

Submission by a Business that purchases services in the on-demand economy – Inquiry into the On-Demand Workforce in Victoria

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vic.gov.au/on-demandinquiry

The prevalence and nature of on-demand service provision 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 businesses in the on-demand economy.

The following questions are prompts for businesses that purchase services through the on-demand economy – you do not need to answer all of them or, if you prefer, you can respond by providing information at the end under ‘your comments’.

Section 1 – your business and the products/services you purchase

1. What is the nature of your business or undertaking? What services or products do you offer to customers?

We provide Restaurants with tools and services to help them find more customers and turn them into repeat customers. We offer a Free Restaurant Online Ordering system which is predominantly designed for our customers to use, but we offer it free to all Restaurants. Whilst we have a competing product for online ordering, we generate no revenue from it.

2. In which geographical regions does your business operate?

Marketing4Restaurants has customers in over 10 countries. This gives us experience with a number of competitors and business models, including in the US and the UK. We also get to see the practices that companies operating in Australia are using in other countries.

3. What opportunities and challenges has the on-demand economy generated for your business?

As a marketing company, our key concern with the participants in the Restaurant industry is the way that they attempt to insert themselves between the customer and the Restaurant.

Practices include not sharing customer details with the Restaurant, such as the email address and phone number, all the way through to brandjacking. Menulog creates websites with domain names similar to the Restaurants name. These websites don't have a phone number and we believe that it isn't explicitly clear that it isn't the Restaurants website. Many customers believe that they are dealing directly with the Restaurant, not with an intermediary who is not providing their contact details to the customer, nor are they aware that the Restaurant is charged commission on every order. We believe that the website brandjacking is misleading and deceptive conduct and we would like to see an ACCC investigation into it. We know that customers think that they are dealing directly when using the Menulog websites.

The big challenge for the Restaurants is the unfair playing field created by companies like Deliveroo who have a business model that has created the ability to underpay workers by classing them as independent contractors. Given their current losses, it is likely that the business model is not sustainable if they were paying award rates.

4. What impact do you believe the on-demand economy has had on other businesses operating under more traditional business models? How?

The on-demand businesses in the Restaurant industry have 2 main business models the order aggregators and the delivery aggregators. Order aggregators are companies like Menulog. They create a single place for customers to order their food. Delivery aggregators create 1 place for customers to order food from Restaurants but also provide the delivery service. Last year, Menulog, seeing their model being disrupted, developed a hybrid model, starting to offer delivery services. Average commission charged to Restaurants are 13.5% for order aggregation and 30-35% for delivery aggregation.

Restaurants have felt forced to use Menulog and have described them as the business partner that they never wanted. <https://www.smh.com.au/business/restaurants-have-a-new-frenemy-and-its-eating-their-profits-20180116-h0j21x.html>.

Realistically, the difference for a Restaurant between using Menulog and Deliveroo is the difference, which equates to 17% of the delivery price. The average delivery order in Australia, based on our data is \$41 ex GST. The price for a restaurant actually performing the delivery could be much higher, especially when looking at the costs that they would be incurred during midweek, when delivery volumes are a lot lower and therefore wage costs are higher. Some Restaurants can do 50% of their weekly orders in the 8 hours on Friday and Saturday evening.

Many Restaurants don't have the resources to properly calculate the cost of delivery, but our approach is to look at the leaders in the Restaurant industry, Dominos Pizza. They have the resources to properly determine delivery costs. The pricing model is quite sophisticated, with at least 3 prices for a pizza depending on if it is delivery or pickup and what it is ordered with. The difference in price between 2 orders with the only difference being pickup or delivery is 43.6%, which is a 45% larger delivery fee. If Dominos has calculated the correct cost of delivery, it implies that those Restaurants paying 30% for delivery are underpaying the actual cost by 31%.

This is possible because Deliveroo is not required to pay holidays, sick leave, and other entitlements. Most importantly, there is no minimum number of hours that need to be paid. A rider on a Tuesday night may only get 1 order – which compares with a Restaurant employee being paid for a minimum of hours.

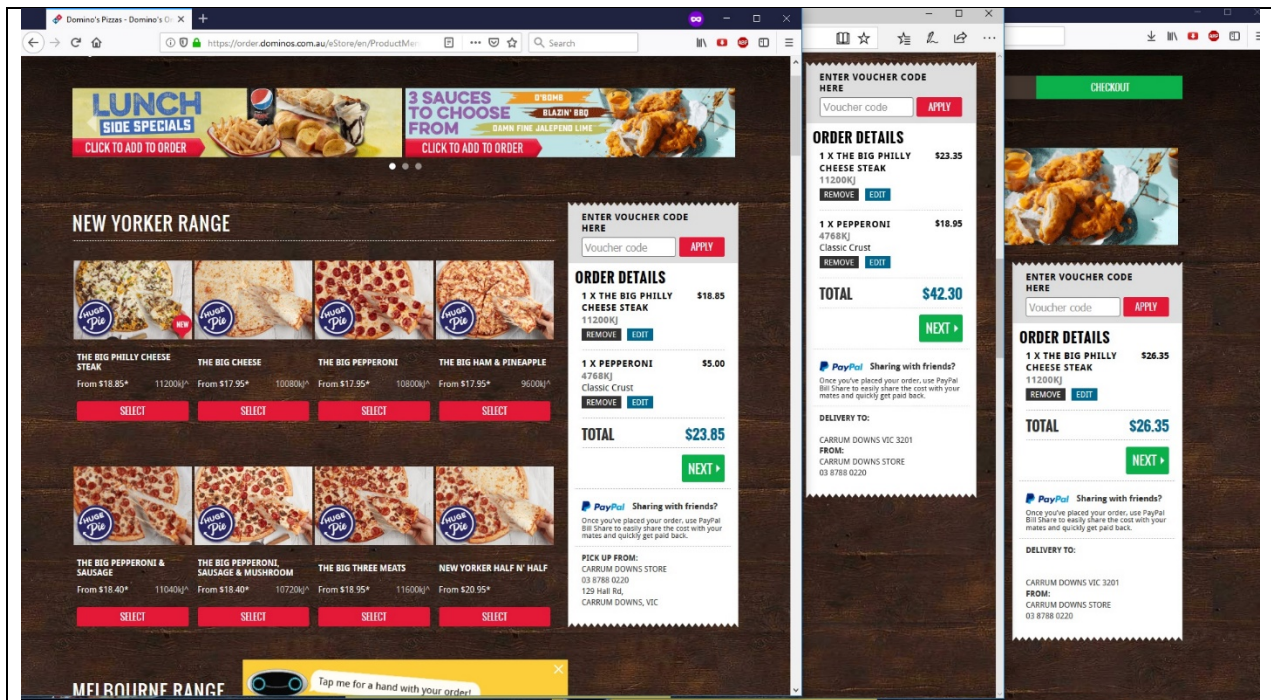
We believe that this leads to the cannibalisation of traditionally employed workers to delivery aggregator contractors partially because they believe that there is a large market that they are missing out on.

The real innovation for Deliveroo and Uber Eats is the ability to take delivery riders and pay them below the award rate. Food Delivery, despite what the delivery aggregators say, is not new and we believe that Pizza delivery goes back as far as the 1950's. Uber Eats and Deliveroo have created a duopoly, creating the illusion of workers choice. The most important part of the relationship between Deliveroo and Uber Eats is the ability to have workers flip between both companies as independent contractors making it appear that they were less likely to be acting as employees. This symbiotic relationship between the 2 ensures that there will be minimum competition, because they require each other. Workers working 40 hours per week for Deliveroo may be more likely to be viewed as employees, less so if they work 20 with Deliveroo and 20 with Uber Eats.

Our fear is that by building scale and generating the large networks at a loss, the aggregators can become dominant and then increase prices. Deliveroo in 2017 (their latest year of results), had revenue of 277,142,073 GBP and a loss of 183,527,089. Assuming 50,000,000 restaurants, (it is probably lower than that, this is a currently marketed figure), that equates to 5,542 GBP per restaurant in revenue but a loss of 3,670 GBP per restaurant. This highlights the fact that even with the breadth of the underpayments, the model is unprofitable. By dismantling the current delivery infrastructure of restaurants with workers, they will create reliance on the restaurants for the delivery component, which will enable them to increase prices to the Restaurants. Aggregators have worked aggressively to build their customer base, with deals like no minimum order. This saw some customers ordering a single bottle of water every day, rather than walk to a store to purchase it. These behaviors stopped once minimum order fees were introduced.

Just Eat in 2018 had only 11.3 million active customers in the last 12 months. This compares to 27.1 million households. Less than 50% of households have used the service (we are assuming that only 1 person per household has used a delivery service, which is absolute best case). They processed 59.3 million orders in the half of the year, so the median customer orders every 35 days. We suspect given the patterns that we see with orders and customers, the mean time between orders is possible more than every 2 months, so the service is not something that customers are desperately seeking, however all companies strive to create the dominant narrative

Deliveroo and Uber Eats have created some demand, with restaurants who had not previously provided deliveries, but we suspect that a significant portion of the market is cannibalizing orders and deliveries from restaurants employing staff traditionally to provide the deliveries.



An example of differential pricing, highlighting the importance that Dominos places on pick up orders.

Arrangements for the purchase of on-demand services

On-demand platform businesses will make decisions about the arrangements between the business and its on-demand workers. Traditional businesses that purchase services from on-demand platform businesses will make decisions about the arrangements between themselves and on-demand platform businesses. These decisions will have impacts on the rights and obligations of workers, platforms, businesses, consumers and the community. For example, the characterisation of a worker – employee, contractor, other - will determine their entitlements and obligations, including their remuneration, where a person might go for help or advice if something goes wrong and what remedies might be available.

Section 2 – Businesses that purchase on-demand services?

5. What services does your business access via the on-demand economy and why do you choose this option as opposed to other options (for example, directly engaging workers/service providers yourself via more traditional sources of labour)?

Delivery aggregators provide a very narrow range of the delivery solutions available to restaurants. Some restaurants have significant pick up only businesses and others, like Dominos have highly successful strategies to encourage pick up rather than delivery. Delivery aggregators do not provide these solutions because their business is focused on the customer being provided with a delivery solution. This is to the detriment of the restaurant partners.

6. How do you decide which platform to use from the options available?


7. Can you/how do you chose individual worker/service providers from within the platform?

It is our understanding that this is not the case. A delivery rider is allocated to the restaurant.

8. What sort of arrangements do you enter into with on-demand platform businesses and how do you make those arrangements? Please describe your experiences and the nature of those arrangements.

9. What if any agreement or arrangement does your business enter with on-demand workers? Please describe your experiences.

10. Can you tell us what you know about whether workers who do work for your business are also able to perform work for other businesses (on-demand platform businesses or more traditional businesses)?



angrybuddha @angryBuddhaaaa · 3h

Just had a @ubereats delivery from a guy in a @Deliveroo jacket & @Menulog helmet...

▼

The above tweet shows the prevalence of riders using multiple platforms. As discussed previously, this ‘competition’ creates the view that the rider is an independent contractor, when in reality, there is little to differentiate the delivery aggregators.

11. Can you tell us what you know about how rates of pay are set and how money is distributed to any on-demand workers that may carry out work for your business or you?

12. Can you tell us what you know about whether superannuation is paid to on-demand workers who carry out work for your business?

13. Can you tell us what you know about training or development provided to on-demand workers who carry out work for your business?

The impact of business activity in the on-demand environment.

The impact of on-demand work is multi-dimensional and complex. In considering the question of 'impact' the Inquiry wants to understand the impact on-participants in the on-demand economy, but also seeks to understand the broader impact of the emergence of on-demand service provision in the community.

Section 3 - other business obligations

14. Can you tell us what you know about the payment of tax in relation to work carried out for your business by on-demand workers?

The dominant narrative that the delivery aggregators are trying to tell is that their riders prefer flexibility. This is true in some cases, especially when you look at some of the people who like riding. For a person who likes riding, riding and getting paid for it is great, we see this with people wanting an aerobic workout. They can ride for 10 – 15 hours per week and get paid for the time they are doing it. This is time that they would have spent riding anyway. The issue is that Deliveroo uses that persons low valuation of their time to create a market place, in direct competition with a rider who is riding to put food on the table for their family. The only alternative that rider has it to ride more hours, because they are being underpaid.

The fact that the average rider only rides for 5 months creates concerns about how many are actually paying their share of the tax that they owe and how many are backpackers who have returned to their country of origin. This undermines the efficiency of the tax system and once again, enables these riders to create the unfair playing field, by living of money that should have been remitted to the Government.

15. Can you tell us what you know about insurance coverage in respect of the performance of work performed by on-demand workers?

<https://www.abc.net.au/news/2018-09-21/gig-economy-workers-rights-subject-of-victorian-gov-inquiry/10290696>

In any piece work scenario, there is an inherent incentive to work faster. It is no different for Deliveroo riders and when they are travelling on busy CBD roads, it creates an increase of accidents. There is no monitoring of the speed or traffic rules that are ignored. Given that they are independent contractors, there is no oversight of their safe conduct.

16. Can you tell us what you know about steps taken to meet health and safety obligations with respect to on-demand workers?

There appears to be little training in food safety, and riders do not have the ability to measure the temperature of food. The concern is that if an order is delivered late it could have spoiled.

The other issue is riders helping themselves to the food. It is unlikely that their hands are clean, because they don't have access to a wash basin. It also, obviously impacts the customer experience, receiving less food if it is noticed, and even if not, they are exposed to the pathogens on the riders hands. Some have related this to the low pay of the riders, they feel entitled to a part of the meal given that they are paid so lowly.

17. If a dispute arises about the delivery of work via the on-demand economy (for example, in relation to quality, timeliness or price), how have you or would you resolve such a dispute?

https://www.reddit.com/r/uber/comments/9s4wob/warning_uber_eats_scam/

This highlights the lack of control that Uber Eats riders have in their work, with no right to redress.

<https://www.msn.com/en-au/money/company-news/furious-restaurant-owners-claim-a-major-loophole-in-uber-eats-app-is-costing-them-thousands-of-dollars/ar-BBOgRXXR>

This is a more sophisticated example of the way that delivery riders are taking advantage of the restaurants, and highlights the lack of control that they have. Traditional employment models wouldn't see this kind of action very often because of the ability of the employer to take action, but restaurants have very little power in the relationship between the riders and the delivery aggregator.

<https://www.dailymail.co.uk/news/article-6487125/Delivery-driver-caught-camera-EATING-food-resealing-containers-fired.html>

Creates a poor impression of the restaurant, creates food safety concerns and is often undetectable.

<https://www.dailymail.co.uk/news/article-6568909/Delivery-driver-eats-meal-deliver.html> Another example.

<https://www.news.com.au/national/food-drivers-caught-opening-and-feasting-on-meals-before-resealing-and-delivering-to-customers/news-story/7afa7c8d4b0ca6f2f674d1636feda17b>

My concern with these companies are with the quality of the drivers themselves. You hear of their stories about pay, super etc. which for the hard working ones remain true. But if there is anything wrong with the delivery once it reaches the customer, I'm to blame. Some of these couriers are exploiting the system and stealing food that I've sent out for delivery. Some are so slow and lazy I'm 60% of the way to leaving UberEATS and sticking with just deliveroo as I have far fewer issues with them.

https://www.reddit.com/r/australia/comments/9yajxm/uber_eats_and_deliveroo_should_be_very_worried/
Part of a comment taken from reddit highlight some of the issues that restaurants find themselves dealing with.

Your views

We have concerns around the long term future of the industry, especially with Deliveroo and the Dark Kitchens. In the UK, there have been issues with council approval, increased traffic, and noise late at night. The long term plans, though, appear far more insidious.

<https://london.eater.com/2018/3/29/17175482/deliveroo-future-plans-robots-profits-investors>

The intent is to replace the Restaurant owners as the operators of the Dark Kitchens. This may revolve around the creation of faux brands or they may be delivered under the Deliveroo brand.

There is nothing inherently wrong with the Dark Kitchen movement, in fact we have worked with owner/operators marketing dark kitchens. They employ cooks and riders traditionally.

Our concerns though are the fact that Deliveroo's aim is to create a large marketplace for people looking for food to be delivered, and then offer their own food in that marketplace. They will have the market intelligence to determine the locations with the highest demand and then cherry pick those locations for their own restaurants. It is a logical extension that they will employ cooks as on demand independent workers, possibly on a per burger flipped methodology. This enables them to decrease the risk of low demand times. Given that many restaurants rely on take out and delivery food for a portion of their revenue, it could decimate those restaurants and dramatically decrease the number of people employed within the industry.

The restaurant industry is often the employer of first choice for immigrants, especially those who don't speak English. Cooking the food of their parents and of their native homelands is often the only skill that can be performed without knowledge of the language. The importance of this is seen by the prevalence of the Vietnamese restaurant segment of the industry. This is why the small end of the restaurant industry has such an important role to play in the general hospitality industry, the economy as a whole and the fabric of society. Restaurants take immigrants with few hopes and enable them to create a valued experience for their customers. With pride these owners build their business as they build their place in Australian society. Today's immigrant is tomorrow's proud Australian and many times the restaurant industry enables, facilitates and accelerates this transformation.

Without a robust restaurant industry, we will be removing a key path for our new immigrants to undergo this transformation.

Another impact is the hidden cost. Restaurants are increasing their prices to cover the aggregator fees, changing recipes and changing the amount of food provided in an effort to be economical.

The Restaurant industry is notorious for underpaying, but we see many owners who work hard, very hard to build a team and do the right thing by them. Costs imposed by large multinationals fundamentally impair the ability to run a profitable business employing staff and paying at least the minimum wage. Without regulation, these multibillion dollar companies will fundamentally alter the nature of work and the availability of work for wide parts of society. It is because of this, and the role that the local independent restaurant plays in society that a level playing field is required to be put in place and enforced.