

Business Submission – Inquiry Into the On-Demand Workforce in Victoria

Prepared by: Orbit Legal Resourcing

Postcode: 3000

1. What services do you provide in the on-demand sector?
2. How are on-demand workers engaged to perform work?

Orbit Legal Resourcing (**Orbit**) is a team of experienced lawyers who fill the temporary legal needs of our clients. Corrs Chambers Westgarth created Orbit to help businesses and legal teams manage workloads more efficiently and offer talented lawyers a different way of working.

Orbit does not operate as an **online platform** as per 1.2(A)(I) of the Terms of Reference in the Inquiry Background Paper. Orbit does however provide independent legal contractors short- to medium-term engagements with clients and can be considered a **broker** as per the definition set out in 2.1 of the Inquiry Background Paper, being “a person who functions as an intermediary between two or more parties”.

Orbit engages independent contractors under a Contractor Agreement, the terms of which are negotiated with the independent contractor. Orbit then provides independent contractors to clients on either a secondment basis or under a Services Agreement. These independent contractors do not have a reasonable expectation that their employment will continue. This type of arrangement is becoming increasingly common as, for instance, lawyers seek increased flexibility in their employment or desire a short term engagement before (or whilst) pursuing other interests.

3. What does ‘on-demand’ work encompass?
4. What activities or organisations/persons might be an appropriate focus for a regulatory intervention?

As per part 1.2(B)(I) of the Terms of Reference, the Inquiry is required to make recommendations on the “capacity of existing legal and regulatory frameworks to protect the rights of vulnerable workers.” The key priorities outlined in part 3.1 of the Inquiry Background Paper regarding the impact of on-demand work for workers include:

- (a) that workers have the capacity to earn sufficient and fair remuneration;
- (b) that workers have the capacity to negotiate better wages and conditions;
- (c) that workers have adequate insurance coverage; and
- (d) that workers aren’t exploited through other dynamics unique to platforms including performance ratings, low union representation and market dominance.

Orbit requests that **an exemption in relation to high income earners** be included in any recommendation regarding the Victorian regulation of ‘on-demand’ work.

High income earners are not the target of this Inquiry, and Orbit submits that an exemption similar to that contained in r 4(1)(a) of the *Labour Hire Licensing Regulation 2018* (Qld) be included in the final recommendation. This exemption should also make clear that the high income threshold can be prorated:

- (a) if an employee works on a part-time basis; and
- (b) in accordance with the length of any agreement/s between a worker and a provider.

In addition to or alternatively, Orbit submits that **traditional contracting models used by professional services firms should be exempted** in any recommendation regarding the Victorian regulation of 'on-demand' work.

Orbit and other firm-allied resourcing models use 'traditional' arrangements to engage with true independent contractors who have the capacity to both negotiate and earn fair remuneration, are covered by their own professional indemnity insurance and generally are not able to be exploited by other dynamics unique to platforms because these models are not run through online platforms.

Further the following characteristics of worker exploitation, as identified in the Victorian Inquiry into Labour Hire and Insecure Work, do not typically occur in the context of the legal profession or professional service firms generally:

- (a) workers housed in overcrowded and substandard accommodation,
- (b) phoenixing of companies leaving workers stranded without their entitlements,
- (c) wage theft and unauthorised deductions,
- (d) systemic tax avoidance, and
- (e) sham contracting.

A general exception would be to the following effect:

that an employee, contractor, director or partner of a professional service firm or associated entity who is seconded or contracted to perform professional services for a specified period of time to another entity (whether associated to the professional services firm or not) is not an on-demand worker.

[Text redacted]

Additional Feedback