



Wednesday 9 August 2023

Ms Libby Coker MP
Member for Corangamite
Chair
Joint Standing Committee on the National Disability Insurance Scheme
Email: Libby.Coker.MP@aph.gov.au

RE - NDIS General Issues Inquiry

Dear Ms Coker

Further to our previous submission dated 16 March 2023, I wish to provide a response to *Submission 34* to this inquiry and address a number of claims by the Health Services Union (HSU).

Overview

Mable agrees on the goals of lifting care and support quality and safeguards and improving outcomes and training for the care and support workforce. These goals are entirely consistent with the operations of the Mable platform. The submission by the HSU is otherwise based on presenting incorrect data and information about Mable and a fundamental misunderstanding and mischaracterisation of how the platform operates. This submission seeks to correct the record. We hope the HSU takes this information into account when making future submissions.

The HSU's submission intentionally confuses gig economy platforms, notably in rideshare and food delivery, with the ever growing number of entrepreneurs and small businesses who use digital marketplace platforms in their business, as happens on Mable. We need to move beyond this limited and conflated understanding and acknowledge the emerging field of market design and the critical role marketplace platforms can and are playing in supporting a successful NDIS. "Market design" principles and methodology and the application of computation, communication and coordination technologies is discussed in the Centre for Market Design's paper "Markets and the NDIS".¹ The paper recognises: the uneven bargaining power between NDIS participants and large disability providers, the prevalence of thin markets that limit choice and cost effective access to services, the challenge of regulating quality versus incentivising quality and the opportunity to lower transaction costs. Marketplace platforms like Mable in the care and support sector: (i) even bargaining power, incentivise quality and strengthen informed decision making through greater transparency, information and competition, (ii) thicken markets by increasing participation, information and connections, (iii) efficiently and effectively help match the diverse needs, preferences, circumstances and goals of people needing support with the diverse needs and preferences of individuals providing support (considering availability and locality), increasing both utility and productivity, and (iv) lower overheads so people can pay less, while service providers can earn more. The Mable platform operates with a strong commitment to safeguarding all users and respects the regulatory framework.

The gain from marketplace platforms is not dependent on exploiting anyone, nor is it reliant on people being uninformed. Quite the reverse. Both sides of the market are customers of

¹ *Markets and the NDIS*, Centre for Market Design, 2023, [link](#).



the platform offering. Unless each side is presented with a compelling value proposition in terms of quality, safeguards, outcomes, and administrative efficiency in return for platform fees, they will engage elsewhere. There is no dependency on Mable or control exerted by Mable. Mable's platform operation bears no similarity to gig platforms.

The HSU submission is also missing the opportunity to be informed by older people, people with disability and independent contractors. We include YouGov survey data that provides important insights into the experience of our community versus the experience of people who engage via traditional support models.

Finally and importantly, there is no one right model for people who need support nor for people who offer support. Australia needs a diverse and vibrant market comprising large providers and small providers, including independent contractors, registered providers and non-registered providers, and marketplace platforms. This is necessary if we have any hope of responding to the diverse needs and preferences of older people and people with a disability who live, not just in metropolitan cities, but also in regional and remote communities right around Australia. Picking a preferred model will be detrimental to individuals, families, communities and the workforce.

Responding to the HSU

The HSU has it:

...maintains that independent contractor model platforms in the disability sector exercise considerable control over workers they engage, and those who declare their employees to be 'independent contractors' do so exploitatively.²

This is an opinion and one not based on evidence. In *Jamsek*, the High Court clearly distinguished between independent contractors and employees.³ Mable does not make any such declaration. Independent contractors on the Mable platform choose to present themselves to the market as independent contractors. Any "confusion" in such arrangements is generated solely by self-interested parties who have an ideological opposition to independent contracting.

There is nothing exploitative about the operations of Mable's marketplace platform that supports small businesses operating in the care and support sector. The independent contractors are fully empowered to determine their services, rates and terms, who they provide services to and when. There is equal bargaining power in negotiating and contracting with other individuals in their community who value their services. Service providers earn high average rates, which have been rising year over year and report high levels of satisfaction.

It is worth keeping in mind that Mable and other platforms have not created the circumstances that have led to an increase in independent contracting in care. Instead, our platform is responding to consumer choice. Further, it is likely that there are now more contractors in the care economy working off platforms than on platforms. A single Facebook page for support workers and clients to connect now has more than 50,000 participants.⁴ This one Facebook page is larger than any industry-specific platform operating in the care and support economy, including Mable. There are dozens of such Facebook pages. This

² Submission 34, Health Services Union, NDIS General Issues Inquiry, June 2023, [link](#), p. 13.

³ High Court changes direction on independent contractors, Gilbert + Tobin, 21 February 2022, [link](#).

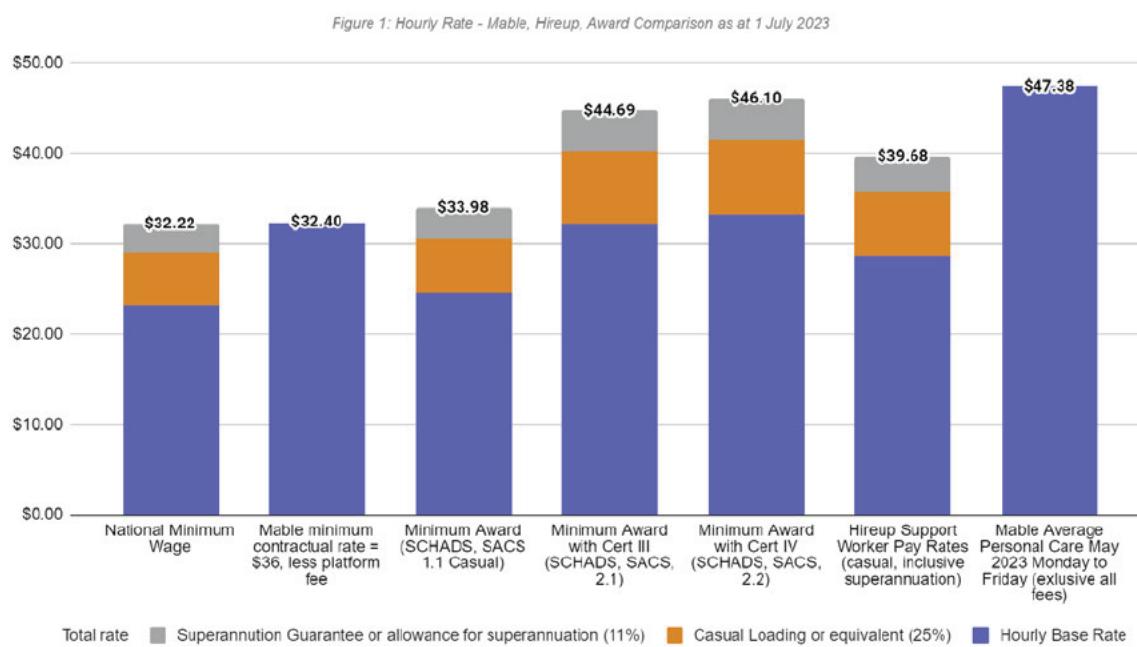
⁴ "NDIS Participants / Sole Traders & Independent Providers (Directory)", Facebook, accessed: 7 August 2023, [link](#).



demonstrates that contracting is happening in care, regardless of the participation of Mable and its platform competitors. Mable is simply one option among many for people who need support and people who offer support.

It is interesting that when the HSU provides information about remuneration for Mable support providers, it inevitably chooses to draw upon outdated data. The union has also misrepresented that data, for example, in the diagram in the HSU submission, the \$42 per hour average figure attributed to Mable – which is out of date – is also presented inaccurately by subtracting a platform fee from a figure that was already presented *exclusive* of platform fees.⁵ The current average rate for Personal Care qualified providers on the Mable platform, Monday to Friday **after platform fees**, is \$47.38 per hour. To give the HSU the benefit of the doubt, at the time it drafted its submission, the \$32 per hour minimum contractual rate might have been in effect on the Mable platform. However, as of 1 July 2023, the minimum contractual rate on the Mable platform increased to \$36 per hour.

Given the complexity of this issue and for the benefit of the Committee, we have updated the HSU table, which is accurate as at 1 July 2023 and includes all of the relevant price points.



It is worth noting that the HSU argues that the relevant award for disability support work under the NDIS is SCHADS Social and Community Services (SACS) 2.2. However, most disability support workers do not earn this award rate. For example, Hireup, a Registered NDIS provider – whose model the HSU advocates for – pays under the lower “Home Care” component of SCHADS.⁶ Instead of paying the \$46.10 per hour casual hourly rate inclusive of super as argued by the HSU, Hireup pays their casual workers \$39.68, inclusive of super.⁷ Please note this is not intended as a criticism of Hireup. Similarly, we don’t believe this is the most relevant award point for comparison to the average rate on Mable for personal care as Certificate III is more common than Certificate IV across the industry. In addition, independent contractors on Mable also support people with aged care at home funding. For

⁵ Health Services Union, op cit, p. 13.

⁶ “How much do support workers get paid?”, Hireup, accessed: 7 August 2023, [link](#).

⁷ “Support worker pay rates”, Hireup, accessed: 7 August 2023, [link](#).



easy comparison, we included the Hireup rate, inclusive of casual loading and superannuation in the table. Finally, it is also worth noting the minimum contractual rate on Mable allows for the wide variety of services offered via the Mable platform, many of which would not fit under the SCHADS award.

The HSU has also claimed:

On-demand platforms which treat workers as 'independent contractors' (e.g. Mable) offer lower prices to NDIS participants by sidestepping statutory labour standards.⁸

Firstly, Mable is not an “on-demand” platform. That label is generally applied to vertical platforms such as Uber. Mable is a marketplace platform where support providers (who are independent contractors) and clients (who are people with disabilities or older persons) connect to form relationships based on what’s important to them and directly negotiate on issues such as price, services, availability and the conditions of work. Secondly, the suggestion that using independent contractors is “sidestepping statutory labour standards” is specious. In Australia, there has long been a distinction between independent contractors who are covered by commercial law and employees who are covered by employment law. NDIS participants who choose to be supported by an independent contractor – whether on or off a platform – are no more “sidestepping statutory labour standards” than any Australian that patronises the services of one of the 1.5 million sole traders in Australia.

It is not the case that platforms like Mable enable a “race to the bottom” over worker entitlements and conditions.⁹ Instead, the high average rates earned on the Mable platform – which are higher than relevant awards even when including 25 per cent casual loading and 11 per cent superannuation – mean independent contractors have the funds to contribute to superannuation and set aside money for leave. Independent survey data has shown the majority of support providers are planning for superannuation, taxation and leave. Those that are not doing so, have shown they are making informed decisions, the main reasons cited being that they are retired.

However, the HSU is correct that disability support is “not simply a series of one-off gigs”.¹⁰ As we have sought to explain many times, this is true on the Mable platform as it is elsewhere. While there are short-term arrangements procured through the platform, as there are through traditional providers – for example, for last-minute needs, covering the leave of other providers or even local support when travelling – the majority of relationships on the Mable platform are medium to long term. Notably, 48 per cent of all relationships on the platform between support providers and clients are six months or older, and the proportion of multi-month and multi-year relationships continues to increase as the marketplace matures.

It is very curious that the HSU has chosen to, once again, insist that individuals are better off working on the Hireup platform than the Mable platform.¹¹ This is peculiar for a number of reasons, firstly because, as demonstrated in *Figure 1* and mentioned above, the average rates earned on the Mable platform far exceed the rates paid on the Hireup platform. Secondly, the HSU has railed against NDIS providers that pay under the *Home Care (Disability)* component of the SCHADS award rather than the SACS component.¹² Yet Hireup bases its pay rates upon the Home Care component of the award.¹³ It should be noted NDIS

⁸ Health Services Union, op cit, p. 13.

⁹ Ibid, p. 13.

¹⁰ Ibid, p. 13 - 14.

¹¹ Ibid, p. 14.

¹² Ibid, pp. 12 - 13.

¹³ “How much do support workers get paid?”, Hireup, accessed: 7 August 2023, [link](#).



participants also pay less on average when engaging support via Mable relative to Hireup. This reflects Mable's low platform fees, a 16.6 per cent difference between what the consumer pays and what the support provider earns. Hireup's difference is 33 per cent. In this regard, Mable is addressing a criticism by a HSU member in their submission, who stated "The gap between what the participant pays and the worker receives is too big".¹⁴ In my view, there is no one preferred model in the care and support economy. There are simply different approaches which appeal to different people for different reasons. Diverse models are critical in the care and support economy.

More broadly, while the HSU has claimed, "Price competition is forcing downward pressure on wages and conditions",¹⁵ that has not been Mable's experience. The advantage of the Mable model is that lower overheads have unlocked more funding for the remuneration of the workforce. This means that even while on the Mable platform, on average support providers are paid above the Award, the vast majority are able to charge below and even well below the NDIS Price Limits. In a recent survey, Mable found approximately 85 per cent of supports provided through the platform were neither at nor near NDIS price limits, as opposed to the most recent Financial Benchmarking Survey, which found 83.4 per cent of providers in the total NDIS market always set their prices at the price limit.¹⁶ As such, competing on price and value does not have to come at the expense of an individual's earnings.

What does the workforce actually think?

I note that the HSU has undertaken a survey of its members. Mable has no knowledge as to the level of union membership among independent contractors on its platform, however, we do not believe their survey results are representative of independent contractors on Mable. Further, the HSU submission does not take into account the experience of people with a disability who use Mable and other platforms.

Mable recently commissioned a detailed survey of the workforce on the platform, from YouGov, which will soon be published. This survey covered 1,549 individuals working in the care and support economy, both support providers delivering services via Mable and support workers employed by traditional providers. YouGov conducted the study online from 17 April to 5 May 2023. The survey also included 894 responses from people who have a home care package or were assisting someone with a home care package and 631 from people who were NDIS participants or assisting someone with an NDIS package.

This independent research demonstrates that independent contracting and employment in the care and support economy represent complementary rather than competing workforces. Support providers on the Mable platform are actively choosing self-employment. Self-employment is not for everyone but it is an important pathway for those individuals who choose to start a small business in the care economy. Independent contractors, including those who offer services via Mable, complement the existing employed disability workforce and lift overall workforce participation in the care economy.

In this survey, support providers showed clear preferences with regard to employment or self-employment, with 87 per cent of independent contractors on Mable preferring to be self-employed and only 13 per cent preferring to be employed. Similarly, 88 per cent of people employed by traditional providers prefer to be employed, and 12 per cent prefer to be

¹⁴ Health Services Union, op cit, p. 15.

¹⁵ Ibid, p. 11.

¹⁶ Report of the Financial Benchmarking Survey for the 2021-22, NDIA, May 2022, p. 69, [link](#).



self-employed. There are clear motivators for these different preferences. The main reasons for people preferring to be self-employed on Mable were "I have more independence to work however suits me" (48 per cent) and "I enjoy scheduling my time seeing the same clients each week" (32 per cent). While the main reasons for people preferring to be employed were "My employer pays my wage, tax superannuation and workers compensation" (34 per cent) and "I have job security" (25 per cent).

Support providers operating on the Mable platform are more likely to be very satisfied with their mode of employment, with 72 per cent rating it as 'very good', compared to support providers in all other modes of employment: employed directly by clients (59 per cent) and directly employed by a traditional provider (29 per cent). Further, 91 per cent of digital platform service providers rated their experience as 'very good' or 'good'. This compares favourably to only 62 per cent of those directly employed by a traditional service provider. Support providers on Mable rate their overall experience, satisfaction with hourly rate and whether they feel trusted, significantly higher than support workers employed by traditional providers. Mable support providers were more likely to experience job satisfaction than those directly employed by traditional providers (72 per cent compared to 51 per cent), be confident (70 per cent compared to 48 per cent), and happy at work (71 per cent compared to 41 per cent). Both report similar levels of job security and reliability of working hours, although in both cases, levels are marginally higher for self-employed people on Mable. This indicates that Mable is satisfying the needs or preferences of support providers in relation to job security and reliability of working hours.

The YouGov survey demonstrates that support providers on Mable hold clear preferences between being employed or self-employed, and are engaging in the form of work that most suits them. Self-employment, including via platforms, does not undermine employment but rather increases workforce participation by meeting the needs of people who prefer to be self-employed. The option to be an independent contractor is facilitating a long tail of community-based workforce participation. Such market entrants are thickening markets, increasing competition, bringing new and innovative services, freeing up clinical staff to practise at the top of their licence, and investing in their own skills and qualifications to expand their service offerings.

Mandatory Qualifications and Provider Registration

I note also that the HSU continues to argue in favour of mandatory registration of NDIS providers and minimum qualifications for all individuals working in the scheme as a means to improve quality and safety.¹⁷ The choice to engage non-registered providers is an intentional and important design feature of the scheme. Mable has provided a detailed submission on this issue.¹⁸ I do not intend to relitigate these arguments except to encourage all parties to listen to what people with disabilities are saying about the importance of a diverse marketplace that includes both registered and non-registered providers and also the differing opinions of people with disabilities in relation to mandatory qualifications.¹⁹

As a more recent example of the opinions of people with disabilities, I refer you to a submission from People With Disability Australia to the NDIS Review:

Alternatively, the NDIS market has enabled the entry of new service providers into the market, including sole traders who set pricing at a level to compete with larger

¹⁷ Health Services Union, op cit, pp. 4 - 9.

¹⁸ Submission 19, Mable Technologies, NDIS General Issues Inquiry, March 2023, [link](#).

¹⁹ Submission 23, Dr George Taleporos, NDIS General Issues Inquiry, 2023, [link](#).



providers, often undercutting the prices set by larger providers. This has enabled greater choice and control to participants to set and choose the supports that align with their goals and values, while accessing the quantity of support that benefits them. Survey respondents have said this is the best aspect of the Scheme. “Choice to use the private sector and not [be] reliant on disability-only services.”

Some NDIS participants who are self-managed are now exercising choice and control to use sole traders and smaller providers over larger providers. A focus group participant shared: “Because I found in my experience, I've had a lot more positive experience with sole traders through [service provider] and they seem to be more personally invested and accountable without the red tape, they provide the service and nothing is lost in translation there and they're generally cheaper as well which is something that I look at as well, are the rates reasonable. Does the service provider have good reviews and similar values to me?”

The NDIS market currently operates with a mix of registered and unregistered providers. PWDA supports this approach.²⁰

Mable agrees with the HSU's concluding remark that “improving working conditions is vital to a sustainable NDIS that enhances the lives of people with disabilities”. This is exactly what Mable offers for those people who aspire to be self employed. Marketplace platforms and the choice to be an independent contractor are not “loopholes in employment” that need to be fixed.²¹ Rather independent contractors are a complementary workforce who enhance the NDIS and strengthen the choice and control of NDIS participants and older people.

Please don't hesitate to contact me if you have any questions or concerns.

Yours sincerely

Peter Scutt
Co-Founder and Executive Director

CC - Hollie Hughes, Deputy Chair, Joint Standing Committee on the National Disability Insurance Scheme

²⁰ Britt, J. and de Vera, G., *NDIS Review Cost and Affordability – Submission 2 to the NDIS Review responding to The role of pricing and payment approaches in improving participant outcomes and scheme sustainability Paper*, 7 August 2023, People with Disability Australia, [link](#), p. 16.

²¹ Health Services Union, op cit, p. 16.