

Thursday 26 October 2023

Supplementary Submission

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1. Introduction

Mable was grateful to appear before the Senate Education and Employment Committee in relation to the Fair Work Legislation Amendment (Closing Loopholes) Bill 2023. Following its appearance on 10 October, Mable wanted to provide the committee with this supplementary submission to answer a question placed on notice and provide further background to aid Senators in their deliberations.

2. Question placed on notice by Senator David Pocock

Mable was provided the following question:

Minimum periods of engagement is another issue that has come up - the HSU and others have made the comparison that the award provides for a minimum two-hour period of work - you have some concerns that these changes could lead to your clients having to offer this as well, is that correct?

An employed support worker is directed by their employer to provide support in terms of services, timing and location, hence the two hour minimum shift under an award. Their remuneration is determined by their employer. Independent contractors on the other hand can choose to provide a service at a particular time and location, and determine the price for providing that service.

Not surprisingly, in order to live independently at home and be included in the community, there is a genuine need at times for support that is less than two hours. There is also a genuine interest by some independent contractors to provide this support at an appropriate price where convenient. Using platform technology to connect people locally, increases the transparency to help independent contractors make informed decisions, while also increasing convenience and decreasing travel time.

If there was an imposed minimum standard of a minimum two hour service charge, people would either have to pay more for their support and reduce support in other parts of their life, or go without support at times. It will decrease quality of life, independence and inclusion.

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This approach undermines the role of technology and independent contracting in enabling flexible solutions that work for both parties, that is the person needing support and the person providing support.

On the Mable platform, approximately 20 per cent of services were less than two hours last financial year. By way of example, a client may need a short period of care in the mornings and evenings to get in and out of bed. Two hour minimum shifts may see the number of days they are able to receive support cut in half. Alternatively, the Government will need to provide additional funding.

It is worth acknowledging the benefit of Mable's low overhead model is that clients can pay less, while paying their support providers more. This is particularly pronounced in aged care. An older person with a level 4 Home Care Package (\$59,593.55 in annual funding)¹ might receive 10 to 12 hours of care a week from a traditional provider (the Aged Care Royal Commission found the average was 8 3/4 hours per week), while self managing their home care package using Mable, due to the lower overheads, they can typically receive from 14 to 18 hours of care per week. These additional hours of care and support each week materially improves an older person's ability to live independently in their own home as they age.

3. Earnings on the Mable platform

There was some discussion by the Committee about earnings on the Mable platform. This is understandable as all stakeholders involved, including Mable, want to make sure independent contractors are fairly remunerated for their important work. It was suggested that the average rates Mable provides are an imperfect comparator, and this is a fair observation.

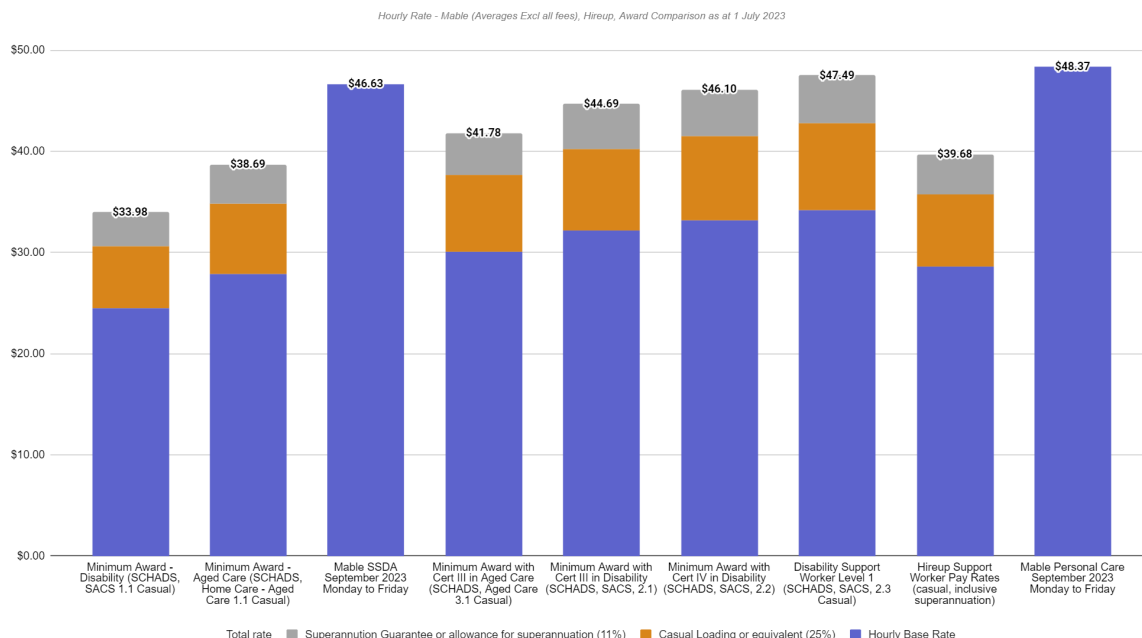
The data provided to the Committee in our submission was from July 2023 – at that time – the most up to date data. However, while changes to the Award happen effectively overnight – and increased on 1 July 2023 – earnings on the Mable platform adjust in response to market conditions more gradually. Put another way, over the course of a twelve month period, earnings on the platform typically increase month on month. Average rates have been observed to have increased approximately 8 to 10 per cent per annum over the past two years. Mable expects average rates on the platform to continue to increase, in part reflecting increases in awards, which cause funding packages to be adjusted upward, enabling overtime independent contractors to adjust their rates higher while remaining competitive.

Therefore, Mable would like to provide the Committee with updated data to enable a more accurate comparison against the Disability Support Worker model highlighted by Senator Payman. It is worth keeping in mind that, as the Committee has heard, many of our competitors in the disability sector with employed workforces including Hireup, who, as shown in the table, pay well below the award amounts being referenced as forming the basis of NDIS price caps. These providers instead classify their employed support workers as "Home Care" rather than "Social and Community Services" (or SACS) employees. Many others pay their employees entry level positions under the SACS component, but do not see 2.3 level (the basis of Disability Support Worker 1) as "entry level", using 2.1 and 2.2 as entry points instead.

¹ "Home Care Packages", My Aged Care, accessed: 17 October, [link](#).

The Disability Support Worker Model (DSW) uses levels under SACS which assume a relatively high level of qualification. The Australian Services Union (ASU) contention was that Disability Support Worker 2 (SACS 3.1) should be the default for all people providing support under the NDIS, including via the Mable platform. However, even Disability Support Worker 1 is based on SACS 2.3, which is above the entry point for an individual with a Certificate IV in Disability Care.² Generally speaking, individuals working across the category Social Support and Domestic Assistance (SSDA) on the Mable platform, do not have a qualification. Whereas many of those working in personal care, which requires a qualification on the Mable platform, hold a Certificate III, not a Certificate IV. Mable understands that very few people working as disability support workers in the industry are paid as Disability Support Worker Level 2, and those that are usually work in supervisory roles. As such, the below table has been updated to include Disability Support Worker 1 but Mable notes there is considerable variability in the award rates paid for disability support work. This is illustrated in the table with Hireup paying its casually employed workforce \$39.68 per hour including superannuation, well below Disability Support Worker 1 and well below the average earned on the Mable platform.

For the avoidance of doubt, the below Mable averages for social and domestic assistance and personal care are **exclusive of all Mable platform fees**. Furthermore, the averages may exclude reimbursement for expense items, which can be claimed separately. For example, through the Mable platform it is possible to bill the cost of travel in line with practice in the NDIS elsewhere. This is calculated on a per kilometre basis. However, this money paid to support providers is excluded from the calculation of earnings.



² Based on information provided through the Pay and Conditions Tool (PACT), Fair Work Ombudsman, accessed 18 October, [link](#).

4. Mable's margin

There was some discussion of Mable's margin. As previously advised, this amounts to 16.6 per cent of what the consumer pays. To illustrate this more clearly, below is an example using a whole figure of \$100.

Agreed rate (<i>decided between the independent contractor and their client</i>)	\$100
Total paid by client	\$107.95
Total received by the support provider (independent contractor)	\$90
Client platform fee	\$7.95
Support provider platform fee	\$10
Total Mable platform fees	\$17.95
Total Mable fee as a % of consumer payment	$\$17.95 / \$107.95 = 16.6\%$

Notably, and for the avoidance of doubt, Mable's platform fees **never exceed 16.6 per cent of the total amount paid by the client**. All claims to the contrary are false. Furthermore, this margin compares very favourably with other providers in both aged care and disability outlined in the table below using publicly available data. Contrary to the earlier testimony, the total amount paid by the consumer when engaging support via the Mable Platform is not set by the NDIS. It is determined based on the rates agreed between the consumer and the independent contractor and applying Mable's percentage platform fees. It is therefore completely incorrect to suggest that the lower the rates earned by independent contractors on the Mable platform, the more Mable earns. In fact, the contrary is true. **The more the independent contractor earns, the more Mable earns.** By lowering overheads and charging only a total of 16.6 per cent in fees, both consumers and support providers on Mable are substantially better off on average financially.

By comparison, based on Hireup's website which publishes rates paid to its casual employees (including super) and rates charged to Hireup's clients, **Hireup's fee margin is 33.8 per cent**. Note this fee margin is not funding superannuation or casual loading as these amounts as noted are already incorporated into the published rate paid to its casual workforce.

While Hireup's testimony is that costs which benefit its workers should not be considered part of its margin, this is a peculiar argument. Mable also uses fee revenue to the benefit of support providers in an indirect sense, after all Mable has made substantial investments in comprehensive insurance, a learning hub, business tools, trust & safety protections and access to a wellness platform and counselling. For the avoidance of doubt, in describing a fee 'margin', Mable describes the proportion of funds spent by the client (aged care or disability participant) which are retained by the platform. This excludes the funds which are

transferred to the independent contractor in payment of their invoices. On Mable, the portion retained is 16.6 per cent.

Further, given that Hireup told the Disability Royal Commission that 98.5 per cent of its employees are casual³, it is somewhat difficult to believe that Hireup would have a substantial long service leave liability and, as outlined above, the calculation of 33.8 per cent below takes into account both the cost of superannuation and casual loading, as these are included in the amount paid to Hireup's employees. Mable understands the 98.5 per cent casual employees figure that Hireup provided to the Disability Royal Commission included head office staff. If head office staff – who would be almost 100 per cent permanent – are excluded, and only the employees providing direct support are counted, it is likely that the percentage that are casual would be closer to 100 per cent.

Other providers

Provider	Per hour pay to worker Mon-Fri	Per hour cost to client Mon-Fri	Margin ⁴
Mable - Personal Care	<i>Varies (negotiated by parties)</i> <i>Average is \$48.37</i>	<i>Varies (negotiated by parties)</i> <i>Average is \$58.00</i>	16.6 per cent
Hireup	\$39.68 ⁵	\$59.95 ⁶	33.8 per cent
<i>Traditional Aged Care Providers</i>			
BaptistCare NSW & ACT/Baptcare	\$41.78 ⁷	\$72.80 ⁸	42.6 per cent
Catholic Healthcare	\$41.23 ⁹	\$76.00 ¹⁰	45.75 per cent
HammondCare	\$41.23 ¹¹	\$78.00 ¹²	47.14 per cent
Silver Chain	\$41.78 ¹³	\$84.71 ¹⁴	50.68 per cent
Uniting Care	\$46.63 ¹⁵	\$76.00 ¹⁶	38.64 per cent

³ Transcript, Disability Royal Commission, 17 February 2023, [link](#), p. 416.

⁴ Calculated by taking the base worker pay (M-F) inclusive of superannuation and the amount charged to the client and dividing the difference by the amount charged to the client.

⁵ Hireup base worker pay (M-F) inclusive of superannuation and casual loading see [here](#).

⁶ Hireup fee to client (M-F) see [here](#).

⁷ Based on [this advertisement](#) for Care Worker, inclusive of casual loading and superannuation.

⁸ Cost of Home Care Services, Baptistcare, p. 3, [link](#).

⁹ Based on [this advertisement](#) for a Community Support Worker, plus casual loading and superannuation.

¹⁰ Cost of Personal Care, See Home Care Package Price Guide, Catholic Healthcare, effective July 2023, [link](#), p. 2.

¹¹ Based on [this advertisement](#) for a Home Care Worker, plus casual loading and superannuation.

¹² "Care and Support Services", *A guide to fees and charges*, Hammondcare, 20 September 2023, [link](#), p. 2.

¹³ Based on [this advertisement](#) for a Personal Care Worker (casual), plus casual loading and superannuation.

¹⁴ "Personal Care", "Costs and contributions", Silver Chain, accessed: 24 October 2023, [link](#).

¹⁵ Based on [this advertisement](#) for a homecare worker at \$33.61, plus casual loading and superannuation.

¹⁶ Cost of Home Care Service - Support Worker, See *Home Care Package Price Guide*, Uniting Care, Effective 31 July 2023, [link](#), p. 2.

<i>Traditional NDIS Providers</i>			
Activ (NDIS) ¹⁷	\$36.41 ¹⁸	\$66.45 ¹⁹	45.21 per cent
Cerebral Palsy Alliance (NDIS) ²⁰	\$44.69 ²¹	\$65.47 ²²	31.74 per cent
genU (NDIS) ²³	\$44.69 ²⁴	\$66.45 ²⁵	32.75 per cent
Life Without Barriers (NDIS) ²⁶	\$44.69 ²⁷	\$66.45 ²⁸	32.75 per cent
Sunnyfield disAbility Services (NDIS) ²⁹	\$41.63 ³⁰	\$66.45 ³¹	37.35 per cent
Somerville (NDIS) ³²	\$44.69 ³³	\$65.47 ³⁴	31.74 per cent

The above margins for traditional providers (i.e. excluding Hireup and Mable) are **illustrative** and based on a fair appraisal of job advertisements (with 25 per cent casual loading added where rates are for permanent employment and 11 per cent superannuation added) in comparison to publicly available information on charges to clients. It is likely margins vary for service categories, it is for this reason Mable usually describes its margin as comparing favourably to the 30 to 50 per cent charged by its competitors.

Note as the table above illustrates, the lower fee margin on Mable (16.6 per cent) versus Hireup (33.8 per cent), means independent contractors on Mable earn more on average than casual employees on Hireup on a directly comparable basis, while at the same time, NDIS participants pay on average less on Mable than charged by Hireup. Both support providers and participants are financially better off when engaging directly with each other via the Mable platform.

¹⁷ Activ charges the NDIS Price Limits, see [here](#).

¹⁸ Based on [this advertisement](#) for a Support Worker, plus casual loading and superannuation.

¹⁹ "Item Number: 01_011_0107_1_1_T", NDIS Pricing Arrangements and Price Limits 2023-24, NDIA, effective 1 July 2023, [link](#), p. 58.

²⁰ CPA bills in line with the NDIS Price Limits, see [here](#).

²¹ Based on [this advertisement](#) for Disability Support Practitioner Casual, plus superannuation.

²² Ibid.

²³ genU charges in line with the NDIS Price Limits see [here](#).

²⁴ Based on [this advertisement](#) for a Disability Support Worker, plus casual loading and superannuation.

²⁵ Ibid.

²⁶ Life Without Barriers charges in line with the Price Guide, see [here](#).

²⁷ Based on [this advertisement](#), inclusive casual loading, plus superannuation.

²⁸ Ibid.

²⁹ Sunnyfield charges subject to the Price Limits, see Terms and Conditions, [here](#).

³⁰ Based on [this advertisement](#) for a Support worker, plus 25 per cent casual loading and 11 per cent for superannuation.

³¹ Ibid.

³² Somerville charges in line with the NDIS Price Limits, see [here](#).

³³ Job [advertisement](#) suggests pay starts at SCHADS SACS 2.1.

³⁴ Ibid.

5. Meet & Greet

Mable was asked a number of questions relating to Meet & Greet on its platform. In its testimony, Mable confirmed that Meet & Greet are not mandatory.³⁵ Mable does not collect data on the length of meet & greet, however, our understanding is that these commonly last for less than an hour. Furthermore, Mable does collect data on whether a Meet & Greet has taken place prior to an agreement being established, when the Meet & Greet is arranged through the platform and can advise that only 14.7 per cent of client and support provider relationships are preceded by a Meet & Greet. **As such, 85.3 per cent of agreements, an overwhelming majority, began without a Meet & Greet.**

The Meet & Greet is predominantly used for both parties to assess mutual “fit” and to enable them to decide if they want to work together and on what terms. It is important to note that not all Meet & Greet are initiated by clients, in fact, the data shows that **50 per cent are initiated at the request of the support provider**. It is an optional feature taken up by only a minority of clients and support providers. Alternatively, the parties might make this “fit” assessment via text and voice calls, and explore this further as services are provided. Of these Meet & Greet, 27 per cent were not in person (happening either virtually or via a phone call). The remaining 73 per cent were in-person, but these were not necessarily at a client’s home and generally occur at a neutral third location such as a cafe. After discussing this matter with both clients and support providers on the platform, Mable understands issues such as safety inspections and more detailed instructions as to how someone needs to be supported are generally addressed during the first support session, which is remunerated, not during Meet & Greet.

Furthermore, all support providers have the ability to account for all business costs in setting their rates and support providers on the Mable platform are encouraged to consider these matters when negotiating rates.³⁶

6. Nature of Engagement

During the hearing, witnesses from Hireup cited a figure from the recent *Own Motion Inquiry into how Platform Providers operate in the NDIS Market* that 70 per cent of support workers thought they were employees of a platform.³⁷ While this was a finding of the NDIS Commission, the statement lacks context. The full table is provided below from the report. The Commission spoke to 306 individuals, of whom 62 (20 per cent) identified as non-platform workers. Furthermore, of the remaining 184 individuals that both worked on a platform and believed that they were an “employee”, it is unclear how many actually are employees. Mable understands Hireup employees participated in the NDIS process and it is unclear what proportion of these 184 individuals, therefore, might actually be employees of a platform.³⁸ In addition, a number of people who are independent contractors are also employees of traditional providers. Respondents may have also been confused by different labels, as independent contractors often consider themselves self-employed.

³⁵ See: “Meet and greet with a client: what you need to know”, Mable, last updated 22 December 2022, [link](#).

³⁶ See: “Managing rates and expenses: finding what works for you and your client”, Mable, last updated 27 January 2023, [link](#).

³⁷ *Insights Report Own Motion Inquiry into how Platform Providers operate in the NDIS Market*, NDIS Quality and Safeguards Commission, September 2023, [link](#), p. 8.

³⁸ *Ibid*, p. 18.

Service Provider View of Role	Platform Provider Workers	Non-Platform Provider Workers	Total	% Total
Employee	184	31	215	70%
Sole Trader	42	13	55	18%
Contractor	14	7	21	7%
Business Owner	4	11	15	5%
Total	244	62	306	100%

Mable also believes this data point is not consistent with:

- Other data points, such as the YouGov survey of 1,549 support workers, including self employed support providers on Mable, individuals working at Hireup and those at traditional providers. YouGov found 87 per cent of self employed workers prefer to be self employed. Similarly 88 per cent of employed workers, prefer to be employed. This demonstrates that people are participating in the sector in their preferred model or work: employee or independent contractor
- The same YouGov survey showed that 81 per cent of support providers on Mable were putting aside funds for taxation purposes and 59 per cent were putting aside funds for superannuation (with the minority that did not, having a reason for this decision, such as being retired). This demonstrates that individuals on the Mable platform understand the nature of their engagement, even if the nomenclature can sometimes be confusing.
- The reality of independent contractors on Mable providing ABN's, setting prices, and engaging directly with clients to determine if they are agreeable to providing services and on what terms.
- The Own Motion inquiry data on participant understanding which showed that participants' understood the mode of engagement with only 17 per cent understanding they were an Employer Hiring a Worker (see below table).³⁹ Most correctly saw themselves as a Consumer Receiving a Service or a Consumer hiring an independent contractor.

³⁹ Ibid, p. 18.

Participants/Carers/Family View of Participants Role	NDIS Participant	Carer, Guardian or Family Member	Total	% Total
Consumer Receiving Service	73	77	150	48%
Consumer/Person hiring Independent Contractor	38	39	77	25%
Employer Hiring a Worker	36	18	54	17%
Other	12	18	30	10%
Total	159	152	311	100%