

Submission by a Worker – Inquiry Into the On-Demand Workforce in Victoria

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The prevalence and nature of on-demand work in Victoria

The Inquiry wants to understand the extent of and issues for the on-demand workforce. We welcome examples or case studies that illustrate the experience of individuals and the perspective of workers in the on-demand economy. The following questions are prompts for people working in the on-demand economy – you do not need to answer all of them or, if you prefer, you can say whatever you like at the end under ‘additional information’.

1. How frequently are you offered on-demand work in Victoria?

I took up part time regular employment in late 2018. Prior to this and since 2014 when I returned from living abroad, I worked a combination of part time, freelance, gig work, and an assortment of odd tasks for which I received financial compensation. Part of that time I was also trying to start up a new small business, and often took gig work to support myself. During this period my paid ‘work’ was erratic. Sometimes I had two solid weeks of work in a month, other months I did just 3 or 4 days of paid work. In specific relation to this inquiry, one gig I worked which is referred to numerous times below was for approximately 2 months full time and basically meant to be ongoing in nature.

Please note: I wasn’t exactly ‘offered’ on-demand work. I had to seek it out myself and win the work over other applicants. It’s sort of like rolling job interviews combined with sales/pitching for a few days of work at a time. Perhaps that was the case because I tapped into multiple sources of income and didn’t rely on a single platform.

2. How much on-demand work do you do each week?

As noted above, it was irregular. Some weeks none. Other weeks it was full time hours.

3. In what industries or regions do you work, when working for an on-demand business or platform?

I worked exclusively in Melbourne. The work ranged from hospitality to customer service, to administration/office work, to event management, to teaching, to desktop research and report preparation, to taste testing, to tour guiding, to project coordination, and a number of things in between. Fortunately I have a lot of skills, qualifications and work experiences, and was able to find work in lots of different fields. I worked for all kinds of businesses – sole traders, startups, a university and a college, not-for-profits, and corporate businesses.

4. Do you have another job and what kind of other job(s) do you have?

As my on-demand work covered a fairly long period (2 years+), I had a number of different arrangements going. When I first signed up to a platform I was job-seeking. Following that I was contracted for 15hrs/week work. Then I started my own business and initially only took on a little gig work on the side, but as that business failed to generate revenue I took on more work.

Then I did gig & freelance work (both ongoing and ad hoc) exclusively for approx 9 months before getting a 10hr/week part time job. (One of the platforms I worked on changed models and began offering a combination of labour hire/agency work (as an employee) and gig work. I did both types until I was kicked off the platform.) After securing a permanent PT job, I did some extra gig work (sometimes taking leave from my PT job to take on better paying short term gigs). Then in late August 2018 I secured a 0.6FTE role in office admin and have only done a couple of gigs since then, however in 2019 I plan to get a second job or take on more gig work to supplement my income.

The legal status of on-demand workers

The status of workers in the on-demand economy is a fundamental issue that determines how regulatory frameworks apply to workers. The answer to this question impacts on the rights and obligations of workers, platforms, businesses, consumers and the community. It dictates where a person might go for help or advice if something goes wrong and what remedies might be available.

A fundamental question that the Inquiry must consider is whether and how regulators are able to resolve the question of whether the laws they are invested with enforcing on behalf of the community apply to these arrangements and the extent to which users and workers are able to understand their rights and obligations and seek assistance if something goes wrong. The Inquiry therefore seeks submissions about the following:

5. How were you recruited and engaged to perform work?

I am an ABN holder as I have performed independent contracting work for a number of years, and then I ran my own registered business. One of my first (and the most significant) platform-based on-demand work was initially gig work where I was engaged as an independent contractor/ABN holder and applied for advertised gigs with set rates of compensation, and the platform coordinated invoicing and payment on my behalf. However, following some issues they then moved to a combo model and some work was performed as an employee (basically at award wages, plus super), and some remained gig work which I did as an ABN holder.

One other job was initially as a casual employee (but not doing regular work), but due to repeated issues with payment, I requested to be an independent contractor so I could invoice them and set payment terms. Although they no longer withheld tax or paid me super, in fact they otherwise did not treat me as an independent contractor in terms of payment terms, and for example I was still required to complete a timesheet.

Other work was secured as a freelancer/contractor whereby I set my own rates (or agreed on proposed rates) and invoiced on completion of the work (or sometimes incrementally for longer gigs). This work was mostly secured independently through my professional networks. The platform I worked on often sent out marketing emails asking for referrals by existing workers to their friends. On two occasions I referred a friend (a local Australian and an international student) with a number of skills, both of whom were rejected by the platform for unspecified reasons. It definitely didn't seem like an impartial process for contractors, but like employee recruitment.

6. Please outline how your work arrangements were put in place?

On the platform mentioned above, when I signed up I agreed to general T&C's and had a quality assurance-type interview before being approved. I created an online profile which showcased my skills. Subsequently, gigs were advertised on the platform by (their) clients outlining the rates of pay, the hours, the requirements of the role etc and I applied for each separately by completing an online form outlining why I was best for the role (which linked to my profile and reviews). Following the gig I submitted an online timesheet, which was approved by the client, who also gave me a

public review, and the platform paid me within roughly a week. When they moved to the combo model noted above, jobs were advertised either as gigs or as agency work but was otherwise similar on the worker's end. Some back end changes were made on the platform, and I suspected that the platform's staff had more of a hand in selecting workers for the roles, although this wasn't confirmed. For those roles, I was paid basically at award wage plus super, however the details of the awards or work arrangements were never communicated.

7. Did you discuss or negotiate the details of your work arrangement with the platform and/or the end user?

As noted above, there was no opportunity on this platform for any negotiation or discussion. They had a questions/comments section on each gig listing but usually they went unanswered. One role in particular caused issues because it was not a gig role, but also sat outside the norms of the agency work they offered because the client only advertised the initial role (for 3 days or something) on the platform, but the ongoing work was done by arrangement directly with me via a staff roster for approx 2 months. The client reported my hours on my behalf (often with errors), and I was paid monthly by the platform. This arrangement was a job, not a gig, and I (and others sourced through the platform) operated like a casual employee of the client (not the platform). When I raised concerns about the job, both the platform and the client told me to speak to the other, and neither took responsibility for handling issues. They had a contract arrangement which sat outside the usual engagements. I complained about being paid monthly. The award stated workers were to be paid weekly, or fortnightly at most. Although after a lot of chasing this was rectified (for me, not other platform workers), I stopped getting shifts with the client, however they shortly re-advertised the role on the platform. Basically I was punished for asserting my rights under the award.

In general we were not allowed to communicate with the end users (the clients) prior to applying for a role. It was only after the gig had been awarded to you that you were given contact details (and a contact person for a larger business). It was also expressly forbidden to undertake further work with a client outside the platform, although on numerous occasions the clients wanted to contract me directly for work. Although I understand the commercial reasons for doing this for the platform, it is similar to a non-compete clause in an employee contract, rather than the principles of a competitive free market for businesses.

8. Do you decide how and where you work?

For this question I will separate what I consider my freelance work (where I set my rates and payment terms as an independent contractor) and what I consider gig work.

For the on-demand gig work the answer is no. I was required at a specific time and place to do a specific role according to the instructions set out by the client/end user (usually a business). For my freelance work, mostly yes depending on the operational requirements of the project (for example if I had to collaborate or had meetings etc).

9. Are you free to provide the same services to more than one on-demand platform and/or client at the same time?

Yes, and in my case I secured work from a large number of sources, both other platforms as well as directly with businesses or through my professional network.

10. What do you do if you have a dispute or concern about your work? Where and from whom can you seek help in resolving disputes?

For the platform noted above, in fact it was always opaque and no-one would provide direct answers. On numerous occasions I experienced difficulties (for example with incorrect pay) and often neither the client nor the platform would take responsibility to resolve it, often referring me to the other.

In the scenario outlined above about the ongoing agency work for the client who paid monthly, I had to speak to the founder of the platform and threaten to go to Fair Work before it was resolved. The senior staff (and contact people) at the client business avoided my calls and refused to assist, telling me it was a matter for the platform because of their special business agreement.

On another occasion (which resulted in being kicked off the platform), I urgently needed assistance with my pay records to complete my tax return in regards to my work as their employee. The records made available online were inaccurate and incomplete (largely traceable back to the abovementioned client) and the platform refused to assist me or answer any questions by phone (and only provided limited help by email). As a result of an altercation where I became very angry, I was removed from the platform immediately without notice, and banned from an internal Facebook group for platform workers. My reviews were impeccable, I had never received a complaint from any clients/end users, and although I had a reputation as a troublemaker for staff on the platform (because I frequently insisted on my rights or brought forth complaints about their unethical or unfair conduct) I had never done anything which would ordinarily be considered a breach warranting termination in a normal employee relationship. There was no due process, and all access to my data (eg: reviews from my end users/clients) was revoked immediately and without any recourse.

I never faced any disputes or concerns about my work (quality, timeliness etc) so I cannot answer about that. In my freelance work, which I believe was genuine independent contracting as a sole trader, I simply communicated directly with my client who I had the business relationship with to avoid any issues.

11. How is the quality of your work assessed? In what situations if any might you lose the right to obtain work via the platform?

After every gig on the platform (whether agency work or gig work), the end client would review me. I always received 5 stars and excellent reviews about my work so I am unaware of what might happen if I were to receive a poor review.

However, as noted above, I was kicked off the platform suddenly without notice in October 2017 because I became extremely angry in a phone call due to their repeated errors, refusal to assist me with an important and urgent tax matter, and repeatedly lying to me.

In fact, I had started to notice that the amount of work being secured on the platform decreased over the previous year. As noted above, I was known to the staff at the platform because I frequently raised issues over the 3 years I worked with them (as they transitioned from a small startup to a very successful business and bought out by a major global player). Initially this feedback was welcomed as a way to improve, but over time I noticed the number of gigs I was awarded decreased (despite my high ratings and evident suitability for the work), even though my concerns were valid and I was within my rights to raise a complaint. Anecdotally, I spoke to other platform workers who made complaints to the platform (for example about clients who treated staff poorly) who reported similar experiences of decreased gigs also despite their good reviews.

I felt very powerless in this situation. In the beginning I did feel as though I was autonomous and was awarded work based on my performance for the end client, but over time the power dynamics shifted enormously as I was very much a powerless worker without much say at all about my own conditions. The platform protected their clients at the expense of workers who may report them, negatively review them, or share information on the closed Facebook forum with other workers as a

warning. This information about poor clients was hidden and any discussion was shut down.

The impact of on-demand work for workers, including vulnerable workers

The impact of on-demand work on workers is multi-dimensional and complex. In considering the question of ‘impact’ the Inquiry wants to hear about the experience of individual on-demand workers, but also seeks to understand the broader impact of the emergence of on-demand work on both the on-demand cohort, but also workers in ‘traditional’ arrangements.

12. What and how are you paid?

For my gig work via the platform noted, I was usually paid weekly (with the exception of the illegal monthly pay outlined above). As noted, we completed a timesheet for the hours worked and the platform deposited funds into our bank account. Rates were low, usually award wages for the agency work, although the gig work sometimes paid as low as \$12/hr because it wasn’t regulated and the oversight was limited. I never applied for those obscenely low paid gigs and often made complaints about the advertisers (end user clients) because I believed they were exploitative. The extremely low paid gigs eventually phased out as the platform matured and the bulk of work paid at around \$20 - \$25/hr. My freelance work and other gigs I sourced independently were paid anywhere between \$25hr - \$75/hr depending on the work. I set my own rates and invoiced directly.

13. Why do you engage in on-demand work?

This is an often-misunderstood factor in on-demand work and so many people believe it’s simply because you want to ‘work for yourself’.

Initially I signed up to the platform because I literally couldn’t find a proper job. Over time I did it primarily because I needed additional income (such as when I was running my own business which didn’t have much revenue). Certainly after my business closed down I preferred to work freelance because I had more scope in the kinds of work I did, for whom (which matters to me), and often the freedom to work from home, choose my hours and the amount of work I undertook. When I had part time roles I did gig work to supplement my regular income because it was not a living wage, and certainly there were times I was desperate for income and had no choice but to seek out gig work (or other odd jobs that paid piecemeal).

Eventually I gave up on-demand work because it was erratic, low paid, insecure, and increasingly I found the platforms exploitative – making a lot of money while paying low compensation, whilst also having increasing power over the gig workers. I felt I lost the freedom which is the only attractive part of on-demand work. The constant short term nature and having to continually seek new gigs became very tiring. Obviously I don’t get paid for the time I am preparing proposals or applying for gigs, even though it takes up an enormous amount of my time.

I struggled to find a full time job commiserate with my skills and interests, but finally found a permanent part time job which pays enough for me to cover my expenses. As mentioned, in 2019 I will get either a second job or else go back to gig work to supplement my income so I can save and have additional disposable income.

14. How often do you participate in on-demand work? Is on-demand work some, most or all of the paid work that you do? Do you also work outside of the on-demand economy?

Please see answers detailed above regarding frequency etc.

15. Do you experience any differences when you work under on-demand arrangements or 'traditional' arrangements?

Not in terms of the work itself, and sometimes not even in the way I am recruited for it. The main differences are in the back end regarding how the payment is worked out and from whom I am paid. The expectations of the end user are analogous with traditional employers – I didn't have any leeway because I was a gig worker in terms of my job readiness.

Some gig clients have unreasonable expectations, for example I am contracted for x hrs/week (or based on project deliverables) which I am meant to self-determine around my other commitments (to other clients etc), but they expect me to be available to them as if I were a full time employee.

On the whole, in my experience the businesses want to have it both ways – they want an on-demand, dispensable work force, but they also want skilled employees they can direct and control, and are unforgiving if you're not available and often punish you for that. They want to pay on regular pay cycles (not when the work is performed), and they don't want to pay a premium for job-ready, on-demand staff (and in fact expect the overall costs to be lower than an employee).

16. Are there any training or development opportunities made available to you when you work with an on-demand business or platform?

Definitely not. You're on your own, and expected to come skilled and job-ready. This is a major 'selling point' for the businesses that hire on-demand staff.

17. How do you raise issues or concerns about your workplace arrangements? Do you feel confident to do this?

As noted, in general it is difficult to raise issues either because you don't know who to speak to and no formal avenues are made available, or you're at risk of being considered a troublemaker. As you have no recourse and few rights, it can be difficult to speak up.

Personally I did speak up many times with the platform I've referred to, and I was punished for it through my access to work being restricted or terminated, and then eventually being kicked off the platform.

In my genuine freelance work, I was able to raise issues as per a usual client-supplier business relationship. There were sometimes frustrations but they were handled as equal players.

18. What happens when you are unable to work due to a physical or psychological injury, illness?

If I was sick or late for a gig I was expected to contact both the client and the platform staff. Any time I am not working I cannot bill for. Of course there are no support services available to gig workers.

19. How are workplace injuries addressed if you are injured?

I have no idea.

20. Are you paid superannuation?

As mentioned, on the one platform when I did agency work I was paid super by the platform as an employee. However, in all other cases no super was paid. What's more, gigs are usually not paid at a premium (rather just at an award wage level) so there isn't really surplus to cover personal super contributions (or tax for that matter) without having a disproportionate impact on overall income.

21. What tax do you pay and how do you ensure your tax liabilities are met?

I paid tax as a sole trader by completing a tax return annually. Because I was a low income earner the ATO decided I did not have to submit quarterly. For the period I was almost exclusively performing gig/freelance work, I think I earned under the threshold so no tax was payable. When I worked as a PAYG employee in addition to gig work, I had a tax bill which I paid from my savings. It was expected so it didn't come as a shock to me, although I didn't really know in advance how much it would be.

My tax affairs are fairly simple so I DIY, although possibly if I used an accountant I could minimise my tax bills through eligible business deductions I'm not really aware of.

Additional Feedback

Despite working in the gig economy and experiencing the purported advantages of working outside a full time employee arrangement, or perhaps because of this, I am somewhat hostile to this new form of work because it clearly and unfairly advantages one side (business) over the other (the people who perform the labour) in new and perverse ways. The lack of regulation, or the slow pace to keep up with labour market innovations leaves a gap for supposed 'tech companies' to exploit human resources and make hay while the sun shines. It provides an unfair competitive advantage over other businesses who are competing in a regulated environment with all its associated costs, and at the same time lowers the bar of what's acceptable in our society, changing the labour landscape. The hard fought rights of workers are being stripped away in a race to the bottom of gig workers struggling to make a living, while excessive profits are made by so-labelled innovators who do little more than develop some software and succeed in mass marketing, then take a clip for every hour you work or gig you perform. We're told it's liberating people, that gig workers are micro-entrepreneurs living the dream of self-determined work lives, when the reality in most cases is they can barely make a living wage, and have fewer rights and no benefits compared to the ever decreasing majority of people gainfully employed under awards and enterprise agreements. Many work more than full time hours and if they can't work they have no income whatsoever. In most cases they're excessively controlled by the platforms with punitive treatment for perceived damage to the companies' brands.

The power dynamics have shifted because of the grey area where a gig worker is somewhere between a service provider/supplier, a customer and an employee, but not wholly any of them so lacking a formal avenue or legal recourse when they know something isn't quite right. The global nature of these tech companies protect them from Australian laws, and by the time judgements are found against them in the courts, they've innovated their way to a different business model.

It's one-sided in terms of the 'trust' factors because public reviews are only ever about the individual workers, thus opening them up to future disadvantage in ways never before experienced when you could chose your references when you applied for another job. They can be used against you as a reason to terminate your access to a platform without any due process or investigation to protect the platform's reputation or its end consumers, or simply because they don't like you, or you insist on your rights. There aren't two sides to the story when you're a gig worker and both your reputation and your livelihood are at stake.

The cost to the community, and other taxpayers, is increased as gig workers need to rely more

heavily on public services because their income doesn't allow for them to be privately insured, for example, or they need to rely on Centrelink during a dry spell. They may pay little or no tax (or super) because they earn so little, and so not only do they take more, they contribute less. The gig economy enables both workers and businesses to skirt work restrictions for visa holders, and public safety is compromised when your Uber driver has been on the road for 16 hours trying to make enough money.

The on-demand economy masks the scale of unemployment (and underemployment), and the downward trend of businesses offering full time jobs with full benefits which is contributing to Australia becoming more unequal with a growing underclass. Masters degree holders are working as Uber drivers because they can't secure proper employment in their field of study. The stop gap solution becomes the destination because they have to work so many hours to earn a decent income that they don't have time for job hunting or internships. Partnerships such as the one between the not-for-profit organisation [text redacted] provide cheap, government-subsidised labour to a private, foreign enterprise under the guise of 'job training', entrenching people in low-skilled, low paid work for the benefit of global corporations and consumers [redacted text]. This type of partnership is not far off 21st century slave labour.

Innovation should not come at the expense of our community (or a section of it), and it is a misnomer to call large companies flouting regulations and exploiting human labour for private profit 'innovation'. It's as old as capitalism itself. The on-demand economy socialises risk and privatises profits.

Fix the unequal power dynamics and enable gig workers to be true independent workers with the ability to set their own fairly compensated rates, work their own hours, and get access to customers on a level playing field, and you'll fix the unintended consequences of an on-demand workforce so that businesses, consumers and the army of workers all have a chance to share in the prosperity of this new world of work.