

23 November 2021

Committee Secretariat
Senate Select Committee on Job Security
Parliament House
Canberra ACT 2600
Via email: jobsecurity.sen@aph.gov.au

Dear Committee Secretary

RE: Responses to additional Questions on Notice

Thank you for the opportunity to provide further information to the Senate Select Committee Inquiry on Job Security. Below are responses by Woolworths Group to additional questions on notice by the Chair of the Committee. We also make some preliminary comments on the issues at the heart of this inquiry.

Fundamentally, we want to see the workers engaged in our network treated fairly, with access to adequate safety nets and we take steps to ensure our partnerships are structured to support safe and sustainable work. Equally, we know a large part of the attraction of new online platforms is flexibility, which being engaged as a contractor provides, including giving people the ability to accept or reject trips or deliveries and choose when, where and who they work for.

However, we acknowledge that these are difficult issues to balance and we welcome further debate in this area. We support reforms that would strengthen standards and safeguards for workers who are engaged by platforms as independent contractors, including the introduction of minimum standards on earnings, set by an appropriate Federal body. We think it is important that any proposals can also provide participants in the sector the flexibility that is important to them.

Question 1: In light of the Fair Work Commission decision on the Horticulture Award case, will Woolworths begin auditing compliance with minimum wage requirements at its horticulture suppliers once that requirement comes into effect?

Woolworths already conducts regular checks, including third party audits and site visits, on direct suppliers in our fresh produce supply chain and reports publicly on progress in our annual Sustainability Report and, more recently, our [Modern Slavery Statement](#). This due diligence includes a number of different elements such as: supplier training and capacity development, pre-harvest briefing sessions, third party audits, corrective action plans, site visits and worker engagement. Third party audits include criteria on legal wage requirements and will continue to do so under the revised Horticulture Award.

In higher risk categories, we have commenced additional due diligence on both indirect growers (tier 2) and labour hire providers in the supply chain.

Question 2: A Guidance Note in Woolworths' Responsible Sourcing Standards state:

“Living Wage

Woolworths believes that wages should always be enough to meet the basic needs of workers and their families and be able to provide some discretionary income for them.”

Does this belief extend to contractors who do not have a legal entitlement to the minimum wage and the National Employment Standards in Australia?

Response: Our approach to responsible sourcing has been in place for three years and we have been making solid progress. Woolworths' Responsible Sourcing Program is underpinned by two key documents.

- Woolworths Responsible Sourcing Policy ("the Policy")

The Responsible Sourcing Policy outlines our overarching commitment and approach to human rights in our upstream supply chain. All suppliers with whom the Woolworths Group has a direct relationship for goods or services sold or used are required to comply with Woolworths' Responsible Sourcing Policy.

- Woolworths Responsible Sourcing Standards ("the Standards")

The Responsible Sourcing Standards are a key way that we implement the Policy commitments and set out the 19 requirement areas which "*apply to all of our suppliers globally with whom we have a direct relationship for goods and/or services we sell or use in our businesses (other than suppliers of branded goods and services)*" (RS Policy pg 2).

The program itself includes:

- A risk-based approach to auditing supplier sites, based on the 19 standards described above, including wages and benefits, and working hours.
- Remediation of issues through follow-up audits, desktop reviews, site visits, and supplier guidance supporting continuous improvement.
- The promotion of effective primary and secondary grievance channels for workers.
- Internal and external capacity building.

Our first phase program (2018-2020) focused on the development, rollout and embedding of the Responsible Sourcing Program across Own Brand and Fresh categories. This has included targeted and proactive due diligence for some 2,500 suppliers of Own Brand and fresh categories as this is where we have the most immediate accountability based on proximity to risk and leverage. Last year we carried out 561 audits and ended relationships with 3 suppliers due to non-compliance to our standards.

As the Program applies globally - a supplier in Asia is covered by the same set of principles and expectations as a supplier in South America, Australia or New Zealand, for example - by necessity, the approach is broad. Our approach expressly recognises that there are a number of different legal frameworks and cultural environments that suppliers operate in. Some environments have much stronger controls, stronger workers' rights and better regulatory and enforcement structures than others. For this reason, it is intended to be interpreted and applied in the context of the jurisdiction in which the relevant supplier is operating, and particularly in countries where there is no regular mechanism for wage increases. For example, in February 2020, BIG W joined Action, Collaboration, Transformation (ACT) to address living wages in Bangladesh. ACT is an agreement between global retailers and trade unions to achieve living wages for workers through collective bargaining at industry level linked to brands' purchasing practices.

That said, there are some very clear statements of principle that apply. For example:

- All suppliers are expected to comply with relevant local laws and regulations in the countries in which they operate.
- All workers must be treated with respect and dignity, must be provided with a safe place to work and must have their rights to freedom of association respected.

Page 4 of the Responsible Sourcing Standards offers further explanation of the purpose of the Guidance notes contained in the Standard:

“This document comprises of 19 Standards and three thematic guidance notes. The Standards are numbered and form a part of our compliance checks. The guidance notes articulate our position in three key areas: remediating cases of child labour, characteristics of establishing an effective operational-level grievance mechanism and living wage. These are not audited against but offer suppliers guidance to assist in interpreting and implementing the Standards, where relevant. “

This guidance note, whilst not one of the Standards, outlines our ambition on living wage, and steps on how this may be achieved. It is designed as a guide to assist the interpretation of the Standards, for example, in some countries where there may not be a legal minimum wage.

We would note that our program approach is designed to facilitate a transparent and collaborative relationship with our supply partners and to encourage our suppliers to be open and honest about the challenges they face so we can work with them to find solutions. It is not designed to be punitive or draconian.

We are constantly reviewing our own standards, including opportunities to strengthen our oversight. At the time of drafting our RS Policy and Standards, the gig economy was not widely used in our supply chain. With additional gig partners brought on during COVID-19, we are considering the gig economy in further reviews of the RS Policy and Standards. As disclosed in our F21 Modern Slavery Statement, our next program phase (2021-2025) expands human rights due diligence across our value chain, including non-trade, operations and ecosystem partners, while maintaining a focus on higher-risk commodities/countries in our trade supply chain.

Question 3: Mr Windeyer said at the hearing:

“First of all, I articulated earlier that there's a range of different reports out there in terms of what people are earning per hour. We're not able to determine exactly what someone earns per hour because the participants can work on different platforms at different times. However, we're well aware that Accenture have put a report out that is well above the numbers that you quote, and, alongside that, the Victorian government recently commissioned a survey of 14,000 participants in the delivery and food-delivery gig-economy on-demand platforms, and both of those are well above the number that you've outlined there.”

To clarify (please answer each question separately):

(a) Is Woolworths aware that the Accenture report, that was commissioned by Uber itself, only provides the pay data for workers at peak mealtimes, and only in Sydney?

Yes, Woolworths is aware that Accenture's 'Making Delivery Work for Everyone' report provides earnings data for Uber Eats delivery workers at peak mealtimes in Sydney.

(b) Is Woolworths aware that the Accenture report states that at peak mealtimes, “the average delivery worker in Sydney takes home \$21.55 per hour”?

Yes, Woolworths is aware that the Accenture report makes this statement.

(c) Is Woolworths aware that \$21.55 is below the national minimum wage for a casual worker?

Woolworths is aware that the national minimum wage as determined by the Fair Work Commission that applies to employers and their employees is currently set at \$20.33, and for casual employees with 25% loading, it is \$25.41.

We understand that drivers and delivery people that use the Uber platform are engaged as independent contractors, as has been confirmed by the Fair Work Commission.

(d) Is Woolworths comfortable that a company it engages directly for delivery services has admitted that it pays its workers below the minimum wage? Particularly given the repeated references to the minimum wage within Woolworths' Responsible Sourcing Standards?

Woolworths' position is that drivers in the food delivery industry should be paid a fair rate for the work they undertake. We understand that drivers and delivery people that use the Uber platform are engaged as independent contractors, as has been confirmed by the Fair Work Commission. Under these arrangements they may also benefit from working across platforms, the ability to choose their own working hours and to maximise earnings during busy times.

We believe platform work also provides flexibility that may not be available with conventional forms of employment and often suits people who would like to be in the workforce but may have difficulty finding the flexibility they need to meet their personal circumstances, or those who are seeking supplemental income.

Our partnership with Uber is relatively new, and we will work with them to monitor driver earnings to ensure they are paid fairly for the work they are doing with us.

Woolworths supports minimum standards, including policy discussions on minimum standards for earnings for the industry, which still enable independent contractors to work flexibly and for more than one provider, and believes this should be set by the appropriate Federal body.

(e) Is Woolworths aware that the Victorian government report cited by Mr Windeyer, which is available online here, reveals on page 38 that only 108 respondents said they have worked for Uber Eats in the last 12 months, not 14,000 as implied by Mr Windeyer?

Woolworths has written to the Committee on this point to seek a correction to the transcript, where Mr Windeyer made an error in his response.

(f) Is Woolworths aware that the average hourly pay reported in the Victorian government report did not reflect pay on delivery and food delivery platforms, as implied by Mr Windeyer, but pay across on-demand platforms in numerous sectors, with the single largest platform represented being Airtasker, a platform that does not engage in food delivery? And that Freelancer, a platform for professional services, also accounted for more respondents than Uber Eats did?

Woolworths is aware that in the Victorian government report:

- the most common platform used by current platform workers in the previous 12 months was Airtasker (34.8%);

- Freelancer (11.8%) also accounted for more respondents who had worked on its platform within the last 12 months than Uber Eats (10.8%);
- Table 7 on page 43 of the report sets out the average approximate amount per hour earned by 'type of work' on the respondent's main platform. One of the types of work identified is 'Transport and food delivery'.

(g) Is Woolworths aware that the Transport Workers Union survey of food delivery workers, which is viewable on the Committee website in Submission 39, includes a survey of 209 food delivery workers? And is Woolworths aware that 67% of respondents in that survey (141 people) reported they work for Uber Eats, which means that that survey has a larger sample size than the Victorian report cited by Mr Windeyer?

Woolworths is aware that the TWU survey included a greater sample size of food delivery workers who use the Uber Eats platform than the Victorian government report. The TWU survey identifies that 67% of respondents used the Uber Eats platform in the survey period (141 people), whereas the Victorian government report identifies that 108 respondents used the Uber Eats platform in the survey period.

(h) Is Woolworths aware that the TWU survey reported average hourly pay after costs of \$10.42? And as low as \$6.67 an hour? And does Woolworths consider that an acceptable amount of pay for someone in its supply chain?

Woolworths does not consider that an average hourly pay rate after costs of \$10.42 or \$6.67 is an acceptable amount of pay for someone in its supply chain.

Woolworths is aware of the TWU survey referred to in the TWU's submission (Submission number 39) to this Committee which reports an 'actual hourly rate after costs' of \$10.42 on page 9 of the Submission. Mr Windeyer said at the hearing:

"...The rates that we are actually providing for Woolworths deliveries are sustainable, and when the operators are working for Woolworths from those platforms, they will not be earning \$6.67 an hour. They will be earning well above that."

Mr Windeyer's response needs to be considered in the context of the questions immediately following that response on page 50 of the transcript. On that page, the Chair asked Mr Windeyer the following question:

'... is it appropriate that somebody working for Woolworths is getting paid as little as \$6.67 an hour? You haven't answered that.'

Mr Windeyer responded:

'We don't have any evidence of someone earning \$6.67 whilst delivering for Woolworths on any of our platforms. We don't believe that that is the case, and there are many surveys out there that differ significantly from that ... If there were evidence of particular participants really earning \$6.67 whilst delivering for us, I would want to investigate. I would want that evidence so we could actually look into it, because it wouldn't be reasonable.'

Question 4: Mr Windeyer said at the hearing:

"The workers within it and the rates that we are actually providing for Woolworths deliveries are sustainable, and when the operators are working for Woolworths from those platforms, they will not be earning \$6.67 an hour. They will be earning well above that."

(a) Please provide the evidence that Woolworths has regarding the rates of pay Uber Eats workers delivering for Woolworths are receiving.

Woolworths has recently commenced its engagement with Uber Eats, which represents a small part of our overall delivery network for online orders.

We are aware that Uber has publicly stated that the average earnings per hour of its drivers on the UberEats platform across all cities and all hours is \$29. Our partnership with Uber Eats is new and as part of this arrangement it includes a commitment to quarterly reviews, which will include a review of safety and earnings. We are working with Uber Eats to confirm average earnings for drivers in our network. As well as regular safety and earnings reviews, we will also seek feedback from drivers on their experience on an ongoing basis.

Question 5: In response to a question on notice regarding the change over of store delivery supply chain contractor in Western Australia from Toll Group to Goldstar, Woolworths did not address the substance of the question, which concerned the pay gap between the two contracts. So to clarify:

(a) Is it true that many Toll Group drivers were not offered an opportunity to switch over to the Goldstar contract?

We understand from Goldstar that drivers who had previously worked for Toll were offered the opportunity to apply for roles with Goldstar.

(b) Is it true that drivers who did switch over are up \$400 worse off per week?

This is a concern that has been raised with us by the TWU. Whilst comparable, Toll and Goldstar have different enterprise agreements in place. The two companies may also take a different approach to other operational arrangements. The base rate between the two enterprise agreements is largely consistent, including potentially higher under the Goldstar EA in certain circumstances. The concern as raised is with respect to overtime, and the regularity of overtime worked for those drivers who did choose to switch from Toll to Goldstar.

However, as stated in our previous response, as part of the selection of any new carrier and through our contract discussions we undertake a number of detailed checks and balances, including comparing the enterprise agreement rates of pay against the underlying Award. Drivers under the Goldstar contract are earning up to 21 per cent above award levels.

Woolworths is pleased to have been able to award the contract to a local Western Australian company, building on the relationship that started with Goldstar in 2012.

Woolworths Group was the first retail organisation to establish a Foundational Safety Charter with the Transport Workers Union and the Charter continues to evolve. The Charter aims to ensure transportation of Woolworths freight by road in Australia is conducted in a way that best secures safety and sustainability for drivers engaged within our supply chain. These are ongoing conversations and priorities for us.

(c) If Woolworths does not know the answer to either of these questions, will Woolworths audit this arrangement per the Responsible Sourcing Standards?

In F20, we conducted a non-trade forced labour risk assessment. This included mapping all data to risk categories to correlate our products and services with its inherent risk scores. The risk data looks at inherent country risks from public domain data (e.g. World Bank, Transparency International).

As a result of this work, and as disclosed in our F21 Modern Slavery Statement, our next program phase (2021-2025) expands human rights due diligence across our value chain, including non-trade, operations and ecosystem partners. This will involve a bespoke strategy with our Primary Connect business to strengthen our processes and protocols in logistics as we are on a continuous cycle of improvement. This would include opportunities to review and enhance our controls where required, including audits as the appropriate verification of our standards.