

Submission to Senate Select Committee on Job Security

September 2021



Executive Summary

Uber welcomes the opportunity to provide feedback on the recommendations contained in the Senate Select Committee on Job Security interim report: On-demand platform work in Australia (the **interim report**). The interim report represents a significant body of work and Uber is pleased to add our voice to the national conversation on the future of work.

Uber supports a number of recommendations contained in the interim report, namely those that relate to data collection and the role of the Australian Bureau of Statistics. As the on-demand platform sector continues to evolve, it is sensible to ensure the Government has a comprehensive understanding of the sector based on accurate and timely data.

As a further contribution to a shared understanding of the sector and its experience through the COVID-19 pandemic, last month Uber released “Platforms Work”. This comprehensive report undertaken by Accenture offers a number of insights on the experience of the rideshare drivers and delivery people who worked using Uber’s platform during the first year of the pandemic.

We share the Committee’s commitment to safety. Uber continues to work collaboratively with state and territory governments and stakeholders to improve safety standards and we are pleased to advise the Committee of Uber’s commitment to the National Food Delivery Platform Safety Principles.

The interim report recommendations relating to industrial relations regulatory reform can be summarised as attempting to pull independent contractors closer to the characteristics of traditional employment. As highlighted in our first submission, drivers and delivery partners tell us flexibility is a key attraction to using the Uber app - the flexibility offered through working with Uber today is incompatible with traditional employment.

We believe a better approach is to evolve Australia’s workplace relations framework to preserve this valued flexibility while removing the disincentives and regulatory barriers that prevent independent contractors receiving benefits. This pathway also has the benefit of being minimally disruptive to the employment law that covers the majority of Australian businesses.

We remain committed to working with the federal, state and territory governments to ensure Australians continue to benefit from our technology.



The impact of COVID-19 Pandemic

The Committee's Interim report canvasses the impact of the COVID-19 pandemic across on-demand platform work. While platform work has been resilient, it has not been immune to the impacts of COVID-19 in the first year of the pandemic.

To explore the adaptability of platform work in response to a major crisis and uncover insights about work on rideshare and delivery platforms during the COVID-19 pandemic, in early 2021, we asked Accenture to survey nearly 5,000 workers across six countries, analyse our administrative data covering 7 million drivers and delivery people, and review the emerging literature on labour market impacts.

The results of Accenture's work, the 'Platforms Work' report, was released last month. It focuses largely on new platform workers and is, to our knowledge, the first report of its kind.

The report findings lend support to the findings in the interim report that the COVID 19 pandemic impacted Uber's businesses, drivers, delivery people and restaurant partners but of greater interest to the Committee is the findings on financial security and labour market connection.

→ **Platform work provided access to income, acting as an alternative source of financial security, particularly for new platform workers.** Across countries, between 57-73% of new platform workers had lost work or experienced a decline in hours prior to signing up and between 51-79% of new platform workers surveyed reported being ineligible for government support or not being able to access support¹. More than three in four (78%) said platform work was an important or essential source of income during the pandemic².

→ **Platform work helped people stay connected to the labour market.** The report indicates that across countries, between 10% and 24% of survey respondents who joined platform work during the pandemic were unemployed prior to starting³. Workers surveyed for the report who lost a job during the pandemic before joining platform work indicated that a connection to the labor market helped them to maintain skills, motivation, and work habits. 65% of platform workers who joined during the pandemic agreed that they gained valuable skills from platform work that can help their future work prospects⁴.

¹ Platforms Work, p34, available at <https://www.platformsworkreport.com>

² Ibid p8

³ Ibid p43

⁴ Ibid p44



→ **One of the consistently reported benefits of platform work prior to the pandemic across each of the countries was flexibility - and this only increased during the pandemic.** 81% of new platform workers surveyed reported that the flexibility to start and stop work at any point helped them to manage the health risks of COVID-19⁵.

The report also highlights that rideshare and delivery workers who began platform work during the pandemic reported high levels of satisfaction. Across rideshare and delivery workers in Australia, 81% of those surveyed were satisfied overall with platform work and 88% reported satisfaction with flexibility ⁶

A full copy of Accenture's Report is annexed to this submission.

On-demand platform work in Australia

Recommendation 1 The committee recommends that the Australian Bureau of Statistics expands its Labour Force Survey to capture quarterly estimates in relation to the number of workers engaged in the on-demand platform sector. These estimates could include the industries and occupations in which they work, the hours they work, their visa status, the nature of their working arrangements relative to other workers, earnings and other demographic characteristics.

Recommendation 2 The committee recommends that the Australian Bureau of Statistics enhances its Work-Related Injuries Survey to capture specific information on the number, and types, of injuries and fatalities for workers engaged in the on-demand platform sector.

Recommendation 3 The committee recommends that Safe Work Australia enhances its national data collection process to capture specific information on the number, and types, of injuries and fatalities for workers engaged in the on-demand platform sector. The committee further recommends that all road crashes involving on-demand workers be officially recognised as workplace incidents and are recorded and investigated as such.

Uber appreciates the Committee's recognition of the important role played by on-demand platforms for restaurants and workers during the COVID-19 pandemic.

⁵ Ibid p8

⁶ Ibid p26



We support efforts to improve understanding on the size and nature of the on demand workforce and a role for the Australian Bureau of Statistic to fill this gap. We note that on-demand platforms operate different business models and any research undertaken would need to take these differences into account.

The current regulatory regime

Recommendation 4 The committee recommends that, as a matter of priority, Safe Work Australia develops meaningful, high-level guidelines on the application of the model Work Health and Safety Laws to the on-demand platform (or 'gig') sector. The guidance should be aimed at addressing practices that incentivise unsafe behaviour, as well as enforcing compliance with safety rules and obligations. The guidance should not seek to unreasonably circumvent the obligations of on-demand companies through novel interpretations of workers as being a 'person conducting a business or undertaking' (PCBU), particularly when such workers in the on-demand sector are engaged in highly dependent or low-leverage work arrangements.

Recommendation 6 The committee recommends that the Australian Government works with state and territory governments to lead the reform of state-based workers' compensation schemes so that they extend to platform workers, regardless of their visa or work status, and require platform companies to pay workers' compensation premiums for these workers.

Whether a worker is an employee or an independent contractor, they should be supported to carry out their work safely. Uber remains focused on its commitment to raise the bar for safe delivery.

We have proactively worked with industry experts, the Government, partners and peers to help strengthen safety practices in the online food delivery industry and in July 2021 we were pleased to sign on to the **National Food Delivery Platform Safety Principles**, a world first for workers in the national food delivery sector.

Developed by food delivery platforms in consultation with peak industry body Ai Group, these Principles outline the standards of practice that food delivery platforms have committed to, to help ensure the ongoing safety of food delivery people. The Principles focus on safety practices including training and information, delivery equipment and personal protective equipment, support, standards and policies, consultation, and incident reporting and investigation.



Importantly these Principles take a nationwide approach to ensure accountability across every state in Australia. We firmly believe a nationally consistent approach to safety in the sector is the best way to ensure a high standard of safety.

Each signatory platform has pledged to adopt and implement these standards, while continuing to raise the bar through their own individual initiatives, technology and research. Importantly, the Principles include an accountability mechanism, with a review of the Principles and platform compliance, facilitated by Ai Group, to take place annually.

Within the Principles, we draw the Committee's attention to 3.6 which commits the signatory parties to:

Insurance coverage: Provide free, automatic insurance protections that cover delivery workers for accidental injuries that arise while delivering on food delivery platforms.

As detailed in our previous submission, in 2018 Uber launched a partner support and protection package for drivers and delivery people across Australia. The protection package extends benefits to our partners through an insurance agreement with Chubb for on-trip accidents, providing different types of payments if they are injured including payments if they are unable to work following an injury. This insurance cover is provided to delivery and driver-partners at no additional cost. Importantly, the policy provides fast response and payment to Uber partners when something goes wrong.

We believe state and territory governments should ensure all platforms provide insurance protection for workers and agree on a minimum insurance standard for platform work. This approach would enable platforms to maintain both the freedom and flexibility our partners value, while also delivering greater security and addressing concerns about protections at work.

Options for regulatory reform

Recommendation 7 - The committee recommends that the Australian Government expands the definitions of 'employment' and 'employee' in the Fair Work Act 2009 to capture new and evolving forms of work. In addition to an expanded definition of 'employment' and 'employee' under the Fair Work Act, there should be a mechanism by which the Fair Work Commission can extend coverage of those rights when necessary to workers falling outside the expanded definition of employment, including low-leveraged and highly dependent workers so they can be provided with standards and protections under the Act.



Recommendation 8 The Committee recommends that the Australian Government investigates options for a Federal regulator to be empowered to request data from platforms that employ and contract workers, including:

- pay rates;
- hours worked;
- other conditions governing that work; and
- other relevant information needed to appropriately monitor safety, competition and labour rights.

Recommendation 9 The committee recommends that the Australian Government gives the Fair Work Commission (FWC) broad powers to resolve disputes and make orders for minimum standards and conditions in relation to all forms of work. The expanded remit of the FWC would include:

- adjudicating in cases where there is a dispute in relation to the appropriate status of workers;
- setting binding minimum standards and conditions in relation to non-standard forms of work, regardless of employment status; and
- the capacity to resolve disputes (including where necessary through binding decisions) in a low-cost and effective manner.

The FWC should be empowered to make determinations and orders for groups and categories of workers, not just individuals.

Recommendation 10 The committee recommends that the Australian Government empowers the Fair Work Commission (FWC) to provide pathways to permanency via arbitrations for casual conversion. Any disputes with regards to work status, contractual arrangements, or casual conversion should be able to be arbitrated via a low-cost, accessible process, whether via the FWC or another body, to ensure workers are able to practically enforce their rights, and both workers and employers can have matters adjudicated quickly.

Recommendation 11 The committee recommends that the Australian Government provide greater protections for independent contractors who are sole traders by establishing an accessible low-cost national tribunal to advise on, oversee, and make rulings relating to employment relationships involving low-leveraged independent contractors, such as those in the rideshare and other platform sectors.

Consistent with our approach to safety, we believe everyone should have access to a set of affordable and reliable social protections, whatever category of work they are in. However, choice matters, and drivers and delivery people tell us consistently that they want and value flexibility.



The distinction between employee and independent contractor is often portrayed as a zero sum game, with benefits and protections on one side of the ledger and flexibility and autonomy on the other. To date, this approach has limited the provision of benefits to independent contractors.

We want to offer a better experience and more support and benefits through our apps for drivers and delivery people across Australia. However, providing additional benefits to independent workers is not something contemplated by the existing employment regimes and could create the risk of having partners lose their independent status.

The interim report also canvasses views expressed by witnesses that platforms are deliberately organising their structure to avoid having to provide entitlements. Respectfully, we submit it is the current distinction between employee and independent contractor that forces platforms to choose between benefits and genuine flexibility. This does not need to be the case.

We believe the solution is not to make independent contractors more like employees, nor bring them into the employment regulation space under the Fair Work Act. We do not support the recommendation to expand the definition of employer or employee nor to extend coverage of 'employment' rights workers falling outside the (newly) expanded definition of employment.

Rather, it is preferable to evolve and modernise Australia's workplace relations and tax framework to remove the disincentives and regulatory barriers that preclude independent contractors benefits. The issue could be remedied by an amendment to the Fair Work Act and tax laws to ensure the provision of benefits or protections to independent contractors is not disincentivised because of the potential impact on work status. Any further measures to regulate independent contractors should sit within a legislative framework that recognises independent contracting as a legitimate form of work arrangement rather than forcing these workers to be treated as employees by a different name.

This pathway also has the benefit of being minimally disruptive to the established employment law that covers the majority of Australian businesses.

Uber is keen to work with the Federal Government on reforms to improve the quality of independent work and extend the range of benefits and options available to independent contractors.