



TRANSPORT WORKERS' UNION

QUEENSLAND BRANCH

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TRANSPORT WORKERS' UNION OF AUSTRALIA (TWU) SUBMISSION

CONSULTATION REGULATORY IMPACT STATEMENT ON WORKERS' COMPENSATION ENTITLEMENTS FOR WORKERS IN THE GIG ECONOMY AND TAXI AND LIMOUSINE INDUSTRY IN QUEENSLAND

BACKGROUND

These submissions are made by the Transport Workers' Union of Australia Queensland Branch (TWUQ).

We have had the opportunity to view the submissions made by the Australian Lawyers Alliance (ALA) and would indicate our support for those submissions.

The TWUQ has previously made submissions in relation to various inquiries, including the review of conditions for 'bailee' taxi drivers which was conducted by the Queensland Workplace Rights Ombudsman in 2009/2010 and consultations on the *Transport and Other Legislation (Personalised Transport Reform) Amendment Bill 2017*.

Our view is that 'independent contractor' arrangements, engagement arrangements for gig economy workers and bailee/bailor arrangements which apply in the taxi industry have resulted in a shifting of cost and responsibility for a variety of employment conditions and rights to those performing the work. This shift has occurred in circumstances where those performing work in the gig economy or on bailee/bailor arrangements have been identified as largely vulnerable, low paid workers unable to access basic employment rights and entitlements. The focus of the TWUQ is to lobby and campaign for employees performing work in these sectors to ultimately have the same rights, entitlements and minimum standards as traditional 'employees'.

In relation to compensation entitlements, current arrangements, which largely leave individuals performing work to organise their own personal accident insurance on a voluntary basis, mean that many workers have no coverage in respect of illness or injury. This in turn also means there is little

or no incentive for intermediary employers in the gig economy or bailors in the taxi industry to deal with health and safety issues in any significant way. Given the nature of ridesharing and the taxi industry, health and safety issues which affect drivers in those industries also have an impact on health and safety more broadly and, in particular, road safety.

FOCUS QUESTIONS

1. *Do you believe workers' compensation coverage should be extended to gig workers or taxi and limousine drivers?*

In line with our clear view that gig workers and taxi and limousine drivers should have the same rights and entitlements as traditional employees we believe that workers' compensation coverage should be extended to gig workers, taxi and limousine drivers.

2. *What is your preferred option? Please justify why.*

Our preferred option for gig workers is Option 2 – to extend workers' compensation coverage to gig workers and require intermediary businesses to pay premiums. Our preferred option for taxi and limousine drivers is Option 3 – to extend workers' compensation coverage to taxi and limousine drivers engaged under bailment arrangements.

As indicated, many gig workers and taxi and limousine drivers currently have no personal accident insurance and we believe it is imperative for this situation to be remedied. Adopting Option 2 for gig workers and Option 3 for taxi and limousine drivers under bailment arrangements would also result in the cost and responsibility for workers' compensation arrangements being shifted away from individuals performing work and back to intermediaries in the gig economy and bailors in the taxi and limousine industry.

3. *What are the costs and benefits or disadvantages associated with the current arrangements and your preferred options?*

The TWU agrees with the costs and benefits as identified in the RIS for Option 2 for gig workers and Option 3 for taxi and limousine drivers.

In particular, there is currently no real incentive for intermediaries or bailors to take steps to address and improve health and safety practices in the industry. The correlation between the level of claims and premiums under the *Workers' Compensation and Rehabilitation Act 2003* would result in a

greater focus on improvements to health and safety practices across the industry and put the onus on intermediaries or bailors to ensure this occurs.

4. *Are there any other costs and benefits or disadvantages of each option that have not been identified?*

The RIS appears to have identified all of the relevant issues.

5. *Are there any features on the options presented that you have concerns with? Or are there any features that you consider should be included?*

We have had the opportunity to view the submissions made by the Australian Lawyers Alliance (ALA) in respect of the difficulty of appropriately defining 'gig workers'. We also support the principles outlined in the RIS. The ALA submissions refer to the 'ABC test' which arose from a case in the Supreme Court of California for determining whether workers were independent contractors or employees. We would also support the adoption of the ABC test as a means of determining employment status.

CONCLUSION

The TWUQ is keen to see protections, rights and entitlements for people performing work in the gig economy or under bailee/bailor arrangements made the same as for traditional employees in all respects.

Ensuring gig workers and bailees are covered by the *Workers' Compensation and Rehabilitation Act 2003* is an important first step in improving working conditions for these vulnerable workers. Additionally, the benefits associated with a better focus across those sectors on improving health and safety practices will, in our view, extend beyond individual workers to the general public and have a positive impact on road safety more broadly.



Peter Biagini
Queensland Branch Secretary

5 July 2019