



BUSINESS COUNCIL
OF CO-OPERATIVES AND MUTUALS

Submission to the inquiry into the Victorian on-demand
workforce

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About the BCCM

Formed in 2013 following the United Nations International Year of Co-operatives, the Business Council of Co-operatives and Mutuals (BCCM) is the peak body for Australian co-operatives, mutuals and member-owned enterprises. The BCCM represents a diverse range of enterprises operating in sectors including agriculture, finance and banking, insurance, motoring services, health services, aged care, disability employment, education, indigenous services, social housing and retail.

The BCCM advocates for recognition of the sector and for measures that create a level playing field between co-operatives and other businesses, including implementation of the recommendations of the Senate Economics References Committee report into Cooperative, mutual and member-owned firms, and implementation of the Hammond Review recommendations to improve access to capital for CMEs.

1 Introduction

This submission is made by the Business Council of Co-operatives and Mutuals (BCCM) on behalf of Australia's member-owned business sector.¹ We welcome the opportunity to make a submission to this important inquiry, given the significant role of co-operative and mutual enterprises in providing fair, sustainable and dignified work for Australians.

This submission outlines an alternative approach to the on-demand economy. It describes how co-operatively owned platforms can rebalance the relationship of the worker to the market created by the digital intermediary platforms. In platforms co-operatively owned by workers, labour rights, workplace safety and conditions are not traded off in return for work, but rather sustainable, fair and rewarding work is the purpose of the business.

This submission makes a number of recommendations aimed at improving the operating environment for co-operative and mutual enterprises (CMEs) so that they can better assist Australian workers as technology and the digital economy transform work practices. It responds to the Committee's terms of reference where it is asked to consider and report on:

- the legal or work status of persons working for, or with, businesses using on-line platforms; and,
- the application of workplace laws and instruments to those persons, including accident compensation, payroll or similar taxes, superannuation and health and safety laws.

In doing so, this submission has regard to matters including:

- the impacts of on-demand services on businesses operating in metropolitan, regional or rural settings;
- regulation in other Australian jurisdictions and in other countries, including how other jurisdictions regulate the on-demand workforce; and,
- Australia's obligations under international law, including International Labour Organisation Conventions.

About co-operatives and mutuals in Australia

In 2018, the Australian CME sector had a turnover of more than \$31.6 billion, directly employed more than 54,000 people and supported more than 160,000 businesses (2018 National Mutual Economy report).

Awareness of the benefits of member-owned organisations has been growing over recent years:

- The 2016 Senate inquiry into cooperative, mutual and member-owned firms recommended that co-operatives and mutuals be better represented in government policy discussion and found that co-operatives and mutuals were disproportionately disadvantaged as business models by the legislative and regulatory environment.
- The Harper Competition Review noted how co-operatives can address unequal bargaining power for workers and small businesses, thereby enhancing competition, including in thin markets such those in regional Australia.
- The McClure Review of Australia's welfare system recommended regulatory support for co-operatives and mutuals, noting that they can generate local employment

¹ A list of BCCM members can be found at: <http://bccm.coop/our-members>

opportunities and thereby reduce welfare dependency.

- More recently, the Banking Royal Commission has demonstrated the benefits of aligning the interests of customers and owners in financial organisations. In mutual banks and credit unions, the customers are the owners of the organisation.

These trends serve to strengthen the attractiveness of the CME sector to assist in addressing problems arising from online platforms for on-demand workers. Co-operative ownership gives workers, who whether by choice or necessity are in the on-demand economy, the power to set their own working conditions and status and retain more of the value from their labour and technological innovation.

The BCCM would welcome the opportunity to provide further information and background to the inquiry Chair on the matters raised in this submission.

2 The problems with online platforms

Online platforms are digital technologies that enable the creation of a network for sharing information and data. In the context of the on-demand workforce, they create networks where customers of the platforms can acquire services from workers.

Online platforms are not intrinsically bad. The benefits to on-demand workers can include greater autonomy and more flexibility over their work. However, the economic structure of these platforms can often mean that there is a misalignment between the owners of the platforms and on-demand workers. This can lead to problems, particularly where there is an imbalance of power in favour of the platform, and it seeks to arbitrage or avoid labour protections.

In Australia, on-demand workers are often outside the application of workplace laws and instruments including accident insurance, superannuation, and leave entitlements associated with employment. When workers are classified as independent contractors, these components of a worker's cost base are not paid by online platforms. As a result, these costs are often under-provisioned or not provided for. Ultimately, these 'externalities' are then passed to government: under-funded retirement leads to reliance on government funded support; exclusion from workcover leads to unfunded event risk; and, under-provisioning for sick-leave, parent-leave, holiday-leave leads to reliance on welfare and government medical systems. This was noted in the final report of the Federal Parliamentary inquiry into the Future of Work and Workers, where it referenced evidence given by the BCCM at a public hearing:

'the emergence of a contingent workforce in the gig economy is disrupting traditional employment patterns, and they are often achieved at the expense of lowly-paid contractors. This can result in a gradual erosion of workers' rights. If this continues, we believe that the benefits of technological advancement will not be shared equitably. I ask you to consider for a moment what that might mean—casualisation—in terms of retirement savings going forward if we start to deplete the very important pool of superannuation savings that are required to ensure that we have fair, equitable and safe retirements in the future.' (Final Report, Inquiry into the Future of Work and Workers, 136)

Notably, developments globally indicate that there is a growing recognition of the need to clarify and protect workers rights with respect to these types of problems. Uber drivers in New York and in the UK have won landmark cases where they are classed as employees. Seattle has

passed an ordinance requiring platforms to negotiate with unions representing gig workers. Bologna has signed a “Charter of fundamental digital workers’ rights”. In Australia, the Fair Work Commission recently ruled that bicycle couriers were employees of Foodora.

3 Co-operatively owned platforms as a solution

To address the potential conflicts in online platforms for on-demand workers, there has been growing interest in the development of platforms that are co-operatively owned by their members - including workers using the platform, employees of the platform and/or investors in the platform.

Under a co-operative model, the value created by a platform is retained by its members, as the scale benefits are not concentrated in the hands of non-aligned capital but with those that create the value. ‘Because of their ownership structure, the wealth generated by their economic activity is redistributed to the members and their communities.’² Co-operative platforms therefore are able to better align interests between on-demand workers and the platform.

For on-demand workers, a co-operatively owned platform fundamentally changes their work status. As a co-owner of the platform, they are free to set the terms on which their platform competes in the market:

- If they are a worker-owner of a platform, they determine how their work is priced and the value created is shared. For example, Stocksy is a worker-owned platform for photographers that pays its members above market rates for content and an annual rebate based on patronage.
- If they are a consumer-owner of a platform, they determine how the value created through their group buying-power is shared. In this way, they can attract benefits that have historically been the preserve of the firm and its employees. For example, Indycube is a platform owned by freelancers in the UK that manages cost effective co-working spaces and access to insurance and invoice factoring services.

While co-operatively owned platforms may but do not necessarily bring workers inside the application of employment laws (with the benefits this entails including those in the National Employment Standards and superannuation), they can make it easier for workers to collectively self provision these benefits. Co-operatives are recognised by the International Labor Organization (ILO) for their ‘proven record of creating and sustaining employment – they are estimated to provide at least 279 million jobs today; they contribute to promoting decent work and advancing sustainable development goals.’

Worker and employee-owned co-operatives often work with, or are supported by, the trade union movement. Indycube has partnered with unions to tackle poor working conditions for the self-employed. In response to Uber, taxi co-operatives have developed with union support in the United States.

A report from Co-operatives UK and the Co-operative College sets out key areas where

² Submission from the International Co-operative Alliance 26 June 2015 to Australian Senate Inquiry on Cooperatives and Mutuals, <https://www.aph.gov.au/DocumentStore.ashx?id=6cf07029-3218-4a17-9ab2-e992bc41000f&subId=353250>

co-operatives and unions can work together to tackle casualisation and other challenges.

Ultimately, by retaining collective control of the platform through a co-operative structure, on-demand workers can better manage the way they create and distribute value.

Examples – industry specific

- **Health and disability workers** – The care sector is a difficult environment to operate in where margins are typically tight and the need to deliver reliable and high quality services is paramount. In this environment, a co-operative like The Co-operative Life has a strong competitive advantage over an online platform like Hire-up. By removing the ‘middleman’, The Co-operative Life can optimise the return to its employee-owners and better align the platform’s services to the needs of its clients.

[text redacted] Robyn [text redacted]

‘I was shocked at the quality of care provided by agencies, people were falling through the gaps and there wasn’t enough service or continuity of staff for people to be getting good care...People weren’t in the office so they didn’t complain.’

- **Cleaners** – Platforms such as Airtasker offer another example of how this business model creates antagonistic labour markets for workers. In contrast, the Redgum Cleaning Co-operative offers an emerging local example of how a employee-owned co-operative structure can better align to the interests of on-demand workers, enabling them to retain more margin for their services while being responsive to client needs.

[text redacted] Eleanor [text redacted]

‘I was volunteering for Earthworker [Co-operative] while working in a cleaning company a few years ago. I was really interested to have a first-hand experience of working in a co-operative, so when Earthworker hosted a forum about starting worker co-ops I connected with a few like minded people and we took it from there.

I just believe that people should have input in the decisions that affect them, whether it’s in the workplace, economy, or wherever. Taking back control over how we use our labour and building a more democratic economy gives us so much more potential to do good in the world. I also love the fact that worker co-operatives help us develop as human beings, because they depend on people working together to meet their needs, rather than competing.’

[text redacted] Pete [text redacted]

‘For a few years I have had seasonal work with cleaning companys at events and festivals. Conditions and ethics in these companies were exploitative and wages and conditions where not up to standard. I joined Redgum Cleaning Co-op which works democratically, and gives a sense of dignity to everyone.’

Examples – function specific

- **Financial and administrative support** – SMart is a platform that helps freelancers to manage their business – through making it easier to self-fund sick-leave, access to superannuation and insurance, and obtain early payment of invoices. An important part of the SMart model is that when freelancers are members of SMart, they are classified as its employees; this opens up a range of benefits for freelancers that are usually only available to employees. An Australian approach to this kind of platform is currently being developed.
- **Worker engagement** – Get.coop is a member organising platform that is a pre-formation co-op being built with locally developed technology. Used in an award-winning Woolworths Distribution EBA campaign by National Union of Workers, it represents an alternative to Facebook and WhatsApp groups for on-demand worker organising.
- **Data sharing** – co-operatives are ideal structures for enabling individuals and organisations to manage the ways that they share data. While not currently a co-operative, a Creative Victoria project to create a platform for sharing data between festivals is an example of this type of approach. It is anticipated that one of the benefits of this project is helping on-demand workers in this sector to optimise their services.

[redacted text] ———

Get.coop

‘We conceived Get.coop as an alternative to the walled gardens of Facebook, NationBuilder, and other privately owned social network platforms. As a co-operative, communities can own the platform that they use to connect and to organise. It creates a tool where they can control how and when they share their data - while still enabling the community to benefit from scale economies and data-driven insights.’

4 Recommendations

The BCCM considers the following recommendations will assist the Victorian economy and its community in responding to the challenges of platforms to on-demand workers.

4.1 Create a Co-operatives and Mutual Enterprise (CME) Charter

Co-operatives are a form of limited liability corporation registered and regulated at state and territory level.

While a company can be registered in a matter of hours, it can take months to register a co-operative, and in Victoria, the application is currently required to be lodged by mail.³

Lack of awareness of co-operatives leads to their exclusion from business support programs and grants. A relevant example is that the guidelines for the Commonwealth New Enterprise

³ See sections 23-27 Co-operatives National Law; See <https://www.consumer.vic.gov.au/licensing-and-registration/co-operatives/register-a-co-operative/apply-to-register-a-cooperative>

Incentive Scheme have precluded groups of unemployed workers working together to form a worker co-operative while participating in the Scheme.

Eleanor [text redacted] notes:

'I think there are a lot of policy changes that need to happen to support worker co-operatives...government offers Centrelink benefits and mentoring to people setting up small businesses through the New Enterprise Incentive Scheme (or NEIS), but this program is only accessible to businesses with a maximum of two partners. Worker co-ops require a minimum of 5 member-owners so none of us were able to use the scheme. We could have really benefited from business skills training and also the ability to focus on the co-op rather than having to job seek and/or work other jobs on the side. It'd be awesome to see a scheme like this specifically for worker co-operatives.'

This uneven playing field for co-operatives hinders their uptake by workers in the on-demand economy and other sectors.

Based on ILO Recommendation 193 on the Promotion of Co-operatives (2002), this Charter sets out principles for how government should work with the CME sector:

- Co-operatives, mutuals and member-owned businesses should be able to compete freely and on fair terms with all types of business.
- Government should champion these business forms on an equal basis alongside other types of corporate ownership.
- Government policy should recognise the value of these businesses and provide appropriate incentives for their creation and development.
- Legislation and regulation for these firms should match the best standards for any business.
- It should be as cost effective and straight forward to set up and run a co-operative, mutual or member-based businesses as any other type of business.

4.2 Supporting the development of co-operatively owned platforms

As co-operatively owned platforms offer a market-based way to address some of the most significant challenges for on-demand workers, the following recommendations are proposed to support their development in Victoria:

- Social procurement – Government to include co-operatively owned platforms in social procurement guidelines, particularly for those platforms that incorporate employment benefits and superannuation provisions in their operating structures. This approach can help to create sustainable worker-owner jobs that protect labour rights in preference to private companies that seek to take advantage of on-demand workforce through platforms. For example, social procurement could be used with respect to cleaning contracts for government entities.
- Development support – Government to foster the development of co-operatively owned platforms for on-demand workers through a one-off support package. This could be like the package to support the development of the Social Impact Investing market and could also include capital to support investment in co-operatively-owned platforms from members, intra-sector investors and institutional investors. Such an approach is

very likely to accelerate the creation of mutually funded solutions that on-demand workers need to self-provision for benefits and superannuation. It is an approach that stands in contrast to that of privately and venture capital funded platform enterprises, which seek to profit from disruption of hitherto stable segments of the labour market.

- Raising awareness - To promote and raise awareness of co-operatively owned platforms, the BCCM recommends that the Government:
 - Conduct an audit of their business support services and websites to make sure co-operatives and mutuals are appropriately included wherever information about business legal models and business formation is provided.
 - Conduct an audit of all government-funded business centres to ascertain the level of expertise of advisory services in relation to CMEs and where there is a lack of qualified expertise, those agencies should engage the BCCM to arrange training and the development of appropriate information and resources. Expertise should extend to capital raising for co-operatives using Co-operative Capital Units, debentures and shares.
- Data management – Government to foster the development of co-operatively owned platforms that protect and promote on-demand workers’ data. In recognition of the structural advantages that co-operatives have with respect to promoting individual agency within a collective structure, Government to explore legislative and regulatory requirements for protecting the rights of on-demand workers with respect to their data.

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