Submissions to the Office of Industrial Relations

Queensland Government

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Executive Summary

We welcome the opportunity to provide a submission as part of the consultation for the policy proposal to extend the Queensland state workers' compensation scheme to intermediaries engaging "gig economy workers" (workers).[1] This submission is made by Uber Rides and Uber Eats, which operate in Queensland under different entities, together 'Uber'.

Uber supports the intent of the Office of Industrial Relations' policy proposal. However given the nature of our business and the engagement with driver and delivery partners using the Apps, we have concerns with the practical application of a regime designed for traditional employment environments.

Across many sectors of the economy, digital technologies are opening up opportunities for income generation and new ways of working. As with any technological change, there are emerging policy questions that deserve discussion and consultation to serve the best interests of users and the community.

Uber supports efforts by governments aimed at finding modern solutions to ensure security and protection for all categories of workers. While we know driver and delivery partners using Uber value being their own boss and the flexibility this offers, this does not need to come at the expense of security in work.

That's why, in 2018 Uber's CEO set out his view that, "at a basic level, everyone should have the ability to protect themselves and their loved ones when they're injured at work, get sick, or when it's time to retire".

Uber has been working to provide more support for partners in Australia and around the world. Last year we launched a new partner support and protection package for more than 80,000 partners using the Uber app across Australia through an insurance agreement with Chubb for on-trip accidents, providing different types of payments for death and disability or if they are injured and unable to work. Uber also partnered with counselling provider Converge to provide professional help to drivers and riders if something goes wrong while using the App. This package was provided at no additional cost to Uber partners.

We understand that the recommendations underpinning this policy proposal arose from a consultation process including stakeholders relevant to the existing Workers' Compensation scheme. Since Uber was not part of this consultation, in this submission we aim to provide more clarity on how the Uber businesses operate, how driver-partners or delivery-partners (Uber partners) access and use the Uber Rides and Uber Eats apps (Uber Apps), and how we are working to support and protect Uber partners.

[1] as defined in the Agenda Paper 2.

We also outline the significant practical challenges and likely implications of applying a model designed for traditional forms of employment to platforms such as Uber. What is clear is that concepts such as journey claims, working time, assessment of compensation and rehabilitation are inconsistent with gig-work.

Key concerns are as follows:

- The proposal to extend coverage is inconsistent across the gig economy;
- Having the same rights, obligations and responsibilities as an employer under workers compensation legislation is neither practical or achievable, since Uber does not have the same level of control, management or oversight as employers;
- The definition of injury and 'journey claim' eligibility are problematic since claims may be made while a worker is temporarily absent from the 'place of employment' during an ordinary recess; or travelling to or from work. Earning through the Uber app is highly flexible (ie, workers may be inside their own home, performing their normal household tasks, but with an active app open (or even multiple apps)); and
- The proposal for premium calculation does not adequately address the many variables in gig-worker arrangements, including instances where a worker is online with more than one app based earning platform at the same time (multi-apping). This could lead to double claims being made with no ability for Workcover to manage this.

We outline options that would allow the OIR to meet the proposed intent of its policy without risking significant adverse effects for the industry, consumers and workers.

First, we suggest the OIR extend consultation and review existing protections in the market, given a number of gig economy platforms have already introduced policies that are fit for purpose. We suggest the OIR also consider a legislative requirement for intermediaries to hold minimum insurance, providing fair protections for gig-workers without the imposition of a rigid legislative scheme designed for employers.

If the OIR does move forward with a workers compensation policy for the gig economy, instead of legislated minimum insurance requirements, it should be designed as a special policy of insurance (which has been used in the past), with each gig platform paying a sector specific contribution 'per gig'.

Uber in Queensland

As well as providing safe and affordable rides, and a convenient option for food delivery, Uber has created economic opportunities for those who want to make money and work flexibly.

While on-demand work represents only a small portion of Queensland's broader workforce, the flexibility offered by using the Uber Apps is proving an attractive option for many, from retirees, to parents, students and entrepreneurs. Today, more than 13,000 people in Queensland are choosing to partner with Uber to earn.

With Uber, there's no exclusivity, no favouritism, and no discrimination. When signing up to Uber, there is no interview process, it is possible to sign-up and submit relevant documents online. Providing individuals meet the relevant criteria, including applicable government accreditation, pass a background check and right to work check, and agree to Uber's Community Guidelines[2], they are able to start earning through the Uber App within a few weeks.

By making it easy to get started, providing people the freedom to work whenever they choose, Uber also helps provide opportunities to work, or a path back to work, for many who have previously been shut out of the labour market.

This is an important principle for Uber. We believe anyone who can meet the regulatory requirements to safely share rides or deliver food should be able to access on-demand work through the Uber marketplace.

How earning with Uber differs from other types of work

Uber enables flexible work in a way that hasn't been possible before. Once using the Apps, Uber partners are, genuinely, their own boss. There is no supervision over Uber partner's day-to-day tasks or operation, or need for Uber partners to report to Uber officials.

While some forms of work may provide flexibility to employers or the contracting party, they do not offer very much control and flexibility for the individuals themselves. Even in casual engagements, employers may establish rosters which dictate when, where and for how long a casual employee must work, restricting an employee's ability to enjoy true and absolute flexibility.

This genuine two-sided flexibility is what sets the Uber Apps apart from other types of work. The elements of Uber's model that materially differ from employment include:

- Uber does not know if and when an Uber partner will log onto and use the app;

[2] Uber has a set of Community Guidelines which are published on our website and outline the standards we uphold for all users of our App - both riders and driver partners. Users who breach the Community Guidelines or our terms of service may lose access to the Uber app, either temporarily or permanently depending on the seriousness of the breach.

- When an Uber partner logs on to the Uber Apps, Uber does not know where or for how long they will use the Apps;
- There are no minimum hours per day, week or year for an individual to log onto the Uber Apps, and many only use the Apps for a few weeks per year;
- Uber partners who are using the Uber Apps may simultaneously use other apps, including competitors.

Among the different kinds of independent work, there are significant differences in the level of control exercised over individuals. For example, in the independent courier industry, and under franchise arrangements, operators often impose considerable control on the franchisee or courier, dictating how they operate their business.

With Uber, users decide if, where and when they want to work and can stop at any moment. There are no set shifts, scheduled hours or requirements to work in particular areas. There is no obligation to work at all, or to use the Uber app exclusively; Uber partners can simply log in or out when and where they choose.[3]

In practice, this means that:

- Once using the app, driver and delivery-partners can choose to accept or reject trips or deliveries, and are free to log out at any time without any notice being provided to Uber. While online, there are no consequences if partners choose not to accept jobs.
- While an individual may be online and prepared to work, they may not be willing to accept all gigs and are able to 'cherry pick' work, or may even be performing other activities - such as errands around town, or completing a gig for a competing app.

How drivers and delivery partners use the app

A recent report by economic advisory firm Alphabeta which analysed Uber administrative data across Australia, shows that the majority of Uber driver-partners are using Uber as a supplemental form of income:[3]

- 40% of driver partners using Uber use the platform to earn supplemental income on top of their full-time or part-time jobs.
- Another 15% of driver-partners are generating income to support them while they develop their own business.
- 11% are students.

[3] https://ubernewsroomapi.10upcdn.com/wp-content/uploads/2019/03/Alphabeta-Report_Flexibility-and-fairness_-what-matters-to-workers-in-the-new-economy.pdf

- 6% are retirees earning some extra income.
- 5% are driving using Uber while also delivering care to a family member or loved one.

The Alphabeta report also illustrates the variety of ways people in Australia use the app, and that most driver-partners exercise significant flexibility in the hours they work.

Nearly half of all driver-partners spend a maximum of 10 hours per week on the app (all online time) and nearly three quarters of driver-partners are on the app for fewer than 20 hours per week.

The composition of hours vary considerably. For example individual driver-partners may work intensively for a few weeks, then cease to drive for the subsequent months.

What partners value about Uber

Whatever their situation, Uber partners tell us they value the freedom of being their own boss and choosing if, when and where they drive or deliver.

Alphabeta found that flexibility is the main drawcard for Uber partners, and when asked whether they prefer a flexible or fixed hours arrangement, 70% said they would prefer to retain their current flexibility. Of those who would prefer flexibility, more than half said that flexibility was essential and if they were forced to move to a fixed schedule they would cease to drive using Uber.

Moreover, a majority of those who might accept a fixed schedule indicated they would need to be paid at least 50% more to move from their flexible hours to a fixed schedule, with many indicating they would need to be paid at least 70% more.

Support and protection for driver and delivery partners using Uber

While we know Uber partners value being their own boss and the flexibility this offers, Uber believes that everyone should have access to a set of affordable and reliable social protections, whatever category of work they are in.

In 2018, Uber launched a new partner support and protection package for more than 80,000 Uber partners across Australia. The protection package extends new protections to partners through an insurance agreement with Chubb for on-trip accidents, providing different types of payments for death and disability or if they are injured and unable to work. This insurance cover is provided to Uber partners at no additional cost.

Uber has also partnered with a counselling provider Converge to help Uber partners, as well as Uber riders, if something goes wrong while they are using the Apps to gain access to professional help.

Uber's Partner Support and Protection Policy - Chubb insurance

Uber's insurance policy with Chubb Insurance is designed to provide meaningful customised benefits to Uber Partners who are injured on-trip when providing services using the Uber apps. Some of the benefits include:

- Loss of income is compensated by a daily fixed sum if a partner is certified to be medically unfit to provide the services using the Uber Apps, subject to a maximum of 30 days.
- Lump sum payments are available for injuries that are more commonly experienced by partners using the Uber Apps, i.e. broken bones where a cyclist hits an obstruction or unprovoked physical assaults.
- Cash payments are also available where partners experience inconvenience due to hospitalization so as to alleviate any immediate financial needs.
- Death benefits.
- Disability payments are available for specific permanent impairments.

The Chubb policy ensures we can maintain both the freedom and flexibility our partners value, while also delivering greater security and protections at work. Our experience to date indicates that the Chubb policy is achieving these objectives.

Since the policy commenced in Australia on 30 November 2018, we have seen the majority of claims accepted, with payment being made to the Uber partner. Importantly, the policy provides fast response to Uber partners' needs when something goes wrong.

Key to the successful operation of the cover is the straightforward yet effective guidance provided to Uber Partners about eligibility for claims, which recognises the flexible nature of app based work.[4] The policy is industry leading, with other rideshare booking entities moving to introduce similar policies in subsequent months.[5]

[4] For example, the principle of not being required to accept a 'job' sent to a DP would not align with a scenario where an individual could be covered for workers compensation while online but actively rejecting work, working for a competitor, performing other tasks or simply not working at all.
[5] https://ola.com.au/driver/drivers-guidelines/driver-insurance-ola/

Uber's preliminary concerns

Coverage proposal is inconsistent across the gig economy

The Peetz Report asserts that the policy intent behind the recommendations seeking to include gig-workers in the workers' compensation scheme is the protection of vulnerable workers.[6]

Professor Peetz states that 'any person engaged via an agency to perform work under a contract for another person' should be included under the workers' compensation scheme.[7] It would appear that this recommendation was intended to extend to most independent contractor arrangements. However in Agenda Paper 2, the policy proposal says it is not intended to extend to job board/job aggregators. This requires further consideration.

In many cases, job aggregators act in the same way as other intermediaries including: the taking of a commission or fee; requirement for minimum standards to be met; and influence over the charge out rate of a worker.

Regardless of the term used, most job aggregators would meet the proposed definition of intermediary. In addition, some job aggregators (but not all) assert that they already provide insurance for gig workers on behalf of the hirer. Given that job aggregators engage the same labour market as Uber, it is difficult to see why the gig-workers using job aggregators would not be covered with the same scheme as is proposed for individuals using the Uber Apps.

This is especially so when those workers are in the same category of people intended to be protected by the proposal, for instance low-income earners, and people who would be unlikely to adopt voluntary methods of compensation coverage.[8]

Problems with imposing the 'same rights, obligations and responsibilities as an employer'

Agenda Paper 2 suggests that an intermediary[9] would have the same rights, obligations and responsibilities as an employer under the Workers Compensation and Rehabilitation Act 2003 (the

[6] Peetz Report, page xxiv.
[7] Professor David Peetz, 'The Operation of the Queensland Workers' Compensation Scheme' (Report of the Second Five-Yearly Review of the Scheme, Queensland Parliament, 27 May 2018) (**Peetz Report**), page 108.
[8] Peetz Report, page xxv.
[9] See definition of intermediary in Agenda Paper 2

Act), both in relation to mandatory workers' compensation insurance, common law indemnity and rehabilitation and return to work.

It is this statement that Uber suggests will take the proposed system well beyond what is practical and achievable for the gig-economy, and is irreconcilable with the relationship of a gig-worker and intermediary.

The proposal to extend the same 'rights, obligations and responsibilities as an employer' to an intermediary is not consistent with Professor Peetz's recommendations[10], which acknowledges that the gig-economy is different to an employee and employer relationship. As noted by Professor Peetz in his report, the inclusion of gig-workers into the definition of 'worker' should not be considered an attempt to regulate the employment relationship, which is governed by federal legislation.

Uber partners are self-employed, responsible for managing their own taxes and are traditionally accepted to be independent under federal employment legislation.[11]

Attempting to impose rights, responsibilities and obligations of an employer onto an intermediary where there is no reciprocal obligations on a DP would ultimately interfere in the contractual relationship of an intermediary and the independent individual, in a way that is inconsistent with federal legislation including employment and taxation laws.

All of the obligations and responsibilities under the Act will need to be considered separately to assess whether they could apply to intermediaries, keeping in mind that an intermediary has no direct control over the workers' day to day activities.

These aspects are discussed further below:

i) Common Law Indemnity

Uber opposes the inclusion of gig-workers into common law indemnity and suggests that Chapter 5 of the Act should not be extended to gig-workers. Gig-workers are self-employed independent individuals who manage their own work hours and often work for more than one intermediary at any one time.

There is no justification for expanding the reach of common law by deeming intermediaries to be 'employers' or the work performed to be 'employment', and this is not recommended in the Peetz Report. To proceed with this proposal would be an unnecessary extension of the Act and would place an unnecessary, and potentially unworkable burden, on the workers' compensation scheme.

[10] The Agenda Paper does not recognise the difference between classifying a gig-worker as a worker under the WCRA and imposing an employer-employee relationship at common law. The Peetz Report does not go so far as to say that intermediaries are to have all the obligations of an employer under the legislation. Rather, the Peetz Report recommends that a gig-worker be able to obtain compensation for injuries, and where appropriate, be assisted with a RTW program.# This distinction would also need to be carefully inserted into the Act to ensure that an intermediary does not become an employer under section 30(1) of the Act simply because a gig-worker is included in the definition of worker under section 11 of the Workers Compensation and Rehabilitation Act 2003 (QLD)

[11] As reflected in the Kaseris Decision and Pallage Decision.

In order for gig-workers to be provided a right to pursue common law indemnity, a section is proposed deeming an intermediary to be an 'employer' and that the contract for which they are working is considered 'employment'. This provision would have unintended consequences.

Deeming an intermediary to be an 'employer' would suggest there is a degree of control on the worker that does not exist, and suggests that intermediaries should be taking additional steps in the relationship that they are otherwise not required to take. If intermediaries act on those new obligations and rights, this may inadvertently cause extension to the duty of care owed by an intermediary where it is not intended and/or result in intermediaries encroaching into employment-like arrangements.

Gig-workers can still, however pursue a claim against the intermediary or a third party if they believe there is a recoverable loss for example under CTP insurance and/or a claim under tort law.

ii) Rehabilitation and return to work

Professor Peetz's report recognises the difficulty intermediaries would have in providing rehabilitation to workers or a Return to Work program, since in most cases they will not be in a position to meet that obligation.[12] Professor Peetz also suggests that the insurer (in most cases WorkCover) should bear the burden of implementing a RTW program for gig economy workers. This is possible through WorkCover's ability to seek out and manage host employment arrangements.

Uber suggests that the exemption of intermediaries from the obligation to rehabilitate workers ought to be the default position.[13]

Intermediaries maintain no employment relationship in Australia and it is therefore impractical and unreasonable to impose an obligation that is of a personal and specific nature such as rehabilitation. Unless WorkCover takes on this role, then gig-workers will be disadvantaged by the limitations of the intermediaries.

A further consideration is the impact that an obligation to engage in a rehabilitation and RTW program would have on a gig-worker. The standard rehabilitation and RTW programs may not be suitable to gig-workers who had previously worked autonomously and with a great degree of flexibility. A RTW and rehabilitation program imposed on a gig-worker would require the individual to submit to a structured employment relationship which they had not intended to enter.

Journey Claims cannot be defined for gig work

Journey claims are a further area of concern. Under Section 35, a worker is eligible for a journey claim when an injury has resulted while travelling to and from work or while on a break from work.

Due to the nature of gig-work, and in particular for driver partners, it will be impossible to identify when a gig-worker commences a journey. As self-employed independent individuals, gig workers

[12] Peetz Report, page 108.

[13] The exception to this would be for intermediaries or agents that seek to become self-insured and then must assume the obligation to rehabilitate.

could commence work from any location, at any time throughout the day and without notice to Uber.

It would be necessary for journey claims to be excluded or for guidance to be provided regarding when a journey would commence and when a journey would cease.

Issues arising from Multi-Apping

Issues will arise when a gig-worker is not on an active gig, but is waiting for a gig to become available. In many circumstances workers will have more than one app open at any given time. If an injury were to occur during this break, then it is unclear how WorkCover will identify which intermediary should be allocated as the relevant intermediary for the injury.

This issue could also be mitigated by setting the time frames on commencement and cessation of employment as outlined in Uber's policy with Chubb Insurance.

Issues with premium calculations

In the Peetz Report the preferred option for premium calculation was that premiums would be payable by the intermediary organisation, based on the gross income received by the intermediaries or agencies. As we understand it, the premium payable would first be calculated as a proportion of income paid to the contractor and applied as a proportion of the income received by the intermediary.

This calculation does not adequately address the many variables in a gig-worker arrangements. The issues with this approach are as follows:

- Multi-Apping means that workers could be insured under two different policies, and premiums could be paid for that worker by two or more intermediaries. It is possible through multi-apping for a worker to be working for two or more intermediaries simultaneously, for example, by doing multiple pick-ups for food delivery services for different apps and transporting that food at the same time. In this scenario, the worker is being paid by multiple apps for the same trip and therefore, the claim would fall under the policies for two or more different intermediaries.

- There is no clear WorkCover Industry Classification (the industry rate for premium collection) for any gig-work, due to the independent nature of the arrangements and the lack of the control of the intermediary over the worker;

- The proposal by Professor Peetz relies on the 'experience rating of firms in that industry'[14], however this fails to take into consideration the nature of gig work. The 'experience' element of premium calculation is designed to reduce the burden on employers with certain injury prevention and management practices, however intermediaries are significantly limited in their ability to make such arrangements.

[14] Peetz Report, page 106.

- If the premium calculation is connected to an intermediary's ability to provide rehabilitation or return to work options for those workers, it would create a standard that could not be achieved.

Issues with the interpretation of ‘injury’

In section 32 of the Act an 'injury' is "personal injury arising out of, or in the course of employment if the employment is a significant contributing factor to the injury." An injury can occur in the course of employment if it happens:

1. While the worker is at the place of employment and is engaged in activity for, or in connection with, the employer's trade of business; or

2. While the worker is away from the place of employment in the course of the worker's employment; or

3. While the worker is temporarily absent from the place of employment during an ordinary recess if the event is not due to the worker voluntarily subjecting themselves to an abnormal risk of injury during the recess.[15]

Under this definition, it is not necessary for employment to be a significant contributing factor if the injury occurred while the worker is temporarily absent from the place of employment during an ordinary recess. [16]

Disputes regarding whether an injury has occurred “in the course of employment” will likely arise more often in relation to gig-workers. By its very nature, gig-work is highly flexible. It is possible for workers to be inside their own home, performing their normal household tasks, but with an active app (or even multiple apps) waiting for a 'gig'.

Increased risk of ineligible claims

The highly flexible nature of 'gig-work' means that intermediaries do not specify when a worker is required to work and when they are available to work. This means intermediaries (and Workcover) cannot identify whether or not a worker was actually working at the time of an injury unless it is during a trip.

Unless the commencement and cessation of the period in which insurance cover is clearly specified for gig-workers, there will be an increased risk of ineligible claims being lodged and limited ability for WorkCover to identify and address these matters.

Under the current proposal, workers will have an ability to assert that they were 'working' at the time of an injury and seek workers' compensation, including choosing which intermediary or

[15] Section 34 *WCRA*.

[16] Section 34 WCRA.

employer to attribute the incident to. Currently there is no technology or avenue for WorkCover to verify those claims where persons are multi-apping.

The risk here is that there will be an increase of claims that are lodged when employment is not a significant contributing factor and WorkCover will not have the information required in order to make that determination.

This could be partially addressed by setting time frames on the commencement and cessation of work. Amendments would also need to be considered to define the aspects of gig work that are interpreted as being 'significant' for the purposes of section 32. For example, simply having an app turned on should not be considered 'significant'.

Recommendations

Extending consultation and reviewing existing insurance in market

A policy proposal of this nature, which would represent a significant change for platform businesses as well as implications for users of the app, deserves time for consultation and discussion.

We understand that during Professor Peetz's review of the Workers' Compensation scheme in QLD, there were targeted consultations and written submissions taken from key stakeholders, including trade unions, employer representatives, medical and allied health associations, legal representatives, and insurers. Uber was not part of this consultation process and it is not clear if any other platform businesses who may be impacted by the resulting policy proposal participated.

The Agenda Paper 2 states that emerging forms of employment including the rise in digital platforms that underpin a rapidly expanding 'gig' economy and some corporations are making greater use of 'flexible' labour and 'not there' employment to minimise costs and avoid responsibility for some of the labour costs they would typically incur.[17]

This statement does not appropriately describe the engagement of independent contractors using the Uber Apps, which has been examined by the Fair Work Commission in two decisions[18] as well as in other courts and tribunals[19]. In the Commission's finding that users of the Uber App are not employees, particular emphasis was placed on the fact that the Uber partners had complete control over if, when, where and how they wanted to conduct the services they provided. Other factors also supported findings that Uber driver partners are not employees, including their ability to work for others[20], and the lack of any obligation to accept work.[21]

These decisions show that Uber values and respects the genuine two-sided flexibility that comes with independent work — embracing flexibility even where it may not be commercially desirable. It also highlights the inherent difficulties of applying employment-like concepts to a non-employment scenario.

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[17] Agenda Paper 2, page 2.

[18] see Kaseris v Rasier Pacific V.O.F [2017] FWC 6610 (Kaseris Decision) at [54] and Pallage v Rasier Pacific Pty Ltd [2018] FWC 2579 (Pallage Decision) at [36] and [37].

[19] See Oze-Igiehon v Rasier Operations BV [2016] WADC 174 at [82], [83] and [92], where a judge of the District Court of Western Australia held that there was no employment relationship between a driver-partner and the entity providing equivalent services to those provided by the respondent to the applicant in this proceeding. See also Hamdan v Uber BV, the Western Australian Arbitration Service (Application No 39490) determined that a driver-partner was not a "worker" and Uber B.V. was not an "employer" for the purposes of the Workers Compensation and Injury Management Act 1981 (WA). Separately, in Uber BV v Commissioner of Taxation [2017] FCA 110 the Commissioner of Taxation, assessing the application of A New Tax System (Goods and Services) Tax Act 1999 (Cth), did not contend that driver-partners were employees and that the income tax regime applied

[20] Pallage Decision at [38].

[21] Kaseris Decision at [54].

It is important that the industry and its users have sufficient time to consider the details of what has been proposed particularly where the legislation is hundreds of pages long and backed by years of jurisprudence.

Further, there are already existing protections and insurance products in the market, which, in the case of Uber, successfully meet the needs of drivers and delivery partners. It would be reasonable for the OIR to gain a detailed understanding of how these policies have been designed for gig work environments, and how they are performing.

Minimum insurance requirements

As outlined, Uber partners are already being afforded insurance protection through a policy specially designed and purchased by Uber.

Rather than attempting to bring gig-workers into a legislative scheme which is based on the principles of an employee and employer relationship, the intent of the policy could be achieved by legislating the requirement for intermediaries to hold insurance that meets certain minimum requirements for the benefit of gig workers.

A similar approach was taken in France, under the El Khomri law, passed in 2016. The legislation required digital platforms to either reimburse individual driver's work injury insurance or to provide a collective insurance scheme, with at least the same level of guarantees as one of the public insurance on work accidents[22].

The minimum insurance requirements in Queensland could be tailored on industry best practice such as the Chubb policy introduced by Uber. Minimum insurance requirements could include:

- Payment of weekly earnings when temporarily unable to work;
- Cover for medical expenses;
- Lump sum payments for certain injuries; and
- Maximum compensation.

Special Policy for Gig Workers

While Uber is not convinced that the current workers' compensation scheme is the best fit for the gig economy, if the Government chooses to proceed with this proposal, it should consider developing a special policy of insurance for certain categories of workers. These special policies have been used in the past for difficult indemnity matters or instances where employer's did not pay premiums during the time of employment, or where there is no specific policy that applies to a worker.

This approach could be considered for gig-workers, with sector specific rates 'per gig'. A small fee paid 'per gig' would make the calculation of premiums simple, have less flow on effect on

[22]https://www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=850272FF1198048EC7097959F22347B2.tplgfr41s_3?idArticle=LEGIARTI000033013024&cidTexte=LEGITEXT000006072050&dateTexte=20160810

consumers and workers. A special policy arrangement would also alleviate many of the concerns that are raised with the inclusion of gig work into the workers' compensation scheme.

Amending the definition of injury

As explained above there would also need to be an amendment to the definition of injury in section 32 of the Act. Uber suggests that the guidelines set out in its policy with Chubb Insurance are the most appropriate guidelines to define the period of which cover should be extended.

Conclusion

Today, hundreds of thousands of Queenslanders are embracing the positive benefits of Uber from making affordable transport more accessible and complementing public transport, to helping people get the food they want at the touch of a button.

The Uber Apps offer genuine self-employment opportunities for more than 13,000 partners in Queensland and the ability to be their own boss. They decide if, when, and where to work, and can vary those choices in real time — with no shifts, no exclusivity, and no minimum commitment. The vast majority are choosing the Uber Apps as an option precisely because of the flexibility on offer.

We recognise there is more to do to support independent workers and we want to be the driving force in Australia towards this, with concrete actions including our recent partner support and protection policy for Australian driver and delivery-partners.

As has been discussed, the model of workers' compensation proposed by the OIR poses immediate questions around how a rigid regime, designed for traditional employment could effectively address or cover a working arrangement with such a high-level of independence and flexibility.

Uber partners may be online but in various states - including rejecting work, working for a competitor, performing other tasks or simply not working at all. There is no alignment with traditional employment, where an employee is subject to lawful instructions from their employer.

Uber does not in principle, disagree with the policy intent behind the proposal to introduce worker protection, but considers that there are a number of serious implications in the way it is proposed to achieve this, and that further consultation and consideration of policy options is necessary, to ensure the ongoing sustainability of the industry, for both partners and consumers.