



The Australian Industry Group
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Natalie James
Chair
Inquiry into the Victorian On-demand Workforce
Department of Premier and Cabinet
1 Spring Street
Melbourne VIC 3000

Dear Ms James

As you know, Ai Group has made submissions to the Inquiry into the On-demand Workforce and participated in a number of roundtable consultations that you have chaired.

During the course of the inquiry we have continued to consult with businesses engaged in the “gig-economy” and continued to develop ideas which are aimed at achieving outcomes of benefit to all parties. One such idea is outlined below, which we urge you to recommend as an outcome of the Inquiry.

There is currently a great deal of focus on the definition of an ‘independent contractor’ in the context of the public debate about the entitlements of ‘gig workers’. As we have argued in our submissions, it is essential that the current common law approach to defining an ‘independent contractor’ is not fundamentally disturbed. This approach caters for the very wide range of legitimate independent contracting arrangements.

It is apparent that ‘gig economy’ businesses are sometimes reluctant to offer benefits that would improve the working arrangements of their workers because of concern that the provision of such benefits could be held by a Court to constitute exercising too much control for a genuine ‘independent contracting’ arrangement.

It is in everyone’s interests for independent contractors to work in a safe environment, to receive appropriate training, to be covered by accident insurance, to be consulted about workplace changes and to be paid on time at a fair price.

The *Fair Work Act 2009* (**FW Act**) does not define an ‘independent contractor’. However, the following clarification is provided in s.12 of the Act:

Independent contractor is not confined to an individual.

To reduce any disincentives to ‘gig economy’ businesses improving the working arrangements of their independent contractors, we propose that the following additional wording be inserted into section 12 of the FW Act:



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Independent contractor is not confined to an individual and has the common law meaning, except that the provision of the following benefits by the person engaging the contractor shall not be taken into account in determining whether there is a contract of services:

- (a) Safety systems and equipment
- (b) Training
- (c) Insurance
- (d) Standard prices or payment terms
- (e) Consultation processes

We would be happy to provide any further information that you may require about this proposal.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S. Smith'.

Stephen Smith
Head of National Workplace Relations Policy