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# **Response to the 'A sharing economy reporting regime' consultation draft**

1<sup>st</sup> March

**The Transport Workers' Union of Australia**

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## **About the TWU**

The Transport Workers' Union of Australia (TWU) represents tens of thousands of men and women in Australia's aviation, oil, waste management, gas, road transport, passenger vehicles and freight logistics industries.

With over one hundred years' experience in conducting Australia's passenger and freight task, the TWU has been proactive in establishing industry standards that improve the lives and safety of transport workers, their families and the community.

## **Introduction**

The TWU welcomes the opportunity to respond to the 'Tackling the black economy: A sharing economy reporting regime' consultation draft. The TWU believes the report's focus on the "risk that sharing economy sellers may not be paying the right amount of tax" is misplaced. Shifts in the regulation of the gig economy in tax, should be a part of wide scale, regulation across the gig economy which includes the right to minimum pay, superannuation, sick leave, payment when workers are forced off the job because of injury, the right to challenge an unfair dismissal and the right to collectively bargain.

Workers in the on-demand economy are being exploited. 21<sup>st</sup> century apps are being used as an excuse to take industrial conditions back to the 1800s. There is nothing new about this kind of exploitation. Rights are being eroded and in many cases the driving down of standards is the business model of on-demand entities.<sup>1</sup> The powerful players at the top of supply chains continue to put tremendous economic pressure on workers that operate further down the chain.

Some of the most vulnerable workers in our economy – including young and culturally and linguistically diverse workers – are being used. In the

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<sup>1</sup> Stewart, A. and Stanford, J., 'Regulating Work in the Gig Economy: What are the Options?' (2017) Economic and Labour Relations Review 29(3), p.2.

road transport sector, workers in the on-demand economy are exposed to significant risk of injury and death while at work.

This situation must change.

Companies must be held responsible for the health and safety of all of their workers, regardless of how they are classified. We urgently need regulation that sets appropriate standards and be given the resources to ensure they are adequately enforced.

A 'sharing economy reporting regime' must be all encompassing and not simply glide past the realities that these workers are facing on a daily basis and the fact that the multimillion dollar companies that they work for aren't paying their fair share of tax.

## **Response**

The consultation draft into the possible design characteristics of a reporting regime for the 'sharing economy' is a blatant tax grab while ignoring their wealthy employers' tax avoidance, wage theft, non-payment of superannuation and refusal to cover them while they are injured or sick. The reporting mechanism should further explore and place greater emphasis on the lack of regulation and force gig economy companies to provide basic workers' rights and entitlements as well as the right to collectively bargain.

Further, the characterisation of the 'gig economy' or the 'on demand' economy as the 'sharing economy' is a dramatic mischaracterisation which seemingly stems from a misunderstanding of the gig economy and its workers. As earlier stated, the 'gig economy' workers do not 'share' equally in the profits gained by the big companies who control the market and are free from the same regulations other competitors in the transport industry need to abide by. Further regulation on these workers without regulation across the gig economy for fair wages, workers' entitlements and collective voice will only lead to the further exploitation of these workers.

The focus should not be solely on supporting the innovation of business

models rather creating a fair system through regulation, to help curb the exploitation that we see today in the gig economy. While we have no regulation on platform operators, that must be the focus of government policy discussions, rather than actions which will further reduce the wages of workers' wages in the gig economy.

We have heard nothing from the Federal Government on the widescale wage theft and non-payment of super by the likes of Uber, Deliveroo, and others. We have heard nothing in response to revelations of people being sexually and physically assaulted on the job and forced to go to work the next day to put food on the table. We have not seen any plans to regulate the on-demand economy to protect workers. Yet this consultation draft appears to lay out a plan on how the government should catch these underpaid workers. That pretty much sums up how this Government views working people and whose side they are on.

Gig economy workers need rights to minimum pay, superannuation, sick leave, payment when they are forced off the job because of injury, and the right to challenge an unfair dismissal. They also need rights to collective bargaining so they can challenge these powerful multinationals which employ a legion of ex-political operatives to protect themselves against legislators requiring them to meet community standards.

Food delivery service Foodora left Australia last year, paying just \$3 million towards an \$8 million bill in unpaid wages and superannuation. This is a perfect example of where the priority of agencies and regulators should be, in fighting for justice for workers in this industry. There is no doubt that workers should be paying tax, but the quest for greater tax compliance should be a component of regulation across the gig economy.

The case of Foodora highlights the level of wage underpayment and non-payment of superannuation existing in the on-demand economy.

The ATO and Revenue NSW had been investigating Foodora prior to its announcement in August 2018 that it was appointing external administrators and subsequent announcement two weeks later that it was leaving Australia. The investigations were related to wage underpayments, non-payment of superannuation and non-payment of related taxes.

Foodora's administrators admitted the company had been underpaying its workers and had denied them superannuation. The administrators calculated the wage underpayments at \$5,549,941.93. The ATO's debt claim was \$2,138,926.00, relating to the superannuation guarantee charge. In addition, Revenue NSW claimed \$558,074.89 in relation to its payroll tax investigation.

In total this exceeds \$8 million in wages, superannuation and taxes owed by Foodora to its riders and in unpaid taxes during a three-year period of operation. The parent company Delivery Hero offered a settlement of \$3 million which was approved by a meeting of creditors in November 2018.

During the process undertaken so far by the TWU in assisting some riders to make their claim it is apparent that only a fraction of the riders who had their wages and superannuation denied have come forward. It is therefore possible to say that a company which engaged in widespread wage theft and violation of obligations related to superannuation and taxes has effectively gotten away with it. In the three-year period Foodora was operating in Australia the company swindled people out of their wages, retirement funds and was allowed to walk away.

The disturbing factor is that there are no mechanisms being put in place to stop this happening with other companies. Widespread wage theft and refusal to pay superannuation continues unabated each day, with no proposals by the Federal Government to stop it and protect the vulnerable workers on the receiving end. Yet the Federal Government moves to introduce measures to ensure that taxes are collected on underpaid wages. This truly is an anomaly of gargantuan proportions.

It should be noted that the case for rights for food delivery riders has been established in Australia. The TWU along with rider Josh Klooger won a landmark case over his unfair dismissal while working for Foodora.

Surveys of ridershare drivers and food delivery riders reveals widespread underpayment and basic rights denied.

In 2018 the TWU ran a survey of 160 food delivery riders in Sydney and Melbourne. The results were alarming:<sup>2</sup>

- 45% said that they or someone that they know had been hurt on the job.
  - “My friend was in an accident with a taxi driver and got a broken bone” UberEats rider, 26.
  - “I get hit nearly once a week” Deliveroo rider, 20
  - “I’ve had minor injuries – I have been ‘doored’ twice by cars” UberEats rider
- 1 in 4 riders work full time hours.
  - Contrary to the idea that gig work is used to supplement or ‘top up’ regular income, 26.4% of riders reported working 40 or more hours per week. 3 in 4 (76%) riders work 20 or more hours per week.
- 3 in 4 riders earn less than minimum wage.
  - 76.6% of riders earn effective hourly pay rates well below the minimum wage for casual workers. Calculations also showed effective pay rates as low as \$6.67 per hour.
  - *“We should all get a basic payment per hour. Sometimes you don’t receive enough orders to earn enough money to live.”* Deliveroo rider, 25

A survey of over 1,000 rideshare drivers shows earnings well below minimum rates at just \$16 per hour before costs, while over 60% of drivers say they cannot save for superannuation or annual leave. Not surprisingly 40% of people say they struggle to pay their taxes. One in 10 drivers has been physically assaulted while 6% have been sexually assaulted.

Half of ride-share drivers work full time with almost one in three saying they drive ride-share to pay debts. More than two out of three full-time

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<sup>2</sup> <http://www.twu.com.au/on-demand-workers-survey/>

drivers earn below the ABS weekly average earnings of \$1,586. Over 85% are not satisfied with their earnings; three-quarters say company fees are too high.

Ridershare drivers have faced death threats towards them and their families, rape threats, sexual assault, being punched in the face, held at knifepoint, had their car windows broken, their cars stolen and have received racial abuse. They have been immediately deactivated from the ride-share apps when passengers leave wallets in their cars or when passengers make entirely false reports. Almost two-thirds of drivers have had false reports by passengers.

This is causing concern in the community and in the workforce. Hundreds of riders have protests in Sydney and Melbourne this year demanding rights. They need regulation to deliver them the basic rights and entitlements other workers.

### **Conclusion**

Tax compliance measures must be a part of push for regulation across the gig economy.

### **Riders have called for industry-wide enforceable standards that include:**

- Fair pay and minimum shifts – a minimum wage guarantee that reflect the work they perform and the distances they travel.
- Adequate training, including safety
- Access to WH&S including workers compensation
- Compensation for vehicle maintenance
- Access to dispute handling and resolution mechanism

- A collective voice and representation in collective bargaining<sup>3</sup>
- Transparency and consultation in operations, including changes
- A tripartite body established between government, registered industrial organisations (employers and workers), funded by appropriate levies to further safety, training and compliance with industrial rights in the new economy.

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<sup>3</sup> Australian Bureau of Statistics, *6333.0 Characteristics of Employment, Australia* shows that union members achieve better pay and safety records than non-union workplaces.