



10 September 2021

Mr Mark Fitt
Committee Secretary
Senate Economics Legislation Committee

Dear Mr Fitt,

Thank you for the opportunity to make a submission to the Inquiry into *Treasury Laws Amendment (2021 Measures No. 7) Bill 2021* (the Bill).

Hireup supports the proposed amendments contained within Schedule 1 of the Bill, and we confine our remarks to this schedule. Schedule 1 seeks to require entities that operate electronic distribution platforms to report details about transactions relating to supplies made through those platforms, to the Australian Taxation Office. This will provide an additional layer of protection to ensure platform operators are accountable for the transactions of workers who use their platform in relation to their tax obligations.

Hireup is an NDIS-registered online platform for people with disability to find, hire and manage support workers who fit their needs and share their interests. It is one of the largest NDIS providers in the country, with more than 10,000 clients in the past year, and a similar number of support workers.

As a for-purpose organisation, Hireup made the decision to directly employ its workforce. This is because support work should be simple for the user, and for the worker. We believe support work is in most circumstances an engagement of employment, and that employment brings about benefits to the safety of our clients and workers, while better working conditions and guaranteed work entitlements lead to a higher quality service. Hireup takes care of the taxation, superannuation and other requirements and obligations on behalf of its workforce, so that our support workers can focus on what is important: delivering first class support to the people they work with.

However we are alone in this philosophy among platforms within our sector. Most disability support platforms instead choose to operate as a marketplace, facilitating connections between people seeking support and 'independent contractors', but stopping short of taking responsibility for legal obligations, such as tax. While it is out of scope for this Bill, Hireup believes disability support work meets, and has always met, the criteria of work that should be classed as 'employment'. This would mean that in most cases, a disability support platform meets the criteria of an employer or person conducting a business or undertaking (PCBU), whether or not the worker is engaged as a 'contractor'.

This Bill takes a small but meaningful step towards ensuring platforms that operate within the NDIS are taking responsibility for their legal obligations and workforce. There is still a long way to go.



The 2017 Black Economy Taskforce Final Report, on which this Bill is based, notes its purpose is “to make our society both fairer and more equitable by creating a level playing field.” The report also notes that honest businesses are frustrated with being undercut by competitors engaging in unscrupulous activities, including sham-contracting. Hireup shares this frustration, and supports the Australian Government’s efforts to remove the incentives for these kinds of activities, including the ability to abdicate responsibilities and transfer all taxation requirements onto their workforce and clients.

This is not just a Commonwealth issue, either. The ability to avoid state payroll tax by engaging the workforce as ‘contractors’ acts to further disincentivise employment models in favour of less costly models that can leave the workforce worse off and the longevity of the sector less secure. Evasion of payroll tax through misclassification of platform workforces may also have consequences for Commonwealth expenditure — if state tax revenue is eroded by widespread payroll tax evasion, states are more likely to need additional Commonwealth funding in order to maintain state services and programs. It is in all governments’ interests to ensure a fair and regulated system is in place, not only to govern business transactions but to inform regulators of potential breaches of law and to maintain that ‘level playing field’ referred to above.

While Schedule 1 of the Bill is supported, consideration should be given by the Government to further safeguarding the integrity of the sector by applying stronger auditing and compliance mechanisms to other aspects of the operations of such organisations.

Apart from the risk of avoiding tax payments, organisations working in the disability support sector who use a contractor model can bring about other risks to the integrity of the NDIS and the broader sector. For example, workers’ rights may be threatened when workers have no guarantee of minimum wages, no right to superannuation, nor entitlements, nor workers compensation insurance.

Perhaps more concerningly, by avoiding the status of an employer and the legal liabilities this brings, all of the responsibilities and liabilities for providing the service safely are placed on individual contractors, while NDIS participants are responsible for a healthy and safe workplace, or even potentially liable as a ‘deemed’ employer of the worker. This leaves both parties vulnerable to a raft of liabilities that we believe should be held by the platform in charge of arranging and managing these support connections.

Thank you again for the opportunity to submit to this important inquiry, and please don’t hesitate to contact me regarding this submission at [REDACTED].

Liam Caulfield
National Lead - Public Affairs
Hireup