for allocating working time and shifts with line managers. As one line manager commented:

“Shifts are always covered, there are no empty places or gaps...we've got the flexi-staff, so we flex them up where we need them to cover” (LM1.UK1)

Employees on flexi-contracts were engaged under different terms and conditions and were required to undertake overtime and/or cover additional shifts. What differentiated the flexi-contracts from these other more conventional working time arrangements and management – worker relations, was that it was mandatory for flexi-contract employees to accept overtime and extra shifts, as this was part of their written terms and conditions. By stipulating contractual compliance with such demands, employers were creating an environment of *‘forced availability’* for employees. One employee argued,

‘They phone people to come in to help them for that day...and usually these are flexi contracts; they rely on them to help. [But] I'm thinking that I'm getting called in whenever they [managers] please and other [employees] don't need to.’(E8.UK1)

Another flexi-employee commented:

‘You have to be available and willing to do some [overtime]’. [For example] I worked all day on Friday and then I had to be at work for a full weekend and I don't like it, [but] it's not my choice (E14.UK1).

The climate of ‘forced availability’ is further illustrated by employees on flexi-contracts being constrained in their ability to refuse overtime. One argued:

“You are allowed to say no, they'll understand if you have maybe commitments or something but there is only so many times you can refuse because it is in your contract. It's a flexi-contract so...you are sort of forced in a position that you have to do this, and a lot of time you have to work late. I don't want to work late ever, is not a good thing, it's not fun (E12.UK1)”

The uncertain demands for extra working hours, generated feelings of frustration, unfairness and pressure for employees to be constantly available to work.

‘Most of the time she [the manager] would say, "Because you are flexi it is your duty...you need to work these [hours]". That's a bit of unfair. (E8.UK1)’

Similarly, another flexi-contracted employee described how additional shifts brought significant intensity to their working lives during busy periods such as Christmas:

‘One time last year they put me on six in the morning for Christmas eve, I just worked up to 10pm the night before...and they want me to start 6am on Christmas eve to 3pm...it's unreasonable. Compared to any other contracts you are the one that you get phoned and told that you need to work and that's it done. I find it a bit not fair really; there are other types of contracts that don't need to do that so it can be unfair’. (E5.UK1)

Another flexi-employee stated:

‘I'm contracted to eight [hours] [but] usually I do up to eighteen at the weekend...people [on flexi-contracts] get shifts that they don't want [and] these are those that other people don't want. We are flexi, it's a different contract, [but] the shifts that we get are not great...is not fair if everybody is doing horrible shifts all the time...The system is a bit of annoying. You just don't want to and you know you have to. It can be irritating at times definitely...but you did sign the contract so there isn't a lot you can do...so you sort of forced in a position that you have to do this [and] this was increased dramatically (E9.UK1).’

The union representative also discussed the level of uncertainty regarding the working hours associated with the flexi-contract. She argued that the young employees often did not understand the contract they had signed until they experienced the pressure by managers to accept overtime and attend work. She emphasized the trade union's disagreement with this scheme but at the same time she suggested that this was embedded within the working time arrangements in UK1:

‘Oh flexi-contracts, they are just horrible...the young ones need them because they are in college but...you won't know the day before what your shift is going to be the next day. The union don't particularly like them but at the same time is part of UK1's [company name] working strategy, so you have to go

with it. I still don't like them and I still don't agree with them'  
(Union.Rep.UK1)

### **Cyprus: Encouraging regulatory capture by the employer - The impact of post-recessionary 'price wars' and state intervention**

The Cyprus grocery market has faced dramatic changes in the past decade. The factors driving this change were largely due to competition and recession. Traditionally dominated by home-based grocers, overseas operators (e.g. Cy2 in 2005) have increasingly entered the market, including an international discount food retailer. These new entrants have generated pressures for cost cutting and lower product prices across the sector. The senior financial manager of Cy1 commented:

'The competition has changed. Since the international retailers invested in Cyprus we have seen a tremendous impact on our profitability, it dropped by 3% and this is massive. We constantly look for new and innovative ways to remain competitive, increase our profit margins and of course keep cost to the minimum. Today you have to be cheap to survive, lower cost is synonymous with our operations (SeniorManager.Cy1)

This manager also discussed the influence of the aggressive price war in the market that had been exacerbated by recessionary pressures. Within this context of pressures to reduce costs, the financial line manager in Cy1 and store manager in Cy2 identified labour as a major source of savings to increase sales and profits for the supermarkets.

"Labour cost is directly linked with your turnover. Lower cost means higher turnover...The head office knows at any point what your sales are and how much you spend on labour. They always argue that we spend too much on labour; it goes without saying that we have to keep an eye on our [labour] cost."  
(StoreManager.Cy2)

Recession also had its impact and cutting labour costs was key to how each organisations initially responded to this challenge through either redundancies or other measures. In Cy2, for example, the closure of departments, redundancies, and recruitment freezes were vital cost reduction measures to ensure organisational survival.

At the same time, changes in the configuration of working time were also key tactics utilized by both case study organizations to cut costs in this difficult environment. In Cy1 a manager illustrated this dual approach.

“If I had the power I would definitely consider redundancies and more flexibility in staffing. There are two main shifts, the morning that starts at 7am and the afternoon one...Why do you need a full house at 7am in the morning? Get them on a split rotas and keep an on-call cohort of employees for your busy times in the afternoon. This would save you at least 10 people and would significantly reduce the cost. For me we are overstaffed at the moment, and this is not healthy for the business (LM5.Cy1).

At the same time, these management aspirations to some degree faced barriers because of the aforementioned intervention by the state to reform the ‘Regulation of the operation of shops and the Employment Terms’. This reform stipulated that the extension of opening hours was to be filled by recruiting from the unemployed. However, there was no compulsion on firms to recruit unemployed workers. As a result Cypriot employers were able to use their freedom to manipulate working time at the enterprise level to cover the new shifts through more efficient use of their existing labour.

Subsequently, in each case organisation new recruitment was kept to a minimum. Instead, to cover the new hours management in each company simply reduced the number of employees working on shifts and enhanced the support and cover from other departments in case of absences or unexpected peaks in customer demand. This change in working-time allocation intensified the work of some employees, generating pressure and feelings of frustration among the workforce. One employee commented:

‘With the new opening hour regulations, the management was supposed to recruit new people to cover Wednesdays and Sundays. Instead though they just split the staff into shorter shifts, three girls in the morning, three in the noon shift and three in the afternoon/late shift [instead of five and/or six in each shift]. They did that in order not to recruit new staff, but we are pressured more, especially during the summer period (E9.Cy2).

### Informal ‘forced availability’

Management’s response to the government’s measures also resulted in increased, often unwanted, working hours for existing employees. Employees in Cy2 remonstrated that the

increasing hours of work impacted on their personal life, and led to a sense of powerlessness. As a checkout operator commented:

‘Last month I worked for three weeks without a day off...it’s ridiculous...We cannot have any time off. We are not robots. We always had a day off [but] now it’s impossible to get it, things have changed’ (E8.Cy2)

Other measures (in Cy2) including moving all full-time staff to part-time contracts, and when recruiting mainly only hiring the latter. As with managers in the UK, the store manager suggested that the increase in part-time employees was a mechanism to reduce costs by being able to flex up and flex down.

‘By having part-timers, you can increase or reduce their hours based on your needs and by reducing their hours you have a direct positive effect on the labour cost.’ (StoreManager.Cy2)

This shift away from full-time to part-time work again had a significant impact on employees’ personal life. One employee in Cy2 (a single mother) commented:

I’m working part time...I asked for a full-time contract but it was impossible to get it...they said they don’t do full-time contracts anymore. But the money are not enough. I get 500€ [monthly] and I spend 400€ for childcare. I used to do two jobs but now because of the baby [I only do one] (E11.Cy2)

The above quote was a common response, particularly among participants with families and dependants.

Cy 1 provided another example of ‘forced availability’ among our case studies, specifically in Store 2. This Store had always been open on a Sunday because of the seasonal nature of its opening times in a tourist area. Prior to the introduction of changes to the ‘Regulation of the operation of shops and the Employment Terms’, the Head Store supplied workers to cover the extra Sunday shifts in Store2. In addition, these additional Sunday shifts were voluntary for employees and they were paid overtime (double-time). Unsurprisingly, because of the additional income, there were always employees wanting to work these extra shifts.

After the introduction of new opening hours, however, the Head Store no longer sent employees to cover the additional shifts because it was now also operating on Sundays. This forced the organisation to recruit new employees, as the government decree suggested.



However, these new employees were not hired in sufficient numbers to completely cover the new shifts. As a result, it became *mandatory* for the employees in Store2 to work on Sundays. Front-line employees in Cy1, in both stores, became reluctant to work on Sundays, because the company (illegally) no longer paid overtime for this shift. Nevertheless, the data illustrates that it was no longer at the employees' discretion whether they wanted to work the extra hours as managers were now forcing employees to cover the extra hours. One young checkout operator (HeadStore.Cy1) commented:

'Sunday is [now] a usual day's payment and no one wants to work it anymore. We are *forced* now to attend on Sundays, because the Store manager got angry and she said that it's mandatory for all employees to work on Sundays. End of the story.' (E9.Cy1)

Similarly a checkout operator in Store2 commented:

'Now that the Head store remains open it is compulsory for everyone to work on Sundays' (E6.Cy1).

There are some differences in this example of 'forced availability' compared to the UK. Specifically, in Cyprus there is no formal contractual obligation on employees to attend through a 'flexi-contract', rather it is enforced through informal management coercion.

In addition, it appeared that there were limited opportunities to take break from this work pattern.

'They force us to work on Sundays. It is supposed to be every other week but I've been working for three Sundays in a row now, I've been working every day for the last three weeks without a day off' (E9.Cy1).

The above reference to working everyday was a common complaint, as well as being often called in to cover shifts on short notice.

Interestingly managers referred to the EU working time directive and national employment legislation when discussing how the rotas were prepared, especially the provisions concerning maximum hours of work per week and rest periods between shifts. In practice, however, these regulations did not seem to be followed especially after the introduction of the new opening hours. A checkout manager acknowledged this issue:

"We now have the new law and lots of issues on working hours for the staff. [According to the law] they have to have three free mornings and three free afternoons every week. This was the law [so far] and we had to prepare the rotas

based on this. Of course [now] this is not always followed. We are open seven days a week and it's difficult to prepare the rotas you know. People have to work on Sundays, this is the new law, this is what we do now (LM3.Cy1)”

## Discussion

This paper has explored the regulation of working time in the grocery retail sector in the UK and Cyprus following the 2008 financial crisis. The literature section highlighted how working-time in retail grocery is regulated by a multiplicity of different actors. At the level of the EU, regulations present in both countries curtail the maximum number of working hours an employee could work in a given week. Yet, in accordance with Martinez-Lucio's and Mackenzie's framework (2004 and 2005), the literature further suggested limitations to this statutory framework and highlighted the ways in which regulation can be captured and performed by other actors beyond the boundaries of the state, notably employers. In both country's retail grocery sectors, employers at the enterprise level exercise increasing unilateral discretion over the rostering and scheduling of work. For the UK, this power held by employers has been assisted by the recent recession and a labour market characterized by extreme forms of flexible working practices such as ZHCs. In Cyprus, a more pluralistic approach to regulate working time was apparent, but increased competition, state reforms and the weakening of unions are establishing a more favourable environment for management to exercise their prerogative over working time.

The consequences of this capture of aspects of working time regulation was then explored empirically across retail grocery stores in the UK and Cyprus. The data revealed similarity and difference in employer strategies and employee experiences. Overall, in the UK the use of flexi-contracts illustrated the higher discretion available to management to regulate working time to meet their priorities. Managers use this tool for rostering and overtime in order to meet customer flow and save costs. For employees, the requirements of 'forced availability', frustration, growing unpredictability, increased difficulties in managing work-life balance were clear outcomes of these managerial regimes. The UK data in many ways paints a bleak picture, because commentators have called for the reform or abolition of ZHCs in favour of contractual conditions that guarantee at least some minimum hours (Adams and Deakin, 2014). Yet, this study has revealed how guarantees of working hours can ring hollow for employees under these regimes of forced availability, because it is management's unilateral control over rostering these guaranteed hours that degrades their employment. The

research, as similarly reported by Cunningham and James (2016), and in line with the analysis of Mackenzie and Martinez-Lucio (2005), suggests that where the state withdraws or neglects part of a regulatory space in liberal market economies, in this case the UK and Cyprus, the consequences are employer capture and unilateral decision-making. MacKenzie and Martinez-Lucio (2005) argue that regulation exists at various levels and changes at one level impact upon others. This study evidences the re-configuration of regulatory roles and suggests regulatory transfer beyond the boundaries of the state, enhancing the position of the employer in the regulatory space of working time (Mackenzie and Martinez-Lucio, 2005, 2014). This leads to even less autonomy and control of work for employees. The Cyprus cases highlighted how the recession and state intervention have pushed employers in retail to adopt harsh measures to reduce labour costs, with the capture and manipulation of rostering and attendance a key element in their strategies. Existing employees were subjected to forcible changes to their contractual status from full-time to part-time work, along with unpredictability regarding the timing and length of hours, cuts in income and, again, ‘forced availability’. Workers, in turn, reported increasing frustration, and a sense of powerlessness in the face of these changes. These cases also suggested the open flouting of EU and national regulations on length of the working week and rest breaks. Another disturbing finding from the Cyprus cases is the ability of employers to disregard changes in regulations designed to substantially decrease unemployment, in favour of sweating existing labour to save on costs.

Some of these findings reflect concerns of other writers. Standing (1999, p.81), for example, argues, when the organizations call for employees to be flexible it usually means they are asked to make concessions. The concessions expected of employees in this case appear to be growing ‘schedule insecurity’, allied to the possibility of greater financial instability, and increasing difficulties in managing work-life balance (see Wood and Burchell, 2014).

The phenomenon of ‘forced availability’ of employees raises new concerns and questions in the study of low paid work in the field of comparative, international human resource management (IHRM). Whether through formal contractual (UK) or informal, coercive management style (Cyprus) examples of ‘forced availability’ suggest employers appear to increasingly have the ability to compel employees to attend work outside their normal working hours and at times considered unsocial, e.g. Sundays, with limited additional rewards. The size of the sample of organisations and numbers of workers interviewed leads us to be cautious about the generalizability of these findings. Moreover, the sometimes informal nature of such practices poses questions regarding their sustainability if there is a

considerable improvement in the respective labour markets at sector and national level. Yet the characteristics of these management practices and consequences on employee well-being mark them as a significant contribution from this study and suggest a need for further international research to understand how widespread these practices are and the full consequences for employees.

In terms of the drivers of the phenomenon of forced availability, it is clear blame lies in intensified competition in grocery retail, the weakness of EU and state regulatory structures in not covering key areas of working time, as well as a lack of strong union representation. Yet we recognize that an absence or decline in influence of regulatory actors (e.g. the state or unions) does not preclude a reassertion of their role (Martinez-Lucio and Mackenzie, 2004). It would be simple to identify the state as the key actor in this regard, as the results of this paper suggest the need for re-regulation of rostering and scheduling. Such statutory measures can perhaps include new individual workplace rights for employees to refuse ‘compulsory’ demands for attendance outside of normal working hours. However, the way employers (according to this study) are able in certain contexts to ignore national and EU regulations suggests industrial relations institutions/collective bargaining should also have a role in policing and improving on statutory provisions.

## Conclusions

The theme of this special issue - ‘workplace regulation’ – prompted the use of Martinez-Lucio’s and Mackenzie’s framework to explore tensions in the regulation of working time in the retail grocery sectors of Cyprus and the UK. In doing so, it highlights the capture of rostering and scheduling by employers at the enterprise level as a key characteristic of the regulation of this key aspect of the employment relationship. It further explores the consequences of this ‘capture’ empirically. In doing so, it reveals how the limits of EU, state and industrial relations regulation, coupled with recessionary and sectoral pressures have enabled employers to recast working-time to more meticulously match the exigencies of customer demand with lean staffing levels. The consequences include the phenomenon of ‘forced availability’ which brings new concessions and insecurities among low paid and vulnerable workers. The article has further highlighted new avenues of concern and future research in the field of critical IHRM studies. In particular, the need to further research into ‘compulsion’ in working time in different sectoral and international contexts. Finally, it

suggests the need for collective and individual solutions from all regulatory actors to protect vulnerable workers in retail grocery sector and beyond.

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