



SUBMISSION TO THE VICTORIAN GOVERNMENT INQUIRY INTO THE ON DEMAND WORKFORCE

FEBRUARY 2019

Deliveroo is pleased to contribute to the inquiry into the Victorian on-demand workforce.

In summary, Deliveroo's position is that the basis of its engagement with self-employed riders is inconsistent with employment, whether full-time, part-time or casual. None of these employment relationships provide the flexibility inherent to the way in which self-employed riders work with Deliveroo. However, in working with self-employed riders, Deliveroo wishes to be able to provide additional benefits to them without the risk of those benefits changing the relationship from one of self-employed riders, to riders employed by Deliveroo which would undermine the reason why they want to work with Deliveroo.

Deliveroo recognises that allowing companies to provide additional benefits to self-employed independent contractors will require legislative change. However, Deliveroo believes that all riders in Australia deserve to benefit from any reform that enables companies like ours to offer new benefits to riders. A patchwork of incompatible Commonwealth, State and Territory laws and regulations risks creating confusion for riders and unfairness in the system, and so we believe that the Federal Government should work in tandem with the State and Territory Governments to solve this policy and legal challenge - potentially with a new Commonwealth 'Future Work Act' that could be replicated uniformly at State and Territory level.

Deliveroo would be happy to provide further detail on anything in this submission if the Inquiry would find it helpful. We would also be willing to convene a roundtable for members of the Inquiry to meet with Deliveroo riders to understand their views and motivations in more detail, if that would be useful.

1 Introduction to Deliveroo

1.1 Deliveroo was founded in 2013 in London and today works with thousands of restaurants and riders across the world to deliver millions of meals. The story began with Deliveroo's founder Will, arriving in London over 5 years ago and finding it almost impossible to order great food, despite the wealth of incredible restaurants in the city. Fast forward six years and Deliveroo now operates in 13 countries with over 50,000 riders who deliver orders from 50,000 restaurants in over 500 towns and cities.

1.2 In 2017 Deliveroo raised USD482 million of new funding, which valued the company at over USD2 billion. Deliveroo's growth is part of a global trend. McKinsey Global Institute calculates that by 2025, digital work platforms could add USD2.7 trillion to global GDP.



1.3 Deliveroo's growth can be attributed to the fact it has enabled thousands of restaurants to start offering their food for home-delivery for the very first time. This is because Deliveroo works with a network of riders who are able to deliver that food to customers in under 30 minutes, managing one of the most complex three-sided marketplaces in the world to match the best-placed rider to every order. This innovation is great for consumers who have access to amazing local restaurants which previously didn't offer delivery; it's great for restaurants who can reach thousands more potential customers, and it's great for riders as it creates well-paid, flexible work.

1.4 Deliveroo has experienced considerable growth since its launch in Australia in 2015. In 2017, revenue growth in Australia was 350% year on year. Over the past 12 months the number of restaurants on the platform are up over 150% and rider numbers are up over 50%.

1.5 Deliveroo is proud to offer flexible well-paid work to over 6,500 self-employed riders across Australia. Deliveroo also works with over 8,000 of Australia's best-loved restaurants across 13 cities in Australia - including Melbourne, Sydney, Adelaide, Brisbane, Gold Coast, Perth and Canberra - to bring great-tasting food straight to people's front doors. Within the State of Victoria, Deliveroo operates in Melbourne & Geelong, with 1,500 riders and 3,500 restaurants.

1.6 A major study by Capital Economics, an independent economic consultancy, revealed in 2017 the significant benefits Deliveroo brings to the restaurant industry in Australia. The study reviewed the impact of Deliveroo for the on-flow of growth and employment in its partner restaurants and the wider restaurant sector. Capital Economics analysed data from a survey conducted by YouGov of Deliveroo's partner restaurants across all markets in which it operates. In Australia it was found that in addition to increased sales and subsequent job creation, there are a range of positive impacts on partner restaurants.

1.7 Just over a third of Australian restaurants partnering with Deliveroo have reached previously untapped customer markets, while 17% have expanded their restaurant operations. The study shows that almost 10% of restaurants have employed at least two more people to cater for increased demand, and in total 1,800 people found work in the restaurant sector as a direct consequence of the service that Deliveroo provides. Should Deliveroo continue to expand at its current pace, its partnership with Australian restaurants will contribute to the creation of 8,500 new restaurant sector jobs by 2020.

1.8 We launched Deliveroo Editions in November 2017, Australia's first delivery-only multi-brand kitchens. We now have two sites in Melbourne, hosting 12 kitchens and 8 restaurant partners, providing jobs for 22 people in total, from chefs to kitchen staff to site managers. And with its Editions expansion plans for 2019, Deliveroo expects to create work for even more people in Australia by the end of this calendar year.

1.9 Motored by technology, Deliveroo Editions uses data to identify customer demand in underserved areas and predict what type of food is likely to be popular, thereby reducing risk for restaurants. Deliveroo is filling the cuisine gaps in local areas while investing in the future of the Australian restaurant sector. Editions is good for work, as it creates work for chefs and kitchen staff at its sites, as well as creating more opportunities for Deliveroo riders. Editions is good for consumers, as it allows top restaurants to reach even



more customers and give people greater access to incredible food. And Editions is good for restaurants, providing infrastructure to set up kitchens so they can bring their brands to new areas within 8-12 weeks, enabling leading brands to reach a new customer base. Deliveroo provides restaurants with unique insights that allow them to tailor menu items and pricing, leading in some cases to increases in sales of up to 400%.

2 Key features of the Deliveroo self-employed rider model

2.1 Deliveroo works with self-employed riders in Australia because this offers the flexible work riders seek.

2.2 We know that flexibility is becoming increasingly important to people as they consider what type of work they want, and we regularly hear that people ride with Deliveroo because they want to fit work around life and not the other way around. Having the freedom to choose when you work, cancel or finish at any point is ideally suited to people who have other commitments; for example a parent who can't work at the last minute as they need to look after an unwell child, a student who wants to change their plans on a weekly basis depending on their coursework, or someone who wants to make some top-up income for a few weeks to save up for Christmas or a special occasion.

2.3 A recent study by YouGov, commissioned by Deliveroo, found that Australians have a growing preference for flexibility rather than fixed shifts and hours, with nearly four out of five people saying that choosing their own working times when starting work is important to them. The survey also found flexibility is a key driver for workers when looking for work, with over half saying they would choose to work with a company that offered flexible work, such as the ability to choose when and where to work each day. This was the most influential factor when deciding what company to work with, even more than a company guaranteeing shifts and hours, which surprisingly was only the fifth most important priority.

2.4 The relationship between an employee and an employer, whether full-time, part-time or casual, is completely different to the relationship between a self-employed platform worker and a platform. In the on-demand economy people can choose whether to work, where to work, when to work, can reject work at any point, can finish work at any point, and can work for multiple companies simultaneously at any point. Riders have no obligation to perform any work, and even where they chose to do so there is no obligation to do so personally - with riders able to appoint delegates at their discretion. This is a fundamentally different relationship than that found in more traditional forms of work, and there is no comparable sector that offers this degree of freedom and control for individuals. Riders are provided with appropriate work, health and safety materials applicable to them and their delegates as part of the process of becoming a rider with Deliveroo, which help to ensure their safety and that of customers and the general public on and off the road.

2.5 Deliveroo chooses to operate this model because it provides riders with the work they tell us they want, and this is reflected in riders' overall satisfaction with Deliveroo. 90% of riders in Australia are happy working with Deliveroo. 80% say they feel part of a community and - crucially - flexible work is the number one thing riders value about working with Deliveroo. We are proud of these results and stay in regular contact with riders to understand and respond to their concerns and priorities.

2.6 Deliveroo's Self Service Booking tool is an example of a change we've made to our business in response to rider feedback. In a 2017 survey of riders, their number one priority when asked what they would improve about working with Deliveroo was for there to be improvements to the app and our technology. Our new Self Serve Booking tool has been developed following extensive feedback from riders. It provides greater certainty over earnings whilst increasing the flexibility riders want. The system predicts the number of orders in any given area and ensures there are the right number of riders to match demand. Riders can book sessions in advance, or choose to turn up at the last minute, but, crucially, they know work will be available. At Deliveroo, riders are at the heart of our business and we will continue to engage with them to ensure we are providing the well-paid and flexible work people want.

2.7 Working with Deliveroo should not be compared to traditional forms of employment. On average Deliveroo riders in Australia choose to work 15 hours a week, earning over \$22.00 per hour on average, while they fit riding around study, hobbies, caring responsibilities or other jobs. Of course, these are just their earnings from Deliveroo; and our survey data suggests many riders work with multiple delivery apps at the same time. This is what the freedom of being classified as self-employed allows them to do. Furthermore, many riders see riding as a short term opportunity rather than a long term commitment - the average amount of time a rider works with Deliveroo is only 5 months. Riders prioritise the ability to fit their lives around their work, not vice versa, and that is what we seek to deliver.

2.8 The key features of working as a self-employed Deliveroo rider are: riders work across multiple platforms in the same hour; riders have no fixed hours (they pick their own); riders can opt to work where they want; riders have no obligation to work at all; and can provide services via a delegate. Riders are free to choose whether to accept or reject any order offered to them and, even after accepting an order, can "unassign" from the order at any time. Riders frequently reject orders - for example, because they're currently completing an order for another platform or restaurant and the offer isn't convenient for them. In the last six months, 93% of riders rejected at least one order and on average each order was rejected once before it was accepted. Deliveroo do not specify how quickly orders must be collected or delivered. Riders agree, as part of the supplier agreement, to deliver orders they chose to complete within a reasonable time period, using any route they determine to be safe and efficient. As a result, we are confident that there is no other type of work that allows you to work whenever or wherever you want; allows you to plan where to work; allows you to work for a competitor at the same time; and allows you to freely delegate work in this way.

3 The future of on demand working

3.1 Deliveroo welcomes the public debate on the future of on-demand working in Australia. Deliveroo's position is that everyone, regardless of the basis of their engagement and the work they choose to do, should be provided with security and benefits, but that the law presently fails to accommodate this.

3.2 The legal concepts of "employee" and "independent contractor" evolved at a time before technology transformed the economy and allowed a platform, such as Deliveroo, to exist and gave people the opportunity to choose new ways of working. Deliveroo's

position is that these concepts cannot provide both the flexibility that Deliveroo riders want and the security which we believe riders deserve.

The differences between on-demand and casual work

3.3 Traditionally, Australian employment law has sought to provide flexibility to employers and employees by allowing workers to be engaged on a “casual” basis. A casual employee generally works irregular hours (with no guarantee of further work or an obligation to accept work), does not receive paid personal/carer’s leave or annual leave and can be dismissed without notice (or payment in lieu) or any redundancy benefits. A casual employee receives a higher hourly pay rate than the equivalent full-time or part-time employees (the casual loading) to compensate them for the lack of paid leave entitlements.

3.4 While casual employment is more flexible than part-time or full-time employment, it is still subject to regulation that would be incompatible with the degree of flexibility that characterises the on-demand economy. For example, casual employees are paid by the hour. An hourly wage is incompatible with the Fee Per Delivery payment model that Deliveroo’s riders value, since this gives them maximum flexibility. On Deliveroo’s Fee Per Delivery model, riders are paid according to each delivery they make, which means they’re able to work with multiple platforms at the same time and choose when to work, meaning they can maximise their earnings and make the most of their time on the road.

3.5 Further, many modern awards require that casual employees be provided with a minimum number of working hours each time they are engaged. For example, the following modern awards (which provide potential coverage for employees working in the food delivery industry) all require minimum shift lengths for casual employees:

- Road Transport and Distribution Award 2010 – 4 hours minimum;
- Restaurant Industry Award 2010 – 2 hours minimum;
- Hospitality Industry (General) Award 2010 – 2 hours minimum; and
- Fast Food Award 2010 – 3 hours minimum.

3.6 These minimum shift length requirements for casual employees conflict with the key features of working as a self-employed Deliveroo rider. Riders can log in or out of the platform at any time - as they have no obligation to work at all, or for any minimum time. As already noted, 67% of all sessions, measured by the duration people are logged into the app, are for under three hours. In fact, almost half (47%) of all sessions were for less than two hours. Further, as any employer, should Deliveroo riders be mandated to work a set number of hours for Deliveroo, Deliveroo would then expect a level of performance for each hour, which we would have to monitor; and we would have to adopt the fixed shift model that defines the traditional employment models but which riders have rejected by seeking work opportunities in the on-demand economy.

3.7 The restrictions inherent to casual employment would also remove the flexibility riders currently enjoy of being able to work for multiple companies simultaneously and, where they wish to do so, transferring the work to a delegate appointed by them. As noted previously, ‘multi-apping’ is a prevalent practice. This is where a rider will be logged in to the apps of several platforms at the same time and will perform deliveries for whichever platform is most convenient for them at any given moment, often making deliveries for

multiple separate companies within any given hour. In this instance, if a rider was a casual employee, it is unclear which company would pay the employee's wage and therefore riders would be mandated to work for one platform at a time only.

Providing benefits to riders

3.8 Deliveroo believes that those who opt to work in the on-demand economy should be entitled to both maximum flexibility as well as greater security. In short, platforms such as ours should be able to offer work-related benefits to riders, for example some form of paid sick and carer's leave, in a way that is compatible with the flexibility that comes with self-employment. This is what Deliveroo riders want, and our view is that any policy change related to how riders work should be rooted in seeking to deliver their objectives and best interests.

3.9 A range of factors are taken into account in ascertaining whether a worker is an employee or an independent contractor. One of the factors that is relevant relates to the terms of the agreement, which includes considering whether or not the worker is provided with benefits ordinarily associated with employment. Where such benefits are provided, that factor will be taken into account in determining the nature of the relationship. There is a risk to Deliveroo that, in providing additional benefits directly to self-employed riders, a finding may be made that doing so has changed the nature of the relationship between Deliveroo and the rider, which would in turn change the rider's employment status. At the moment, therefore, there is a disincentive for platforms who want to protect flexibility to also provide benefits.

3.10 Should riders be reclassified as employees as a consequence of the provision of additional benefits, this in turn would impact the freedom riders currently enjoy to work when and where they choose. This is because the regulated remuneration and provision of benefits such as personal/carer's leave or annual leave that comes with employment status are calculated on the basis of the employee's ordinary hours of work. Should Deliveroo be asked to contribute to work-related benefits, however, it is unclear how Deliveroo would calculate the duration that an individual worked for us.

3.11 This is because what constitutes "ordinary hours of work" is unclear when riders are not under any obligation to do any minimum amount of work, and when they do choose to make themselves available to perform services by logging on to the app, they can reject any particular delivery offered to them, including because they are actually working with another platform at the same time as being online on Deliveroo. Furthermore, it is not clear what would constitute a "continuous period" of employment in the on-demand economy where work patterns are highly variable. We do not know whether this would begin from the moment a rider on-boarded, or whether this would be subject to having performed a certain quantity of work across a specific period of time. Nor would it be clear how riders who choose to take long periods of time away from working with Deliveroo should be treated. If this practice were prohibited, this would also remove much of the flexibility we know riders value - for example, 60% of riders who have been working with Deliveroo for at least six months have taken one month or more of consecutive time away from Deliveroo.

3.12 Riders are often simultaneously working for other companies while logged in, which means it is unclear which company would be liable for payments and the accrual of

benefits during this period. Additionally, the right of delegation that all riders have means it may not even be the rider with whom Deliveroo has a supplier agreement who is working at any given time. It is far from clear that time logged on to the app should simply be equated with “ordinary hours of work”.

3.13 Should riders be reclassified as “employees” and Deliveroo had to pay riders and provide work-related benefits according to a traditional definition of “ordinary hours of work”, demand for work with Deliveroo would likely fall as it would no longer be highly flexible in nature and therefore not as popular. As a result, Deliveroo would work with fewer riders on the road who, unlike now, would operate in fixed shifts. This would be bad for riders, who could not work as they wish; would be bad for customers, who would be denied choice and speed as a result of fewer riders being on the road; and bad for restaurants, who would see lower revenue growth from deliveries through the Deliveroo platform.

4 Need for legislative reform

4.1 To end the trade-off between flexibility and security, we believe law reform should be considered that allows workers to accrue benefits on the basis of work performed, for example the number of deliveries completed or the value of fees earned, rather than their ordinary hours of work, and that the provision of benefits by a company to a self-employed contractor should not impact their employment status.

4.2 This is Deliveroo’s global position and one we have articulated to Governments and Parliaments in other markets we operate in. In the UK, where Deliveroo is headquartered, the Government commissioned a Review of Modern Working Practices. In its submission to the Review, Deliveroo stated:

“We want to make sure that our riders retain the considerable freedoms that they enjoy at the moment - the freedoms that come with self-employment - but we also want to make sure that they can enjoy a greater level of security. The on-demand economy has changed the way people work and eat. The policy challenge is working out how to make sure that employment law and benefit entitlements fit with this new economic framework.

It is not up to Deliveroo to define classes within employment law - and nor is it our place to do so. But one potential solution to the public policy challenge created by the on-demand economy is for new legislation to make it clear that the self-employed can receive benefits without there being a risk to the relationship being reinterpreted by the courts. Ideally, new legislation would make it clear that the self-employed can receive more benefits - coming closer to what ‘workers’ currently receive - while retaining the right of the company and the self-employee to negotiate a fair and equitable system for calculating entitlements on an accrual basis. Another potential solution to this problem would be to create a wholly new category of employment which would provide a level of security while at the same time allowing companies to calculate entitlements based on services delivered. This would provide those who fall into this new category with both security and a highly flexible relationship.”

4.3 We very much hope these ideas will be considered in the Australian context. The Australian regulatory landscape is complex, and we were heartened by Inquiry's acknowledgement in its background paper that any intervention would consider the role of State vs Commonwealth legislation, as well as the need to be practically enforceable. However, Deliveroo believes that all riders in Australia deserve to benefit from any law reform that enables companies like ours to offer new benefits to riders. A patchwork of incompatible State regulations risks creating confusion for riders. It is our view that it would be unfair if something as important as the degree of a security that an individual has when they work were to be subject to widely varying rules that may not be known to them when they cross State or Territory borders. Therefore, we believe that the Federal Government should work in tandem with the State Governments to solve this policy and legal challenge - potentially through the Council of Australian Governments (COAG) agreeing to "model" legislation that could be implemented uniformly at State and Territory level.

4.4 Just as the Fair Work Act has been so important in providing a foundation of standards for the traditional workplace, an equivalent is now needed to build on this for modern ways of working. A Commonwealth 'Future Work Act' (with model State and Territory legislation) could, for example, outline the relationship between platforms and contractors that ends the trade-off that currently exists in legislation between flexibility and security, giving those in the on-demand economy what they want, which is both. A 'Future Work Act' could set out the responsibilities companies have to contractors - the freedoms and flexibility that contractors can rely on as well as the security they can expect.

- **Freedom and Flexibility:** The 'Future Work Act' could define the flexibility that on-demand workers must be guaranteed, for example the right to set their own working patterns, and clarity that there is no obligation to perform work or accept set hours, and no penalty for working with multiple providers.
- **Security:** The 'Future Work Act' could outline that a company is able to directly provide certain benefits to contractors, including - for example - accident and injury or third party liability insurance; income protection when temporarily unable to work because of an accident; sick pay; is able to provide training, such as specialist training courses related to the work contracted for, or training for wider life skills or educational qualifications that are unrelated to the work the contractor performs.

4.5 Other countries, notably France, are currently considering how such principles can be enshrined in legislation. Australia should join them in modernising our statute book in line with a world of work whose practices have outpaced the regulatory framework that governs it. Deliveroo would propose a Future Work Commission that brings together all relevant stakeholders - businesses, unions, political parties, and importantly on-demand workers themselves - to examine how this could be achieved.

4.6 The answer to the policy challenge of people seeking new ways of working cannot be to deny them the very flexibility that has attracted them to opt for new types of work in the first place, or to entrench a system that disincentivises companies from offering contractors greater security in the form of benefits, as the current system does. This would be the consequence of simply reclassifying on-demand workers as 'employees', and it would fail to serve the interests or wishes of the on-demand workforce.

4.7 As our CEO recently wrote, *“We want the innovation we champion in the economy to now be matched with innovation in policy-making. 75% of our riders say they want increased security but don’t want this to compromise the flexibility they value. We should answer their call.”*

5 Conclusion

5.1 Deliveroo wants to work with all stakeholders to make sure we combine the flexibility of on-demand work which people want, with the security they deserve. Companies should not have to be forced, as they effectively are now, to choose between offering workers a relationship with a great deal of flexibility and fewer benefits or a relationship with much less flexibility and more benefits. Companies should be able to offer the best of both worlds. Were the law more accommodating, we would seek to give our riders greater security without sacrificing their flexible supplier agreements.

5.2 We hope this submission is helpful to policy makers when it comes to the motivations people have for choosing to work in this way and for working out a way forward to create a framework that is fit for the future of Australia, supporting the growing on-demand economy and those who work in it. As set out at the start of this response, we would be delighted to invite any members of the Inquiry team to meet Deliveroo riders at a focus group, where they could discuss why riders choose flexible, on-demand work.