

Fixing the on-demand economy and other insecure work

Submission to the Inquiry into the Victorian on-demand workforce

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Background

1. The Australian Council of Trade Unions ('ACTU') is the peak national body representing Australian workers, approximately 1.6 million in total, through our affiliated unions and trades and labour councils.
2. The ACTU welcomes this inquiry being undertaken by the Victorian Government into the on-demand sector and the status of people working for on-line companies or platforms in Victoria – that is, the 'gig economy', 'platform economy', 'crowd work' or 'digital on-demand' economy. The ACTU also supports the submissions of the Transport Workers' Union ('TWU'), the Health and Community Services Union ('HACSU'), and Victorian Trades Hall Council ('VTHC') to this inquiry.
3. On one view, the gig economy is comprised of companies that provide assignments of work on a task or 'gig' basis via online digital platforms. These companies maintain that they connect workers that they nominally engage as independent contractors with purchasers of the company's and/or the worker's services. The gig economy is associated most especially with ride hailing platforms such as Uber, food delivery platforms such as Deliveroo and Foodora, and temporary labour providers such as Airtasker, Freelancer and Sidekicker. The term is often used synonymously, and in our view, problematically, with the term 'sharing economy' or 'access economy', and to also include companies like AirBnB, Stayz or Car Next Door, that facilitate the renting and access of goods and assets like accommodation and motor vehicles rather than the provision of labour. This broader and more problematic term is not employed here.
4. The operating models of gig economy companies are diverse. Some companies operate in a horizontal 'peer-to-peer' fashion, as 'facilitator' between freelance service providers who are genuinely engaging in independent contracting arrangements with the purchasers of their work. Companies like Upwork or Freelancer appear closest to this model. Alternatively, platforms, even if they present themselves in a similar way, are often in fact operating in a more vertical fashion, in a hierarchical arrangement between worker and consumer and ought to be categorised as employers. Uber and Foodora appear to fit more closely with this model.
5. Both models tend to be exploitative, as discussed below. In both cases, workers perform work without standard employment protections on substandard pay and conditions compared to employees in conventional arrangements, either because they sit outside the

employment regulatory regime as invariably, low-paid, independent contractors, or because they are in fact employees but misclassified as independent contractors and not provided with the employee protections they are entitled to. In practice, most gig economy platforms are engaged in arrangements that fall somewhere between the horizontal or vertical. From the trade union movement's perspective, the challenge is how to ensure workers are properly classified and, in any event, how to ensure these workers are not disadvantaged compared to workers engaged outside the gig economy; and further, how to ensure standard high quality jobs are not displaced by lower quality, lower paying, and less secure gig work.

6. Some proposed solutions are discussed below. We argue the forms of disadvantage suffered by gig economy workers are similar to those experienced by many other non-standard workers in an increasingly insecure workforce, and fundamentally for the same reasons. Hence, to deal with the challenges posed by the use of digital platforms we need to change the Federal laws regulating all work. There is, however, much that the Victorian Government can do in its own right, to promote secure and high quality employment through promoting full employment, increasing workers' bargaining power, improving gig workers' health and safety and, as the largest employer and economic actor in the State, improving the pay and conditions of all non-standard workers.

The nature of gig work

7. The size of the gig economy is currently relatively small and difficult to measure but could grow rapidly. Platforms are already operating in most industries but especially transport, fast food, health, aged care, disability care, and education and training.¹
8. As platforms have the potential to operate in all sectors, it may not be appropriate to describe the gig economy as a discrete 'sector' as such, but rather as a mode of allocating services and work via online digital platforms in terms of discrete tasks or 'gigs', that is pervading all industries.

¹ Examples of gig economy operators in these areas are Uber, Ola, DiDi, Shebah, Deliveroo, UberEats, MenuLog, [Vygo](#), [Hireup](#), [Mable](#) (formerly Better Caring), and [Airtasker](#) (which covers a wide and growing variety of tasks across many industries, including now even aged and disability care).

9. Business will have us believe that the gig economy is a modern, inevitable and welcome mode of working, even a utopian one, unshackling workers from out-dated modes of engagement and giving them freedom to set their own hours and run their own innovative, entrepreneurial businesses. Uber, for example, describes its drivers not as workers but “Uber entrepreneurs”, managing their own businesses in a sharing economy, with “no office, no boss” and the ability to “make good money”, and the freedom to work when and where they like.² However, the hype belies the reality of substandard pay and conditions attending this form of work. Uber drivers work under conditions and rates of pay unilaterally determined by Uber. They are not able to hire people, scale up or make their own business decisions, and they earn well below minimum wages.
10. A study by the Centre for Future Work at The Australia Institute estimates Uber drivers earn on average less than \$15 per hour before tax and net of expenses, an amount below the Federal minimum wage and approximately half the award minimum wage for transport drivers.³ A TWU survey suggests most ride hailing drivers are both reliant on this work for income and also receive too little to make it worthwhile. Rather than freely chosen for its flexibility, half report doing it full-time, and almost one third are doing it because they have debts to pay.⁴ 85% of drivers say they are unhappy with the pay, and three quarters say that company commissions are too high. As a result of the very low conditions in the industry, an extraordinary 50% of Australian ride hailing workers leave within the first three months.⁵ A United States survey suggests a staggering 96% of American Uber drivers leave within their first year,⁶ with similar annual turnover of workers expected here. It seems that after discovering the cumulative impact of GST, cost of fuel, insurance, vehicle maintenance, and other expenses on their take home wages, as well as the impact of the lack of paid leave, drivers exit as soon as possible.
11. Like Uber drivers, many other gig workers are generally nominally engaged as independent contractors and paid per task. However, many are in fact underpaid employees engaged under sham contracting arrangements. The Fair Work Commission found a Foodora

² For example, see the Uber recruitment page for Australian drivers: https://www.uber.com/a/join?ec_exp=1&exp=70801t and Uber promotional video, ‘The story of Daniel, Uber Entrepreneur’: <https://www.youtube.com/watch?v=Eiq68uYHGOA>.

³ Jim Stanford, *Subsidising Billionaires: Simulating the Net Incomes of UberX Drivers in Australia*, Centre for Future Work at the Australia Institute, March 2018.

⁴ See TWU, Rideshare Drivers Survey, available at <https://www.twu.com.au/home/campaigns/rideshare-drivers/>; Ally Foster, ‘Drivers ditching rideshare apps due to low pay and long hours’, *News.Com.au*, 13 November 2018.

⁵ *Ibid.*

⁶ Chantel McGee, ‘Only 4% of Uber drivers remain on the platform a year later, says report’, *CNBC*, 20 April 2018.

delivery rider was an employee⁷, and the Australian Tax Office and Revenue NSW have both ruled Foodora riders were employees for tax purposes.⁸ Whilst an unrepresented Uber driver failed to establish he was an employee in the Fair Work Commission for the purposes of unfair dismissal law,⁹ Uber drivers have been found to be employees in the United Kingdom,¹⁰ and New York City, and litigation challenging ride hail workers' status persists around the world.¹¹

12. All gig workers are legally either independent contractors or employees. Whether independent contractors or employees in sham contracting arrangements, gig workers are invariably subjected to:

- (a) lack of standard employment protections such as minimum wages, paid sick leave and holiday pay, superannuation, and various forms of work insecurity (intermittency of work, varied start and finish times, unpredictable pay, job insecurity, and most especially, disaggregated working time, short shifts, and unpaid downtime between gigs whilst still being 'at work');
- (b) lack of coverage by the platform operators' workers' compensation insurance;
- (c) pay below the legal minimum that would apply to employees, in many cases, well below. Food delivery riders report being paid as little as \$6 per hour;¹²
- (d) where gig workers are legally independent contractors, an inability to collectively bargain due to commercial competition rules;
- (e) continuous competition for work and shifts with other workers. This can take the form of pressure to underbid or undercharge for work on platforms like Airtasker or pressure for food delivery riders to be available to accept work and deliver at unsafe speeds;
- (f) other unreasonable surveillance and continuous performance pressures, due to digital tracking and harsh, and usually unchallengeable, consumer feedback ratings that can limit or end work opportunities;
- (g) an inability to find sufficient work;

⁷ See *Klooger v Foodora Australia Pty Ltd*, [2018] FWC 6836, 16 November 2018.

⁸ Anna Patty, '[Foodora faces claims for unpaid tax and superannuation](#)', *Sydney Morning Herald*, 28 August 2018.

⁹ See *Kaseris v Rasier Pacific V.O.F.* [2017] FWC 6610, 21 December 2017.

¹⁰ Linton Besser, '[Uber loses landmark case over worker rights, entitling UK drivers to minimum wage and sick leave](#)', *ABC News online*, 20 December 2018.

¹¹ Dan Rivoli, '[N.Y. judge grants Uber drivers employee status](#)', *NY Daily News online*, 13 June 2017.

¹² Naaman Zhou, '[App delivery riders say they are paid as little as \\$6 an hour in Australia](#)', *The Guardian*, 14 March 2018.

- (h) poorer health and safety outcomes. Gig work has a negative impact on training, service quality and skills due to a number of factors. The lack of a clearly identified employer means that the obligation to provide workers with information, instruction and training under Occupational Work Health and Safety legislation is not enforced. Platforms such as Airtasker have been shown to actively circumvent consumer protections such as the requirement for high risk occupations such as electricians requiring a licence to perform the work. There is no requirement in most gig work platforms to verify the person performing the task is qualified or in fact licenced to perform the task. This poses a threat to both the gig workers health and safety but also that of consumers;¹³ and
- (i) being engaged through start-up businesses with a high chance of failure or closure and lost wages and entitlements or outright entitlements theft. For example, Foodora recently exited from Australia in the wake of prosecution for sham contracting and the threat of class actions from thousands of workers owed millions of dollars in backpay and superannuation.¹⁴

The causes of growth in the gig economy

13. Gig work, like the rise of other forms of non-standard insecure work, has been constructed by companies in order to replace or avoid standard employment arrangements. Given the poor pay and conditions, why do workers choose to work in the gig economy? Examples of workers freely choosing to work for extended periods in the gig economy are hard to come by. The short answer is that workers generally choose gig economy work for want of better options. Gig work is generally undertaken by workers due to:

- (a) chronic levels of unemployment and extreme levels of persistent underemployment limiting their choices;
- (b) a shortage of high quality, well-paid jobs;
- (c) a shortage of secure, high quality jobs that also provide worker-oriented flexibility, particularly for those workers with caring or parenting responsibilities or other needs for flexible schedules; and

¹³ See concerns raised by Unions NSW in Katherine Gregory, '[Airtasker: Unions raise safety concerns over 'gig economy' cowboys](#)', *ABC News Online*, 9 March 2018.

¹⁴ See David Marin-Guzman, '[Foodora Administrators admit 'misclassified' delivery riders underpaid \\$7.5m](#)', *Australian Financial Review*, 8 November 2018.

(d) abysmally low unemployment benefits and a punitive, short-sighted, ‘workfare’ welfare system that coerces the unemployed into low quality jobs, including relatively unproductive ones compared to the workers’ training and skills.

14. The emergence of such precarious work arrangements has been facilitated by companies harnessing new digital technologies to re-arrange work in such a way that bypasses hard-won worker protections and shifts the costs of fluctuating demand onto workers. This cost-shifting provides a competitive advantage that can help such companies to displace competitors using more conventional arrangements.
15. Whilst the technology underpinning these services, such as smart phones and the internet, might be relatively new, there is usually nothing particularly new, innovative or efficient about the work arrangements deployed. Modelling and analysis by the Centre for Future Work has shown, for example, that Uber’s price advantage stems from the effective wage subsidy it receives from drivers through the lower wages and costs Uber bears compared to taxi owners, as well as Uber’s ability to avoid the cost of other restrictions on taxi services, such as regulations protecting against the wage suppressing effects of an oversupply of drivers.¹⁵ Uber contributes far less tax than taxi companies—a mere \$2.5 million in total in Australia in 2016¹⁶—and is based offshore in the Netherlands, a tax haven, for tax minimisation purposes. Both Uber cars and taxis provide fundamentally the same service and are bookable via the convenience of smart phone apps.¹⁷ Hence, Uber is not more efficient but merely an opportunistic use of regulatory arbitrage. In many other instances, gig economy work is little more than sham contracting and tax minimisation wrapped in a high-tech guise.
16. Gig work arrangements are in fact neither particularly modern or new but represent the re-emergence of the exploitative arrangements of the 19th Century and earlier, such as daily hire, piece rates and the unreasonable and unregulated working hours and conditions that the union movement fought long and hard to eliminate. Exploitative practices have re-emerged, along with other forms of insecure work ultimately as a result of the curtailment of worker protections and unions’ freedom to operate. The gig economy is an extreme, but

¹⁵ Jim Stanford, [Subsidising Billionaires: Simulating the Net Incomes of UberX Drivers in Australia](#), Centre for Future Work at the Australia Institute, March 2018.

¹⁶ Nassim Khadem, [‘Uber pays \\$2.5 million tax in Australia, says company is not under ATO audit’](#), *The Sydney Morning Herald*, 3 November 2016.

¹⁷ Jim Stanford, The resurgence of gig work: Historical and theoretical perspectives, *The Economic and Labour Relations Review* 2017, Vol. 28(3) 382-401.

not unique, example of the atomisation of workers and work and the wider disempowerment of workers flowing from these developments. In short, it is the *reductio ad absurdum* of decades' worth of neoliberal policies of the deregulation of worker protections, the exclusion and targeting of unions, pro-business re-regulation that increases managerial prerogative at workers' expense and shifts various business costs to workers, as well as the promotion of individual and increasingly precarious work arrangements that leave workers more and more tenuously connected to the workplace, to each other, and to unions and collective support.

17. As we have noted previously, during earlier technological and industrial revolutions, such as the computerisation of factories in the 1980s, the information society/information superhighway of the 1990s, and the 'dot.com' boom of the early 2000s, technological developments were also used as a cover for eroding industrial entitlements and workers' share of profits. A working paper for the European Trade Union Institute notes,

“Closer analysis of the processes underlying job creation and loss reveals that technology is often used as a pretext or opportunity to push through industrial restructuring processes motivated primarily by financial profitability, wage cost reduction or international competition considerations (for evidence that this is not a new observation, see Freeman and Soete 1994)”.¹⁸

18. The emergence via the gig economy of a class of workers whose pay and working conditions, in the worst cases, have become so eroded that their work is disaggregated into micro tasks for which they compete against each other for sub-minimum pay, is the nadir of neoliberal 'reforms'. However, other insecure workers experience similar disadvantages to gig workers as a result of the same underlying forces and developments.
19. The evasion of worker entitlements and unfair advantage gained in this way have been made possible because of several failures of industrial regulation facilitating the growth of insecure work, including:
- (a) the removal of workers from the coverage of minimum employment standards and protections, intended to be universal;

¹⁸ ACTU, [Submission to the Senate Select Committee on the Future of Work and Workers Inquiry](#), Submission 112, 26 February 2018; Valenduc and Vendramin, [Work in the digital economy: sorting the old from the new](#), European Trade Union Institute Working Paper, March 2016.

- (b) relatedly, the regulatory legitimisation, institutionalisation and facilitation of the growth of non-standard, precarious modes of engagement, including casual employment, labour hire, and fixed term employment. This is evident in industrial regulation and also government policy. For example, as HACSU's submission highlights, the way the NDIS has been designed and implemented facilitates both low quality casual employment and gig economy work in the disability care sector;
- (c) the dilution of standard protections even in permanent part-time and full-time employment in awards, including rostering and scheduling protections;
- (d) the rise of sham contracting; i.e., employment disguised as independent contracting or micro-business arrangements;
- (e) the widespread non-compliance with, and non-enforcement of, workplace laws;
- (f) the suppression of unions' ability to enforce workplace laws; and
- (g) the suppression of workers' bargaining power through regulatory restrictions placed on unions' ability to organise workers, take industrial action, and bargain collectively.

20. Added to this is several decades of austerity-driven policies that shifted government's activities away from pursuing full employment towards reduced public spending and inflation targeting, thereby facilitating chronic, structural unemployment and underemployment and pushing workers off welfare into poor quality work through punitive workfare measures. The shrinking of public investment and privatisation of public services has also directly funded or facilitated private labour supply arrangements that persistently eroded pay and conditions in a race to the bottom on wage costs.

Other forms of on-demand and insecure work

Casual employment

- 21. Platform work is a subclass of the insecure work that has significantly displaced standard, higher quality employment and addressing the problems in the gig economy requires addressing insecure work more generally.
- 22. Forty per cent of workers are now in non-standard arrangements. Some 25% of employees are in casual employment without access to paid holidays, sick leave, redundancy or notice and often without various forms of security standard workers enjoy including job security,

security of hours, and security of income.¹⁹ Many of the disadvantages casual and other non-standard workers experience overlap with those of digital on-demand / platform workers. Casual employment is another form of ‘on demand’ labour and, as the International Labour Organisation has noted, one usually only associated with developing countries.²⁰ In other developed countries temporary employment is usually attended by various forms of paid leave and limits on the duration of temporary arrangements. In the United Kingdom, for example, temporary employees automatically acquire the right to equal pay and the same pensions and paid annual leave as permanent employees after 12 weeks. Hence, casual employment in Australia has perhaps the lowest level of rights associated with any form of temporary employment in the OECD.

23. Almost one million employees are ‘on-demand’ casuals without regular hours of work (40% of casuals and 10% of all employees in Australia) and the proportion of on-demand casuals is increasing.²¹ Casual employees also experience lower hourly pay than permanent workers. The casual loading (which, in practice, is paid to only some employees) compensates for some, but not all lost entitlements.²² Casual workers also suffer variable hours, short shifts and split shifts separated by periods of unpaid breaks. Like platform workers, casual employees are less connected to the workplace than standard employees, less likely to be promoted, trained or developed, less likely to be in a union, and more likely to experience sexual harassment and workplace injuries. No longer is casual employment merely being used for its original purpose as a temporary measure for short term fluctuations in demand. Rather, casual employment is a business model and casual employees are being deployed long-term like permanent employees but on inferior conditions. In fact, the average tenure of casual employees is now over 3 years.

Part-time employment

24. Permanent part-time employment is meant to have all the features and protections of full-time employment on a pro rata basis. This is how it has traditionally been formulated in awards and this notion is supported by *ILO Convention 175 Concerning Part-time Work*

¹⁹ As at August 2018, 25% of employees report having no paid leave entitlements and are classified as casual employees: See ABS, *Characteristics of Employment*, cat. 6333.0, Australia, 29 November 2018.

²⁰ ILO, *Non-Standard Employment Around the World: Understanding challenges, shaping prospects*, 2016, p25 <https://www.ilo.org/wcmsp5/groups/public/--dgreports/--dcomm/--publ/documents/publication/wcms_534326.pdf>.

²¹ See Campbell, I., Macdonald, F., Charlesworth, S., *On-Demand Work in Australia*, in Michelle O’Sullivan et al. (eds.) *Zero-Hours and On-Call Work in Anglo-Saxon Countries*, Berlin, Springer Press, 2019.

²² Ibid.

(1994), which Australia ratified in 2011. Awards usually require that in relation to part-time employees, the regular hours of work are agreed upon at the commencement of employment, that any variation to working hours is also by agreement, and that overtime is paid for any additional hours. However, the Fair Work Commission has progressively been warming to employers' push for an oxymoronic notion of 'flexi-part time' employment, allowing for more 'on demand'-type arrangements even in permanent part-time employment. In 2017, the Fair Work Commission relaxed the award rules in the care and clubs sectors to allow for the flexing up of part-time workers' hours. Workers can be guaranteed core hours and then offered additional hours that are only paid at ordinary rates, meaning their total hours can fluctuate day to day and week to week and with no guarantee of total hours and little guarantee of regular pay beyond a few core hours' worth.

25. In the clubs sector, the award was amended to require only that a guaranteed number of hours be agreed over the roster cycle, rostered at the employer's discretion within a broader spread of hours nominated by the employee, and a minimum 2 days off per week, undermining the notion of security in permanent part-time employment, as traditionally understood.

Labour hire and fixed term employment

26. Labour hire workers constitute approximately 4% of the workforce.²³ Like gig workers, labour hire employees are also used on-demand and bear the costs, risks and insecurity of work variability. They experience all the disadvantages of casual employment (labour hire workers are overwhelmingly engaged on a casual basis) whilst being a further step removed from the workplace. Labour hire workers do not have effective protection against unfair dismissal. They also do not have a right to convert from casual employment with the agency that formally engages them to permanent employment with the host employer where they perform work.

27. Fixed term employees constitute approximately 4% of employees, and are heavily constituted in education, public administration and safety and health²⁴ where they are used as an on demand workforce instead of permanent employees. These employees do not have job security beyond the length of their short-term employment contracts. It is not

²³ See Australian Bureau of Statistics, 6333.0 - *Characteristics of Employment, Australia, August 2018*, 29 November 2018.

²⁴ Ibid.

uncommon, especially in the tertiary sector, for workers to be engaged on short term contracts indefinitely.

Towards a solution to low quality gig work

28. The rise of insecure work such as gig work has been facilitated by, and is continuing to be facilitated by, the current industrial relations regime and can only be comprehensively ameliorated through industrial relations reform. It is not possible for unions to continue their role of progressively advancing equality and workers' rights under the current regime. For example, several significant rights were lost in the 4-yearly review of rewards, including penalty rates in several industries.
29. As part of its campaign to address casualisation and insecure work, the ACTU fought successfully for a near-universal right in awards for long-term regular casual employees to convert to permanent employment and better minimum terms of engagement for both casual and part-time workers. However, both claims were stridently opposed by business and the Fair Work Commission watered down the ACTU's proposals in its final determination in deference to business' demands for flexibility. At the same time, employers successfully argued high casualisation rates in certain industries such as clubs and hotels, and social and community services, justified weakening part-time protections in those industries to encourage employers to use more part-time arrangements, thus introducing some of the same features of precarity and insecurity in casual employment into part-time employment.
30. The solution requires industrial relations and other legal reforms that:
 - (a) introduce a new set of industrial rules and minimum protections with a broad scope to cover emerging forms of work and to keep pace with the varied ways in which corporations engage workers beyond standard notions of permanent employment, whether through digital platforms or otherwise;
 - (b) introduce broad anti-avoidance measures to prevent employers from gaming the system with new avoidance tactics;
 - (c) eliminate sham contracting;
 - (d) provide better mechanisms for all workers to achieve secure jobs, and fair wages and ensure rights for gig workers to collectively bargain;
 - (e) expand the scope of bargaining to allow workers to press for more secure arrangements as part of collective agreement content;

- (f) allow for sector and industry-wide bargaining so that firms are compelled to compete on the basis of genuine innovation, not a race to the bottom on wage costs and complex, tenuous labour supply arrangements that avoid standard worker protections;
- (g) legislate an objective statutory definition of casual employment;
- (h) provide adequate income support for the unemployed and underemployed to reduce coercive pressure on job seekers to accept exploitative job arrangements below their skills and experience;
- (i) improve freedom of association protections and access for workers to their unions without risk of intimidation and surveillance;
- (j) increase equality through higher minimum wages and award standards, especially for casual employees;
- (k) restore penalty rates, which would benefit gig workers, if combined with better enforcement of employee protections;
- (l) remove impediments to unions enforcing workplace laws; and
- (m) ensure employers bear ultimate responsibility for all worker entitlements in the event of bankruptcy, and implement better protections against phoenixing.

What can the Victorian Government do?

31. Outside of industrial relations reform, Federal and State governments can do much to address the lack of bargaining power and high levels of underemployment and unemployment driving the growth in low quality work. There is much that the Victorian Government can do.

Promoting full employment

32. For example, in a climate of full employment, workers have significantly more bargaining power, including the capacity to reject low quality employment altogether and real power to press for better, and more secure, pay and working conditions. The significance of this cannot be underestimated.

33. Progressive governments understand that the market is not capable of mobilising all spare capacity in the economy and government has a significant role to play in filling the gaps to ensure and maintain full employment and to stimulate higher growth through public spending and investment.

34. The Federal Government has doggedly pursued austerity policies aimed at the opposite – reducing public spending and the size of government, and thereby ensuring chronic

underemployment and underemployment and lower economic growth rates than would otherwise be achievable.

35. Despite this failure at the Federal level, the Victorian Government has proceeded with significant investment in infrastructure and public services on its own, resulting in the lowest unemployment rate and highest rate of economic growth of any state in the country. This is to be commended, especially when several other jurisdictions are still pursuing contrary policies. However, compared to historical levels, the current rate of unemployment, at 4.2%,²⁵ is still high, and public investment still modest. The Victorian Government's recent resounding electoral success resulting from its progressive economic record should embolden it to increase public spending more significantly. Further spending on health, education and infrastructure is overwhelmingly supported by Victorian voters. This increased spending can be used to create high quality jobs that meet the needs of gig workers and save them from being forced to accept low quality gig work. This would also apply market pressure on gig economy platforms to improve conditions in order to attract workers.
36. Further, if the Victorian Government determines that the Federal Government is unlikely to make the necessary changes to protect Victorian workers, it could investigate other models for ensuring gig economy platform operators' compliance with minimum standards. For example, given the obvious parallels between worker exploitation in the labour hire industry and platform work, it could look to extending a similar licensing model as that established in the Victorian labour hire industry to platform operators, requiring compliance with minimum standards as a pre-condition for gig economy platforms to operate in the State.

Showing leadership in the economy

37. Further, the Victorian Government should play a greater leadership role in the economy aimed at promoting secure work. As the Victorian public sector is the largest employer and economic actor in the state, the Victorian Government can do much to set standards via its own workforce and the public and private entities it funds, with a flow on effect on market standards more generally. For example, the Victorian Government can:

²⁵ Australian Government, Department of Jobs and Small Business, Unemployment rate by State and Territory, as at December 2018 <http://lmip.gov.au/default.aspx?LMIP/LFR_SAF0UR/LFR_UnemploymentRate>.

- (a) promote secure employment arrangements and high pay and conditions in the public service, including through its public service bargaining rules, and by removing wage caps and restrictions on public agencies in collective bargaining;
- (b) set better wage and labour standards for organisations in other entities and the non-profit sector that depend on government funding for all or part of their activities, via government rules regarding service quality and standards;
- (c) set better wage and labour standards and more secure employment through its tendering and procurement rules, thus directly influencing a good section of the private sector, and indirectly setting market conditions and standards;
- (d) facilitate workers' access to unions in the public service and actively encourage union representation;
- (e) reverse policies of privatisation, outsourcing and public private partnerships, to bring more activity in-house where secure, high quality work arrangements can be better assured; and
- (f) most especially, explicitly avoid using exploitative gig work arrangements anywhere in its labour supply chain.

Occupational health and safety

38. We support the submissions made by the VTHC to this inquiry and their recommendations. In particular, we wish to highlight the VTHC's recommendation that the State Government review and amend the *Occupational Health and Safety Act 2004 (Vic)*, the *Workplace Injury Rehabilitation and Compensation Act 2013 (Vic)*, and the *Transport Accident Act 1986 (Vic)* to ensure companies operating in the on-demand or gig economy bear the responsibilities and costs associated with the health and safety of all workers they engage, including the responsibility and cost relating to rehabilitation and compensation for workplace injuries and deaths.

Conclusion

39. The rise of digital on-demand work, the so-called 'gig economy', needs to be understood in relation to the rise of on-demand and precarious work generally in a climate of deregulation, austerity and the disenfranchisement of unions and workers. Addressing the problems in the gig economy requires changing the Federal industrial relations regime to address insecure work more generally. However, there is much the Victorian Government

can do to improve workers' bargaining power and the quality of jobs by promoting full employment and showing leadership as the major employer and economic actor in the Victorian economy.

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