

**REPORT ON PROCEEDINGS BEFORE**

**SELECT COMMITTEE ON THE IMPACT OF  
TECHNOLOGICAL AND OTHER CHANGE ON THE  
FUTURE OF WORK AND WORKERS IN NEW SOUTH  
WALES**

**CORRECTED**

**At Jubilee Room, Parliament House, Sydney, on Tuesday 30 March 2021**

**The Committee met at 9:15.**

**PRESENT**

The Hon. Daniel Mookhey (Chair)

The Hon. Wes Fang

The Hon. Courtney Houssos

The Hon. Mark Pearson

The Hon. Adam Searle (Deputy Chair)

Mr David Shoebridge

**PRESENT VIA VIDEOCONFERENCE**

The Hon. Shayne Mallard



**The CHAIR:** Welcome to the fourth hearing of the Select Committee on the impact of technological and other change on the future of work and workers in New South Wales. Before I commence I would like to acknowledge the Gadigal people, who are the traditional custodians of this land. I would also like to pay respect to the Elders past, present and emerging of the Eora Nation and extend that respect to other Aboriginals present or watching the webcast. Today we will begin by hearing evidence from Deliveroo, Airtasker and ALDI Australia. Then we will hear from representatives of the Australian Workers' Union, the Australian Rail Tram and Bus Industry Union [RTBU], the NSW Productivity Commissioner and the NSW Innovation and Productivity Council. Our final session will be with a number of academics and subject matter experts. Before we commence I would like to make some brief comments about the procedures for today's hearing.

Today's hearing is being broadcast live via the Parliament's website. A transcript of today's hearing will be placed on the Committee's website when it becomes available. In accordance with broadcasting guidelines, media representatives are reminded that they must take responsibility for what they publish about the Committee's proceedings. While parliamentary privilege applies to witnesses giving evidence today, it does not apply to what witnesses say outside of their evidence at the hearing. I therefore urge witnesses to be careful about comments they may make to the media or to others after they complete their evidence. Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. In that regard, it is important that witnesses focus on the issues raised by the inquiry's terms of reference and avoid naming individuals unnecessarily.

All witnesses have a right to procedural fairness according to the procedural fairness resolution adopted by this House in 2018. If witnesses are unable to answer a question today and want more time to respond, they can take a question on notice. Written answers to questions taken on notice are to be provided within 21 days of the receipt of the transcript. If witnesses wish to hand up documents, they should do so through the Committee staff. Witnesses are fine to pass notes amongst themselves and to their advisers. In terms of the audibility of the hearing today, I remind both Committee members and witnesses to speak into their microphones. For those with hearing difficulties who are present in the room today, please note that the room is fitted with induction loops compatible with hearing aid systems that have telecoil receivers. Finally, everyone should turn their mobile phones to silent for the duration of the hearing.

**ED McMANUS**, Chief Executive Officer, Deliveroo, affirmed and examined

**JULIA DUCK**, Head of Operations, Strategy and Performance, Deliveroo, affirmed and examined

**The CHAIR:** Would either of the witnesses like to make a short opening statement?

**Mr McMANUS:** I will.

**The CHAIR:** Please go ahead and keep it to a few minutes.

**Mr McMANUS:** As one of the world's leading food delivery platforms with a strong commitment to New South Wales and Australia, we are happy to share our insights on how the impact of technological change has benefited workers and, in particular, food delivery riders. In this opening statement I would like to say three things. Firstly, I will give a quick introduction to Deliveroo and the way we work with our delivery riders. We were founded about eight years ago in London. Since then we have grown to operate in 12 countries around the world, serving over 800 cities and orders from 140,000 restaurants. We have been here in Australia since November 2015 and now cover 15 cities and 13,000 restaurants nationwide. Our founder, Will Shu, was the company's first ever rider and as we have grown our riders have remained right at the heart of our business. We listen to their feedback constantly.

Riders in Australia are very clear on what they value most in their work with us and that is flexibility. The average Deliveroo rider in Australia works only 18 hours per week, often balanced around other commitments such as study, caring responsibilities or more traditional work. The relationship between a platform like Deliveroo and a rider is fundamentally different to that of an employer and an employee. With Deliveroo, there is no obligation to work at certain times or for a set number of hours or even at all. Riders work with multiple companies, often working across multiple platforms while also logged in to the Deliveroo app. Riders can take a break for a number of weeks or months before coming back onto our app with no consequence. Should they wish, they have the right to delegate their work to someone else. Even with this inherent flexibility in mind, though, we would welcome legislative changes that allow platforms like ours to offer more security to self-employed riders. We believe this is best done at a Federal level to ensure national consistency and clarity, and there are real risks to doing it on a State-by-State basis. During the course of this hearing I would of course be happy to expand on our thinking in more detail.

Very briefly, I would like to put on record two more things to the Committee. The first is our wider economic contribution to Australia. As I mentioned, we now work with over 13,000 restaurants across 15 cities in this country. Fundamentally, we are a last-mile delivery service that helps restaurants, including many small family businesses, diversify their revenue streams with traditional income. During the recent pandemic that trend has obviously been accelerated. Recent research indicates that during recent lockdowns delivery services like ours protected 38,000 jobs in hospitality across Australia and supported a turnover of approximately \$1 billion. We are proud to have played our part in the eye of the storm and are committed towards now playing our part with the hospitality sector as this country moves towards economic recovery.

Finally, although not within the explicit scope of the inquiry, I believe it would be remiss not to raise the issue of rider safety given the terrible fatalities of last year. Safety has always been and always will be paramount to Deliveroo. We were the first to establish a national rider safety panel, giving riders a voice within the company to raise safety issues. We proactively work with our riders to identify areas of improvement and address any safety issues they have. We also provide every rider and their delegates with free personal injury and income protection insurance, which activates as soon as a rider logs into the app and up to one hour after their last delivery, and we provide cyclists with public liability insurance as well. We believe our onboarding program to be the most comprehensive and we recently translated the top five safety pages in our rider safety hub into Hindi, Portuguese and Spanish. We have a number of new safety initiatives planned for the second quarter of this year which I would be happy to take the Committee through in more detail later on. But for now I just want to reiterate my thanks for having us here today and we look forward to participating productively in today's session.

**The CHAIR:** Can we just establish, Mr McManus, the size of your operations by the number of riders that you currently engage?

**Mr McMANUS:** It is about 8,000 riders in Australia and I believe about 4,000 in New South Wales.

**Ms DUCK:** Yes, about 4,000 in New South Wales.

**Mr McMANUS:** We get about 1,000 new applications from prospective riders per week.

**The CHAIR:** Do you cap the amount of riders you engage in your platform?

**Ms DUCK:** We have a very strategic onboarding process where we only onboard to meet customer demand at the time. We do this in fairness to the riders who have already managed to have a supply agreement with us. We do not believe that we should just continuously onboard because obviously if we do not have the demand then the opportunities to work decrease for the current riders. We receive about 700 applications a week at the minute. During COVID it was actually closer to about 1,500 a week. We only onboard to meet the demand to try to limit that.

**The CHAIR:** You have about 8,000 current on the platform and 4,000 in New South Wales. Since your operations how many people have passed through the platform or worked through the platform?

**Mr McMANUS:** We may need to take that on notice.

**The CHAIR:** What is the average turnover? How long would a person stay engaged on your platform?

**Ms DUCK:** On average they are engaged with the platform for about 40 to 41 weeks. That is an average. We have people who only ride with us for a week and then we have people who have ridden with us for about three years.

**The CHAIR:** Finally, before I hand to other members, I will just ask some preliminary questions. You mentioned that 18 hours is a typical work period for a rider on a per week basis. That is correct?

**Ms DUCK:** Yes.

**The CHAIR:** What would be the remuneration? How much would a person earn on a weekly basis if they were working 18 hours?

**Mr McMANUS:** I think that is a complex question because, first of all, as you know, most riders—we do not gather information on this, but the overwhelming anecdotal evidence based on riders we speak to—will work for multiple platforms. So the typical behaviour will be they log into the Deliveroo app and maybe two or three others at the same time. So within an 18-hour period or one-hour period, they may have income from multiple platforms.

**The CHAIR:** You are right. But to be fair, I am just asking about your platform. How many trips per hour would a rider typically perform?

**Ms DUCK:** I think that how many trips a rider can complete on average is commercial-in-confidence. But I just also wanted to clarify that it is actually 4,000 restaurants and about 2,500 riders in New South Wales. By the way, I just wanted to clear that up. At this point, that is commercial-in-confidence, the per-hour.

**Mr DAVID SHOEBRIDGE:** Did you say 4,000 restaurants and 2,500 riders?

**Ms DUCK:** In New South Wales, yes.

**The CHAIR:** Any detail you can provide on notice about the typical earnings would be welcome. Other platforms have been in a position to provide some information on this. Uber has said that they pay \$21 on average per hour. Hungry Panda have also had some figures. But I accept that you guys currently have some other commercial processes which may inhibit your ability to provide the answer. But if on notice you can provide any further details about what the typical earning would be, it would be helpful.

**Ms DUCK:** We can say that it is about \$10 to \$11 per drop on average.

**The CHAIR:** A drop being a trip.

**Ms DUCK:** Sorry, per delivery.

**The CHAIR:** A delivery, great.

**Mr McMANUS:** The other data that may be worth referring to is the independent report that was done as part of the Victorian Government inquiry into the gig economy, which surveyed platform workers and reported average hourly earnings—I cannot remember the exact figure, but it was somewhere between \$20 and \$30. It was above minimum wage.

**The CHAIR:** About \$25. But you accept that research as being valid?

**Mr McMANUS:** My assessment just from a distance—I have not looked into the detail—was that it appeared to be robust and was done independently.

**The Hon. ADAM SEARLE:** Given some of your other responses, you may say this is commercially confidential. But you would know how much you pay each rider, either per week or whatever the pay cycle is, and you would know how many deliveries they perform, wouldn't you?

**Ms DUCK:** We would know how many deliveries they perform, yes, and I think that we could pull the information of earnings for every rider. But, yes, it would be commercial-in-confidence.

**The Hon. ADAM SEARLE:** I am going to press this question. I would like to know what is the average hourly income for one of your riders, just across the whole thing. I understand what you may say about that, but we have had that information from other platforms, and it would be very useful in our deliberations as we are considering whether there should be additional regulation for the gig economy or not. So I will just ask those questions—how much on average per hour your riders get paid—so we can assess the impact of that. That would be very useful.

**The Hon. WES FANG:** Can I just confirm? Mr Searle, you are asking these on notice and they can take legal advice as to whether they get—

**The Hon. ADAM SEARLE:** Yes, sure. If they can answer it now, great; if not, take it on notice.

**Mr McMANUS:** We will take it on notice.

**Ms DUCK:** Can I just add something to have some context and clarity around that? One of the things is really crucial. In terms of a per-rider account, we would have earnings information about, but I think it is also important to remember that we do have a significant number of riders who delegate the rider accounts to other people. So in that situation we would not actually be able to say how much each person earns because we do not know how many people are using each rider account. We would be able to pull account information only.

**The Hon. ADAM SEARLE:** That is fine because what that will tell us in theory is how much income from that activity is derived from a drop or from a delivery, whether it is done by the person who is one of your riders or whether it is their delegate. We would at least know the economic benefit derived from that activity, which, I think, would be very useful.

**Mr McMANUS:** But you would not be able to compare it to any other forms of traditional work and traditional rates of pay in a casual or permanent environment, because what in theory one platform can give you is the data, as you suggest, about what a rider earns in a one-hour period or an 18-hour period. But, of course, from our platform what we do not know is what income they derive from other platforms in the same time period, which is critical because the majority of riders tell us they work for multiple platforms. Of course, why would you not if you are a rider?

**The Hon. ADAM SEARLE:** Sure. What we do not know and, I guess, what you do not know is whether or not that is some of the time, all of the time, half of the time—

**Mr McMANUS:** No, we do not know because we do not collect data. But as I said before, the overwhelming anecdotal experience and what riders tell us is that they work for multiple platforms. But I take your point. We do not know for sure.

**The Hon. ADAM SEARLE:** It might be that they work for your platform on one day and they work for another platform on another day.

**Mr McMANUS:** It might be.

**The Hon. ADAM SEARLE:** Or during the course of a day it might alternate.

**Mr McMANUS:** It might be, but there is absolutely no reason for them to do that. It would be counter-intuitive. The point of this form of work is that they can sit there and pick and choose what they deem to be the best job from Deliveroo or from Uber Eats at the same time.

**The Hon. ADAM SEARLE:** I think you have given some averages. I think 18 hours a week is the average work. I think you say people work for you for any period of time up to 40-odd weeks in a year or sometimes more. Do you know what proportion of your riders derive their only income from doing Deliveroo work? Secondly, what proportion of your riders derive the majority of their income from similar activities with other platforms? Do you have any insight with that, at least insofar as your platform is concerned?

**Mr McMANUS:** I believe again the best source of data on this came from the Victorian report. I would have to take it on notice about the precise data. But I believe platform work generally—it was a very small percentage that was solely derived from a single platform. But I will have to take the specifics on notice.

**The Hon. ADAM SEARLE:** I think you gave some general evidence. I think your sense of it was that most of your riders conducted their riding activities for Deliveroo around other things such as other forms of work: study, caring.

**Mr McMANUS:** Yes.

**The Hon. ADAM SEARLE:** Do you have a hard sense of the proportions? Do you have statistics?

**Mr McMANUS:** We do have statistics on that. Again I do not have them to hand.

**The Hon. ADAM SEARLE:** No, but if you could provide them to us on notice—

**Mr McMANUS:** Sure. We can. The vast majority are doing this around study in particular, caring responsibilities and other forms of traditional work.

**The Hon. ADAM SEARLE:** To the extent you have statistics, if you could share them with us on notice, that would be useful.

**Mr McMANUS:** Sure.

**The Hon. ADAM SEARLE:** Do you also have a sense of the age profile of your workforce? Again, if you have got that on notice, could you please provide that to us?

**Ms DUCK:** Yes. The average age of our riders is around 29, 30 years old.

**The Hon. ADAM SEARLE:** That is very useful. You have said that you are open to new forms of regulation but it should happen at a national level. I think in your submission you talk about the need for more regulation and for clarity. But you seem to also suggest that you are being prevented from giving additional benefits to your workforce or your riders. Given that, in your view, they are independent contractors, there is nothing preventing you from giving them whatever benefits you would want as part of any sort of individual contractual arrangement. What are these legal obstacles you see?

**Mr McMANUS:** I guess there are a number of frameworks, if you like, that involve a test as to whether somebody is an employee or an independent contractor. Let me give the example of sick leave. It would seem fair to me that if somebody works in a week and does a large number of deliveries for Deliveroo or spends a large amount of their time doing deliveries for Deliveroo and then, the following week, they are ill, it would seem the right thing to do—for the want of a better description—to provide that person with sick leave. The issue is that provision of sick leave would form part of a test as to whether somebody is an employee or an independent contractor and our model works for the benefit of riders by them being independent contractors.

**The Hon. ADAM SEARLE:** I was an employment lawyer before I came in here. I am not so sure that is correct legally. Surely, if you take the view that they are independent contractors, as part of that independent contractual arrangement, you can put in place whatever you and the rider agree. So there is no commercial downside, other than the financial cost, of providing whatever benefits you want to. Is your concern if you provide sick leave that somehow a court or tribunal will use that to find that your riders are really employees?

**Mr McMANUS:** I am giving that as an example as part of a broad concern. When we talk to riders about what they want—you describe a situation that is our model today, which is an independent contractor or an employee model. The employee model would mean riders can only work for Deliveroo, you have to work shifts and there is a minimum wage. What they tell us is, "We want to work for multiple platforms, we want to choose for whom we work and we see minimum wage as maximum wage so we do not want to be employees. We want to be contractors."

**Mr DAVID SHOEBRIDGE:** I have been an employee and worked for multiple employers at the same time. Where do you get the advice that you can only work for one employer? I have done it in my own work history—worked for multiple employers at the same time. Where do you get the advice that you can only work for one employer?

**Mr McMANUS:** But are you a contractor in that sense?

**Mr DAVID SHOEBRIDGE:** No, I was an employee. I worked for multiple employers at the same time as an employee in my work history. Where did you get the advice that you cannot?

**The Hon. WES FANG:** Point of order: Mr Shoebridge, you have asked the question and then you have interjected on the question. You have literally asked the question three times, and we can check the transcript. You have asked the question and then you have added commentary about it. Ask the question and allow him to answer, because you have cut him off twice.

**Mr DAVID SHOEBRIDGE:** To the point of order: To be clear, I was responding to a question of clarification from the witness.

**The CHAIR:** Question and answer—that is the way we will do it. I think Mr Shoebridge has put a question and Mr McManus was providing an answer.

**The Hon. WES FANG:** He has put it three times.

**The CHAIR:** We can just allow that interplay to take place in a way in which the witness and the member are respectful to each other.

**Mr DAVID SHOEBRIDGE:** Where did you get that advice from, Mr McManus?

**Mr McMANUS:** What advice are you referring to?

**Mr DAVID SHOEBRIDGE:** That if you are an employee then you can only work for one employer at the same time.

**Mr McMANUS:** I cannot point to specific advice. That is our interpretation of the law around who is an employee and who is an independent contractor. We have structured our business to work in a way that riders tell us they want to work.

**The Hon. ADAM SEARLE:** Just to cut to the chase, if there was legislative reform that enabled you to retain what you call the independent contractor model but which provided for legal minimum rates of pay, superannuation and sick leave then would you be welcoming of that reform?

**Mr McMANUS:** You have said those examples. I am saying in the broad sense—and this is not just our position in Australia—we would like to see reform in the countries that we are in that allows us to provide more security, for the want of a better description, to riders while maintaining the model of independent contractors. That is the way riders want to work. If I can just expand, we measure rider satisfaction every week and it is over 80 per cent. I said 1,000 applications before and I think Ms Duck said 700—it varies. During the pandemic it was 1,500 and it is 700 now, so I was giving an average of 1,000. We get 1,000 applications per week on average into a base of 8,000. Our rider satisfaction score is over 80 per cent. Those statistics point to the fact that this is a popular form of work and we do this because that is the way riders want to work with us. But absolutely, if we can reform in the future at a Federal or a State level then we are open to have that discussion.

**The CHAIR:** But just to be clear there, have you given any thought as to what additional benefits could be provided if you had certainty that it would not disturb the independent contracting model?

**Mr McMANUS:** I have given one example, of sick leave.

**The CHAIR:** Are there others? Will you take that on notice and perhaps think about what else?

**Mr McMANUS:** Sure, we can come back to you.

**The Hon. ADAM SEARLE:** That could be very useful. I notice at page 7 you talk about free accident and income protection insurance for your riders. Will you tell us how many riders have been injured in performing Deliveroo activities since 2015, how they have been dealt with and what kind of benefits they have been able to receive under those insurance arrangements? Is it at the same level as workers comp, or is it higher or lower?

**Mr McMANUS:** In the period up until about October 2019, we included Deliveroo riders in the calculation for rateable remuneration for workers compensation schemes in the different states. Since October 2019 we have not included rider earnings in those calculations. We have implemented an independent, third-party, non-workers-compensation insurance scheme. That is the first thing to point out—that it has changed in that period, which we can go into more detail on. In terms of statistics around number of injuries and things like that, I believe we will have to take that on notice. Do you want to talk about the general process?

**Ms DUCK:** Yes, we will take the total numbers on notice. The way that we have handled insurance, and WorkCover prior to our independent insurance, is that we have always been very open with riders about letting them know and educating them that they have access to this. It is something that we are very proactive about and it has always been very public information for them on the public website. They report the incident to us. We encourage them to report any incident, no matter how small they might think it is. We follow up on every single incident that is reported to us—again no matter how small they think it may or may not be. Upon checking in on them and seeing how they are going, if information lets us know that we believe the incident is notifiable or they might be eligible for insurance, we walk them through the process and give them information on how they can do that. That was the same process during WorkCover as well as currently. Currently they receive a case manager through the insurance, if their insurance claim is accepted, who then checks in with them regularly to see



how their progress is going. They then let us know how that rider is going and give us information if the rider wants to come back to work. Sometimes they do and sometimes they do not; it is entirely up to them.

**The Hon. ADAM SEARLE:** Are medical benefits covered by this insurance proposal?

**Ms DUCK:** Could you please expand on "medical benefits"?

**The Hon. ADAM SEARLE:** If you need an operation or if you need to go and see a doctor then the WorkCover or the SafeWork scheme in New South Wales provides both financial remedies—income support for an injured worker who cannot work for a period of time—and medical benefits. The costs of medical treatment, rehabilitation and all those sorts of things that would otherwise be paid for by an individual are covered by the scheme. I am just wondering whether or not your insurance arrangement covers your riders at the same level and what that level is.

**Ms DUCK:** Yes. In our experience and in our analysis in comparing the two, we found that they were very comparable in that our insurance is similar to—if not in some cases better than—WorkCover schemes, particularly for riders in the way that they work with us. It is important to note that in 2019 alone, before we made the switchover, we had eight cases that were rejected by New South Wales WorkCover. Some of those were because it was actually their delegates who were injured when they were providing services through the Deliveroo app. We wanted to have a situation where we felt that all riders could feel comfortable that they were protected when they were providing services, regardless of whether or not they were the account holder or the delegate.

To us that is one of the most fundamental things, and also that they are not just covered when they are on a delivery with us. They are covered whenever they are logged in. It is also important to note that riders can be logged into multiple platforms at the same time. It is not that they log out of one and then log into another. If they are logged into our app and an incident happens and their claim is accepted, we do not ask any further questions. Also, if they are injured up to an hour after they are logged in then that is a situation that they could claim for. In terms of the specific details of the insurance and the breakdown and all of that, we will take that on notice.

**The Hon. ADAM SEARLE:** Please.

**Ms DUCK:** But in general, that was our comparison analysis between the two.

**The CHAIR:** Could I just quickly clarify that when you say WorkCover you mean icare in New South Wales?

**Mr McMANUS:** Yes.

**Ms DUCK:** Yes.

**The CHAIR:** Secondly, who is your actual insurance policy with?

**Ms DUCK:** Our current insurance policy? Chubb.

**The CHAIR:** I only ask because we have had other people tell us that they have real struggle and difficulty in getting access to insurance in the way in which Deliveroo has, so I was interested to see who is providing it. Before I hand to Mr Shoebridge, what is the cost of that insurance policy to you? Do you think you are at a competitive advantage or disadvantage by having that policy and the cost that you have to pay for it versus your competitors?

**Mr McMANUS:** We have no data or insight as to what our competitors would pay so I cannot comment on the cost. We will need to take that on notice. If I can just add one other point to reiterate what Ms Duck said, the comparison to WorkCover is an important comparison. It is also an irrelevant comparison to some extent because in New South Wales alone in 2019, eight rider claims were rejected. That is the reason we moved. It is just important when you compare those policies side by side that one is not fit for purpose.

**The CHAIR:** Can we get the details on notice? A core part of our terms of reference is the reform of those schemes, so it would be helpful to have your perspective.

**Mr McMANUS:** Yes.

**Mr DAVID SHOEBRIDGE:** Will you provide us with the certificate of currency and the schedule of benefits for that policy?

**Mr McMANUS:** I would have to take that on notice.

**Mr DAVID SHOEBRIDGE:** All right. Is it your understanding that it provides benefits that are comparable to, superior to, or inferior to the benefits that an injured worker would have under the State's workers compensation laws?

**Mr McMANUS:** Our view is, in the broad sense, comparable.

**Mr DAVID SHOEBRIDGE:** All right. Well, we will have some details provided to us.

**Mr McMANUS:** Sure.

**Mr DAVID SHOEBRIDGE:** Your submission suggests that both sides, both Deliveroo and the riders/delivery workers, benefit from a mutually agreed set of terms. Is that your basic position?

**Mr McMANUS:** When you say benefit, what do you mean?

**Mr DAVID SHOEBRIDGE:** Well, I will just read from your submission.

**Mr McMANUS:** No. I mean, maybe I have described it before.

**Mr DAVID SHOEBRIDGE:** Benefit as in positive goodness.

**Mr McMANUS:** Yes.

**Mr DAVID SHOEBRIDGE:** Is that your position?

**Mr McMANUS:** Well, I have described before our position that, you know, I do not know the specific part of the submission you are looking at but when we talk to riders, as I said before, they want to work across multiple platforms, they want to choose their hours, they want to have the ability to delegate, et cetera, and so we believe it works for riders.

**Mr DAVID SHOEBRIDGE:** So, going to your submission, at the top of page 10 you say:

Further, the provision of benefits by a company to a self-employed contractor should not impact on the genuinely agreed terms of their engagement.

I assume you are standing by that proposition.

**Mr McMANUS:** Can you just read that out again?

**Mr DAVID SHOEBRIDGE:** "Further, the provision of benefits by a company to a self-employed contractor should not impact on the genuinely agreed terms of their engagement."

**Mr McMANUS:** Look, I would need to see the submission, like—

**Mr DAVID SHOEBRIDGE:** It is your submission.

**Mr McMANUS:** No, no. I know that but I would need to read the paragraph and the paragraph after it to really comment.

**Mr DAVID SHOEBRIDGE:** Well—

**Mr McMANUS:** What is your question?

**Mr DAVID SHOEBRIDGE:** —I had assumed you were familiar with the submission.

**Mr McMANUS:** No, I am familiar with it but I do not have it right here in front of me.

**The Hon. WES FANG:** Chair, I am going to take a point of order at this point.

**Mr DAVID SHOEBRIDGE:** Can we get a copy of the submission provided to this witness?

**The Hon. WES FANG:** Point of order—

**The CHAIR:** Sure, quickly.

**The Hon. WES FANG:** Mr Shoebridge, the tone with which you are questioning the witness—

**The CHAIR:** Look, sorry, "tones" are not—Wes, like, if you have a substantial—

**The Hon. WES FANG:** Well, look, I think, I think—

**The Hon. ADAM SEARLE:** "Tone" is not a—

**Mr DAVID SHOEBRIDGE:** Could I suggest that meritless points of order—

**The Hon. WES FANG:** No, no, the procedural resolution certainly is.

**Mr DAVID SHOEBRIDGE:** Meritless points of order are actually disorderly and Mr Fang is currently engaging in a meritless point of order. Chair, I would ask you to bring him to order.

**The Hon. WES FANG:** Let me refine it then.

**Mr DAVID SHOEBRIDGE:** Look, just stop, Wes.

**The Hon. MARK PEARSON:** Mr Shoebridge, it is slightly flat. If you can increase the pitch, we will be happy with the tone.

**The CHAIR:** Can I just say, Mr Fang, that I think your point is made. Mr Shoebridge and Mr McManus can continue to interact with each and reply in a respectful manner. I think both of them have been robust but polite. But I think your point is made. We have limited time and I want to make sure, as these are important witnesses, that we proceed. Mr Shoebridge?

**Mr DAVID SHOEBRIDGE:** Do you have a copy of your submission there, Mr McManus?

**Mr McMANUS:** I do.

**Mr DAVID SHOEBRIDGE:** Feel free to read the paragraph, which I think is 6.1.

**Mr McMANUS:** Yes.

**Mr DAVID SHOEBRIDGE:** So, I ask you if you stand by your proposition that the provision of benefits by a company to a self-employed contractor should not impact on the genuinely agreed terms of their engagement. That is your position?

**Mr McMANUS:** Yes.

**Mr DAVID SHOEBRIDGE:** I assume you are referencing the genuinely agreed terms of engagement between Deliveroo and your riders when you had that submission. Is that correct?

**Mr McMANUS:** Yes.

**Mr DAVID SHOEBRIDGE:** On how many occasions has Deliveroo negotiated the terms with riders? How many times have you changed your standard agreement based upon a representation from a rider?

**Mr McMANUS:** I might need to take that on notice. I do not know.

**Mr DAVID SHOEBRIDGE:** It would be true that it has never happened, would it not, Mr McManus?

**Mr McMANUS:** I am not sure.

**Mr DAVID SHOEBRIDGE:** All right. Well, in the middle of 2018, you amended your standard terms. Do you remember that?

**Ms DUCK:** Yes.

**Mr DAVID SHOEBRIDGE:** Ms Duck is nodding.

**Mr McMANUS:** Well, yes. I was not in the business at the time.

**Ms DUCK:** Yes.

**Mr DAVID SHOEBRIDGE:** Well, I will put it to Ms Duck. And you amended the terms to include one particular term about liability and a clause requiring workers to "accept liability for any losses suffered by Deliveroo as a result of your negligent provision of the services". Do you remember that amendment, Ms Duck?

**Ms DUCK:** I do not remember that specific amendment, but I know that we often times will update. In the past in the last five years we have updated our terms of agreement to properly reflect how we actually engage with riders. I think it is also though worth nothing that just because it is in the agreement does not mean it is actually put into place, so just because it is there does not mean that we have actually ever done that. I can actually very strongly say we have never acted on that clause.

**Mr DAVID SHOEBRIDGE:** And you have a standard term agreement with all of your riders, do you not, Ms Duck?

**Ms DUCK:** Yes.

**Mr DAVID SHOEBRIDGE:** You have not negotiated individual arrangements with individual riders based upon their concerns they have raised with you about the agreement. You have a standard term that applies across the board. That is correct?

**Ms DUCK:** Well—

**Mr McMANUS:** But—

**Ms DUCK:** I am sorry. I was going to say that I think that we would take into consideration, and we have in the past, received notices from riders where they want to discuss with us the terms and we will take that into consideration. But I think that at this point in time there has to be whether or not it is commercially viable for everyone and I do not think that is very different across multiple workplaces, either. I think it is also worth noting that riders do have a lot of power in how they work with us and that, you know, we offer a delivery fee that riders can look at and they can decide whether or not that rate is suitable for them and they can reject freely, with no consequence to them, and decide that if that work is not suitable for them, they can reject that and they can wait for another fee that is more suitable for them, another distance that is more suitable for them, another direction that is more suitable for them. So, in that way, you know, riders do have the opportunity to work with us.

**Mr DAVID SHOEBRIDGE:** You reserve the right to review the fee agreement and change the fees that are paid from time to time as you think fit, do you not? And you have done that. You review the amount that is paid, up or down, as you see fit. That is part of your arrangement, is it not?

**Ms DUCK:** Our fees are calculated on variable factors. So fees fluctuate depending on the type of order that is being presented. So, if fees differ—you know, a six-kilometre delivery may be different in Sydney than it is in Melbourne based on the time of day and the area in which it is being provided.

**Mr DAVID SHOEBRIDGE:** But, Ms Duck, you are not answering my question, which is: This is a decision for Deliveroo alone and you set the structures and under the agreement the riders have to accept your matrix and your decisions about how fees are structured, do they not?

**Ms DUCK:** No. I do not think that is accurate because they do not accept anything. They can reject anything that they want. They do not have to work with us if they do not want to. If they want to have an agreement with us they can decide whether or not they want to actually accept that work and there is no consequence to them if they do not.

**Mr DAVID SHOEBRIDGE:** Other than that—

**Ms DUCK:** They can reject 100 per cent of orders offered to them and there is no consequence to them.

**Mr DAVID SHOEBRIDGE:** Ms Duck, I think you are missing my proposition, which is not about whether they can choose to work with you or not work with you. I accept that they are not in some sort of indentured employment where they are stuck with you. We agree on that. All right?

**Ms DUCK:** Okay.

**Mr DAVID SHOEBRIDGE:** What I am suggesting to you is that the terms on which they work for you are not up for negotiation. They are standard terms set by Deliveroo and you reserve the right to change the fee structure as you see fit and riders do not have a say in setting that fee structure or setting the terms. It is a standard term: Take it or leave it, is it not?

**The Hon. WES FANG:** Shock, horror: A company sets the terms for employment.

**Mr DAVID SHOEBRIDGE:** You just be quiet now, Wes. It is a standard term, is it not?

**Ms DUCK:** Well, as I say, we have changed the supply agreement over time and a lot of that comes from the fact that we continuously engage riders and get their feedback on the way that our terms of an agreement work. So, I think that, whether or not they are negotiating at that time is very different to the fact that we continuously engage our riders in roundtables and surveys, and we take that into consideration in the key decisions in our company.

**Mr DAVID SHOEBRIDGE:** But the long and short of it is, Ms Duck, that riders have a choice to either accept the terms as you set them or not work for you, do they not? That is their choice.

**Ms DUCK:** That is everyone's choice when it comes to any sort of work.

**Mr McMANUS:** And also we have a commercial imperative to set fees that are attractive for riders because otherwise riders will not do any orders for us and will do for our competitors and we will not have a business.

**Mr DAVID SHOEBRIDGE:** And you have a view that you are not required to provide sick leave and you are not required to provide workers compensation coverage, do you not? That is your view?

**Mr McMANUS:** It is not—well, I mean, we have discussed sick leave. Workers compensation we, up until October 2019, included riders earnings for the purpose of calculation of the various workers compensation schemes, but we were seeing an increasing number of rejected claims, both in New South Wales and in other States, and for that reason we have moved from workers compensation to a third party insurance policy.

**Mr DAVID SHOEBRIDGE:** So I understand your answer on both sick leave and workers compensation is, yes, you do not believe you have to provide those benefits to workers.

**The Hon. WES FANG:** Point of order—

**Mr DAVID SHOEBRIDGE:** Is that understanding correct?

**Mr McMANUS:** No. I think that is not. Well, I have explained to you in both cases I would take the—

**Mr DAVID SHOEBRIDGE:** Do you have to provide any annual leave to workers? Do you provide or have to provide any annual leave.

**Mr McMANUS:** No. We do not provide annual leave.

**Mr DAVID SHOEBRIDGE:** Do you provide or have to provide any carers' leave?

**Mr McMANUS:** No.

**Mr DAVID SHOEBRIDGE:** Do you provide or have to provide any long service leave?

**Mr McMANUS:** No.

**Mr DAVID SHOEBRIDGE:** Do you provide or have to provide any workers compensation coverage?

**Mr McMANUS:** We have moved away from workers compensation.

**Mr DAVID SHOEBRIDGE:** Do you provide or have to provide any sick leave?

**Mr McMANUS:** You have already asked that.

**Mr DAVID SHOEBRIDGE:** It is not for me to answer. I have to be clear—

**Mr McMANUS:** No, but I am just pointing out you have already—

**Mr DAVID SHOEBRIDGE:** —you do not provide sick leave, do you?

**Mr McMANUS:** No.

**Mr DAVID SHOEBRIDGE:** This arrangement has riders getting paid one fee and then, apart from that, they are basically on their own, are they not? You have some insurance policy, the terms of which you are going to provide to us—

**Mr McMANUS:** We have the best possible insurance policy that we can provide.

**Mr DAVID SHOEBRIDGE:** Just let me finish, Mr McManus.

**The Hon. WES FANG:** No, David, you actually did ask a question—

**The CHAIR:** We are about to move to government members so can we let Mr Shoebridge finish and we will have just question and answer please.

**Mr DAVID SHOEBRIDGE:** Because of Mr Fang's untidiness I will start again. You provide a set basic fee, you have some insurance coverage if there is injury, but apart from that workers are on their own if they want to take a holiday, if they get sick or if they want to take any long service leave? They are on their own, are they not?

**Mr McMANUS:** I would not describe it as them being on their own, no. We have described how should our workers have an injury how we help them through that process. With respect, I think you are characterising our move away from workers compensation as a choice that was driven out of an ability that we do not think we need to provide workers compensation. Again, we had eight claims rejected in New South Wales. We believe it would have been negligent for us to continue with workers compensation.

**Mr DAVID SHOEBRIDGE:** Could I ask you this then, Mr McManus—and you may want to take it on notice—if there was a legislative provision requiring you and all your competitors to cover your riders for

workers compensation and ensuring that your riders then receive the benefits of the workers compensation system, and it applied uniformly across the scheme, would that be something Deliveroo would support or oppose? I am comfortable if you want to take it on notice.

**Mr McMANUS:** No. I think it is a big question to say at this point whether we support it or oppose it, but, again, I think, respectfully, you are missing the point I am making. We had claims rejected. Workers compensation is not fit for purpose.

**Mr DAVID SHOEBRIDGE:** Mr McManus, I am accepting your proposition from your perspective but I am asking you if the Parliament passed laws that not only required you to pay workers compensation but unambiguously covered all of your riders if they were injured, if that package was put forward and it applied across the whole scheme to all riders so you were not competitively disadvantaged, is that something you would support or oppose?

**Mr McMANUS:** We would need to see more detail on that.

**Ms DUCK:** Can I just add onto that that you are missing out the delegates as well; that is a really key component. It is not just the rider accounts, it is also the delegates that work with those accounts. That is our concern as well.

**The CHAIR:** Mr Pearson has been waiting patiently but if Mr Pearson is prepared to be a little bit more patient, I do want to go to government members so they have time as well.

**The Hon. MARK PEARSON:** Can I just ask a question specifically to that answer?

**The Hon. WES FANG:** I accept that, that is fine.

**The Hon. MARK PEARSON:** It is just specific to that answer, which was actually my first question. The rejected claims, they were all delegates. Is that correct?

**Mr McMANUS:** No.

**Ms DUCK:** No. A couple of them were delegates and the others had to do with journey, which is why we wanted to add in the hour after log-in as well.

**The Hon. MARK PEARSON:** So if a rider delegates work to another rider, immediately that rider is no longer covered by the insurance that the rider who has a contract with you has taken on? The insurance has automatically come into place because the rider has started to work with you, the first rider. Is that correct?

**Ms DUCK:** In WorkCover the delegate is not covered. In our insurance the delegate is covered.

**The Hon. MARK PEARSON:** In your insurance the delegate is covered.

**Ms DUCK:** Yes, that is correct.

**The Hon. MARK PEARSON:** Why did you decide to do that?

**Ms DUCK:** Because that is a real way that riders use this platform and we know that; we have worked with riders that let us know that they like to delegate their platform. When they do go on holiday that is actually a way that they earn an income, to Mr Shoebridge's point. They can delegate their account and then they have structures in place that they will earn a percentage of their delegate's earnings through that account, and that is something that we know is a real practice through the platform.

**The Hon. MARK PEARSON:** Is it a concern of yours at all that the delegate may be being exploited by the first rider or first deliverer?

**Ms DUCK:** We work with the riders that when they are on board with us we let them know what their safety obligations should be, through safety onboarding videos, what the specific personal protective equipment should be for their vehicle type et cetera, as well as lots of access to resources from road safety authorities within their States.

**The Hon. MARK PEARSON:** My question is related to payment. Do you monitor the amount that is paid to the second party, the delegate?

**Ms DUCK:** We do not monitor anything to do with the delegate because that is the rider's right as an independent contractor to delegate their account. They do not have to notify us of their delegation.

**The Hon. MARK PEARSON:** Why would you not do that, yet cover the delegate under insurance? There seems to be a sense of responsibility on one level in terms of the safety of the delegate, but what about the payment and possible exploitation of the delegate? Is that at all of concern to you?

**Ms DUCK:** I think that at this point safety is something that we know if they are using an account through us we want to make sure that they are covered because that is situations we have been faced with where riders have been rejected claims, specifically in New South Wales as well, where they were not covered.

**The Hon. MARK PEARSON:** That is a good thing.

**Ms DUCK:** In terms of any other way of engagement with the delegate, you would have to discuss that with riders who delegate their accounts because that is their business and that is their agreement that they have made with that person.

**The Hon. MARK PEARSON:** But you have made it your business to insure the delegate but it is not your business to insure the delegate is paid fairly. Is that what you are saying?

**Ms DUCK:** At this point in time—I would have to take that on notice—we do not have any examples or any situations that have been brought to us where that has been a concern of delegates. We were faced with situations where delegates were rejected claims, so we felt that there was a responsibility to take action on that, and that is all I can speak to.

**The CHAIR:** Ms Duck, are your delegates put through an onboarding process?

**Ms DUCK:** Again, we do not have to be notified. We do not require riders to notify us of delegating their account. However, all of the onboarding material and safety videos et cetera are publicly available and we do actively encourage riders if they delegate their accounts that they should be putting them through those same safety onboarding videos.

**The CHAIR:** But you would require the primary account holder to have completed it and you check that?

**Ms DUCK:** Yes, that is correct.

**The CHAIR:** But in terms of any obligations to any devolved party, that belongs to the primary account under its responsibility, as you said.

**Ms DUCK:** Yes, that is correct. We communicate with them very upfront that if they choose to delegate their account that we strongly recommend that they put them through safety onboarding and make sure that they comply with all of the same expectations that they do.

**Mr DAVID SHOEBRIDGE:** You strongly recommend. Do you have any systems in place to ensure that happens?

**The CHAIR:** We cannot. Under the agreement they do not need to notify us of anything in how they work with their delegates—that is part of their right as an independent contractor under the agreement.

**The CHAIR:** I accept that supply chain visibility is not particular to the gig economy side, but are there any systems you have in place that would tell us how many people are delegating? We have got 2,400 account holders in New South Wales.

**Ms DUCK:** We can take the numbers on notice, but we have worked with riders who have let us know that they are delegating their accounts.

**The CHAIR:** If you could. I press it because it is a novel part of Deliveroo's business, which is not necessarily across your industry. Some platforms allow it, some do not, but as a platform that does allow it I would be interested to see what systems you have got in place to monitor its safety and other income-earning powers.

**Mr DAVID SHOEBRIDGE:** To be clear, and I will be clear what my concern is, Ms Duck, and if you want to respond to it feel free, my concern is you have obligations under work health and safety legislation and duties of care to ensure people are safe and appropriately trained and have the appropriate necessary maintenance of their vehicles and personal protective equipment, and if you have no structures in place to check that is happening with delegates, I see a very significant gap in the measures you are taking to protect the people who work for you. I am more than happy if you want to respond to that on notice or respond to it now.

**Ms DUCK:** I think that we will take the details of that on notice, but I think it is important to point out that with riders who are delegating their accounts, they are effectively acting as a person conducting a business or undertaking [PCBU]. So really the requirement—they should also be helping to regulate that with their

delegates. But I think that one of the things is that we do ask riders to ensure that they are following those guidelines, but I can take the rest of the answer on notice if you would like some more detail on that.

**The Hon. MARK PEARSON:** Just a question on that. Are you aware of any insurance rejection because the delegate was not properly instructed and trained by the rider about safety protocols? Are you aware of that or do you want to take it on notice?

**Mr McMANUS:** No, we are not.

**Ms DUCK:** No.

**The CHAIR:** Mr Fang and Mr Mallard have both been very patient, so we will go to either of them.

**The Hon. WES FANG:** Mr Mallard, I will let you have the first opportunity given that you are on Webex.

**The Hon. SHAYNE MALLARD:** Thank you. I am not sure if you can see me.

**Mr DAVID SHOEBRIDGE:** We can.

**The CHAIR:** And your bookshelf as well. It is an impressive bookcase.

**The Hon. WES FANG:** It is very impressive.

**The Hon. SHAYNE MALLARD:** Thank you very much, most entertaining. Thank you for your evidence and your submission. According to your submission, there were 8,000 self-employed riders in Australia and 1,500 applicants a week to join Deliveroo riders. Is that right?

**Mr McMANUS:** Yes, that varies up and down from about 700 per week to 1,500 per week. I think earlier in the hearing I said 1,000 on average—correct.

**The Hon. SHAYNE MALLARD:** I was not sure whether you were talking State or national.

**Mr McMANUS:** That is national.

**The Hon. SHAYNE MALLARD:** But that is from your submission. I have been listening to some of the other questions around exploitation allegations. Why are 1,500 people knocking on your door to work for you?

**Mr McMANUS:** We believe because it is a very popular form of work. The rider satisfaction score is higher than 80 per cent. It suits riders. They tell us they want to do it, they want to work in this way, they want to work for multiple platforms, they want to work when they want and choose their hours and delegate as appropriate. I believe that is the reason.

**The Hon. SHAYNE MALLARD:** So they make a decision weighing up the benefits—the flexibility, the money—and sign up to Deliveroo to the tune of 8,000 per month?

**Mr McMANUS:** Yes.

**The Hon. SHAYNE MALLARD:** Can you provide any—I used the word "data" but I do not know if I want data—work you have done around why riders join Deliveroo? I heard you mention the measurement of satisfaction, how do you record that information? That would be helpful for the inquiry.

**Mr McMANUS:** Do you want to take that?

**Ms DUCK:** Yes. I appreciate the question because that is one of the things that we find great about the fact that riders ride with Deliveroo. I have personally met with many of our riders and there are specific situations where riders really appreciate this type of work. For example, coming into Australia and not having any sort of professional network or contacts and being able to come in and earn decent money at times that suit them across different platforms and across different types of work. We have also had people who suffer with things like social anxiety disorder, which has kept them from employment in more traditional workplaces where they might need to engage with people on a regular basis. This is something that, even on a rideshare platform, they were not comfortable having to work with people in their own vehicles. Food delivery allowed them a medium to make sure that they could limit social interactions to what they felt comfortable with.

One of the key situations that we see is studying as well. We have had PhD students—we still have PhD students—and we have undergrad students. You can actually see that engagement on our platform drop significantly during times of exams because they want to take that time to make sure they are ready for those exams. That is something that we are really confident with with this type of work—that riders really appreciate the opportunities that this gives them versus other workplaces.



**The Hon. SHAYNE MALLARD:** You mentioned a rider satisfaction survey. Can you expand on what that is?

**Ms DUCK:** Yes. We have a rider satisfaction survey at the minute that engages riders on a weekly basis. That response rate varies from between 800 to 1,000 riders a week nationally. That satisfaction rate over the year is over 80 per cent and at the moment it sits at 84 per cent. For us, that is what matters. Riders are what matter to us, they are telling us they are very happy with this type of work and we work with them constantly to ensure that satisfaction.

**The Hon. SHAYNE MALLARD:** On notice, and without identifying any individual riders, are you able to provide some of that data to us over the next couple of weeks?

**Ms DUCK:** Absolutely, yes.

**The Hon. WES FANG:** I thank you for appearing today. Your submission is very detailed and we appreciate the level of effort that has gone into it to provide this Committee with some insights. I wanted to start with an expansion of one of the questions that Mr Shoebridge asked you around if there was a change in legislation, whether it be in New South Wales or across the country, that required you to view your riders in a different context as opposed to independent contractors. He asked you whether or not you would support that. Regardless of whether you support that or not, if there was legislation, would you comply with the law?

**Mr McMANUS:** Of course.

**The Hon. WES FANG:** So it is irrelevant whether you support it or not. If it was made legislation, you would operate your business under the legislation?

**Mr McMANUS:** Yes. But it is worth stating that, depending on the change, many of the riders—as we have just discussed—who choose to do deliveries with Deliveroo today could no longer do that or would choose no longer to do that.

**The Hon. WES FANG:** That leads nicely into my next question. At the moment, the majority of food delivery platforms operate in a similar context—i.e. the independent contractor is engaged with a parent company such as Deliveroo. If there was to be a change of circumstances around how you would view your delivery riders, who would the cost involved pass on to?

**Mr McMANUS:** We have not done any specific modelling regarding any changes. At a very high level, in the absence of any modelling, you would think it would pass on to consumers or restaurants. But I say that without having examined the details.

**The Hon. WES FANG:** That is where I expected that question was going to lead. If there was a cost impost, it would be on those mum-and-dad businesses that your delivery riders deliver for or the consumer at the other end. Are you able to provide insight as to how Deliveroo supported those smaller businesses to allow them to reach out to consumers during COVID?

**Mr DAVID SHOEBRIDGE:** I am looking for guidance, Chair. Is it a breach of standing orders to deliver your questions in an obsequious tone?

**The CHAIR:** I think Mr Shoebridge and Mr Fang can perhaps refrain from reflecting on each other's tones.

**Mr DAVID SHOEBRIDGE:** On tone? Okay.

**The CHAIR:** Mr Fang, please continue.

**The Hon. WES FANG:** Well, I could do my other tone.

**The Hon. ADAM SEARLE:** Oh, please don't. No, come on.

**The Hon. WES FANG:** I can be shouty at times.

**The CHAIR:** We have four minutes remaining and I have three minutes of questions, Mr Fang.

**The Hon. WES FANG:** I am being quite—I have asked a question.

**The CHAIR:** Mr Fang, please take the next minute.

**The Hon. WES FANG:** I have already asked my question.

**Mr McMANUS:** Shall I answer it?

**The Hon. WES FANG:** Thank you.

**The CHAIR:** Mr McManus, I have some preliminary questions to end. Do you an estimate of how much your market share is in New South Wales?

**Mr McMANUS:** Am I not answering this question?

**The CHAIR:** I am sorry, I thought you did. Go ahead, Mr McManus.

**The Hon. WES FANG:** I actually did ask a question before Mr Shoebridge rudely interrupted.

**Mr McMANUS:** No, did not. To answer quickly on one specific example: We have three services, if you like. One is the one we have been discussing today where a consumer orders and an independent contractor rider does the delivery; one is where a consumer orders but somebody who works in the small business does the delivery—so it is not an independent contractor, it is an employee of the restaurant; and one is where a consumer orders and then that consumer goes and picks up the delivery from the restaurant. The rates of commission vary, as you would imagine. The commission is highest where an independent contractor does the delivery because the rider needs to be paid. We reduced dramatically the commission for the middle option, which is the one where no rider is involved and where the restaurant employee does the delivery. In that case we could afford, quite frankly, to reduce the commission because to reduce the commission of the option where the rider does the delivery would have meant paying riders less, which was unacceptable to us.

We did a long list of things, but given the context of the discussion today that is one important one to mention. We changed our technology very quickly to bring about contactless delivery so that deliveries could continue to occur in a COVID Safe fashion and so on. We believe we have done the right thing to try to help our restaurant partners through what are and have been some very tough times. Unfortunately, despite what we and others in our industry did and despite JobKeeper, tragically many restaurants and bars et cetera have closed.

**The CHAIR:** I have two questions for you to take notice and then one to end with. Can we get some data as to what you think your market share is in New South Wales and elsewhere or not?

**Mr McMANUS:** Well, not, because there is no reliable data.

**The CHAIR:** Okay.

**Mr McMANUS:** I can tell you anecdotally what I believe it to be.

**The CHAIR:** Sure.

**Mr McMANUS:** Uber Eats is the market leader, second is Menulog and third is Deliveroo. That will vary a little bit by location in New South Wales, but there is no accurate data that we know of.

**The CHAIR:** That is a fair point to make. Who else do you think your competitors are? There is dispute over who exactly is a participant in this market, so it would be helpful to get your perspective.

**Mr McMANUS:** When you say "dispute", just to—

**The CHAIR:** As in, some people would make the point that food delivery is ancillary to their services or otherwise. Others would make the point that they are a specialist food delivery platform, and therefore they are not participating in it. For example, we had HungryPanda come before us and tell us that they are a specialist food delivery platform that does not try to compete in the broader market. It would be interesting to see how you define the market, is my point. The final question I had is: I believe that Deliveroo is the first food platform, or one of the first, to go through the health and safety representative [HSR] process with SafeWork NSW. Do you have any reflections on that experience and any views as to how that can be reformed or otherwise so that it is more effective for all PCBUs?

**Mr McMANUS:** We were the first to go through that process, given that it was the first time, at least to our knowledge, that the HSRs were being established, and the gig economy was always going to be less straightforward than perhaps the establishment of HSRs in a traditional workplace. We believe we worked collaboratively through the process. I have got the dates here, depending on the expansiveness of the answer you would like. I would say, broadly, the framework around HSRs does not work that well in the gig economy. To be clear, any safety initiative is a good thing, and we are working closely with each HSR to try and drive insights as to how we can improve the safety of the workplace, but there are a few issues. As we have described before, one is that the majority of riders do not work exclusively for Deliveroo. They do not work set hours or a roster where we can be sure that they will be in the workplace, and we do not control the workplace to the same extent as an employer would, in the definition of a workplace that was considered when the HSR system was developed. That is a short answer. We can go into more detail if you would like?

**The CHAIR:** Yes, I would, if you do not mind. You make a point elsewhere that there are other laws that may not be fit for purpose. We are interested in the reform path for them to ensure that they are, especially in a scenario where Deliveroo recognises a need for an HSR or the need for safety initiatives. Any views you have got about how the election process worked, how the multi-apping issue is dealt with and the ability for Deliveroo to actually meet its requirements would be most helpful, but also any suggestions around reform would be most welcome, too. As the first people who went through it, it is a unique perspective that only you have, so we would appreciate it. You have taken multiple questions on notice. You will have 21 days from the date of receipt of the transcript to provide those answers. I appreciate that you have travelled from Melbourne to be with us this morning as well, so I appreciate the time that you have taken and the lengths that you went to in appearing before the Committee—

**Mr DAVID SHOEBRIDGE:** And we are grateful you are not based in Brisbane.

**The CHAIR:** We are grateful you are not based in Brisbane. Yes, that is true. Equally, the quality and the length of your submission was most helpful. Thank you very much for your appearance this morning.

**(The witnesses withdrew.)**

**TIM FUNG**, Co-Founder and Chief Executive Officer, Airtasker, affirmed and examined

**The CHAIR:** Mr Fung, thank you for your presence today. Would you like to make a short opening statement?

**Mr FUNG:** Sure. First of all, I will start by introducing what Airtasker is. Airtasker is a marketplace for local services. We connect people who need work done with people who want to work, so it is a pretty simple mission. Our mission statement is to empower people to realise the full value of their skills. We really believe that people matter and that every single person has unique skills that we can help them use to create an income. We believe that creating jobs is not a by-product of the work that we do; it is actually the core purpose of what Airtasker is here to do. One example of that would be a lady named Tania, who during COVID was working as a full-time permanent employee at Qantas but during that period instantly lost her job and was furloughed. She was able to get onto the Airtasker platform, create an income for herself and actually earn enough money as a videographer on Airtasker—which is what she was doing at Qantas—to invest in her own video equipment. She is now set up to go onto the next stage of her freelance career. I think what this shows is that flexible labour creates a great platform to capture people's fall as they are coming out of full-time work, and it can also help them ease back into full-time work.

Airtasker is what we would describe as an open marketplace model. What we mean by that is the price and the scope of the work that is done on Airtasker is decided between an individual customer and an individual "tasker" or service provider. It is not Airtasker that decides the price and the scope of work that is done, albeit we do have community guidelines for the sake of safety and trust in our marketplace. What I would highlight there is that Airtasker truly believes in the independent contracting structure of our model because the price and the scope of the work is determined by the tasker. We have underlined that by creating a business model in which incentives are truly aligned, which is that we take a percentage fee based on work that is completed by our taskers. We only earn an income when our taskers actually receive an income. That helps to ensure all of our incentives are aligned.

Lastly, the concept of the gig economy is potentially more complex and nuanced as compared to what the popular media displays. I think that, roughly, a really important distinction is that between models that exhibit centralised control—i.e. where the platform itself determines the price and scope of work—compared to distributed trust models, as we refer to Airtasker. There are a lot of other marketplaces online that exhibit that model, where the price and scope of what is being exchanged is determined by the individual participants. In closing, I would say that Airtasker is really passionate about creating new jobs in Australia. We would love to work together and lean in to work with government and regulators to help us do that.

**Mr DAVID SHOEBRIDGE:** Thank you, Mr Fung, and thank you for your submission. Does Airtasker allow for the delegation of work?

**Mr FUNG:** We have rules around transparency in the marketplace, which means that if you are the person who is administering the account and engaging with our app you also need to be present at any of the jobs that are being completed. However, you can work with other people to extend your capability. For example, a team of people who are helping someone move home may have more than one person there, which I guess would be a form of delegation. But it is important to us that the person who is actually saying they are going to do the work is in fact doing the work—

**Mr DAVID SHOEBRIDGE:** Turns up, yes. Do you have any required work health and safety training or work health and safety guidelines or policies that you require the account holder to actually review and comply with?

**Mr FUNG:** The underlying thing that Airtasker is doing is supporting the existing services economy. I would say that all of the government regulation that applies to any sort of trade or service that exists anywhere in Australia, all of those rules also apply on Airtasker.

**Mr DAVID SHOEBRIDGE:** But do you have work health and safety policies or work health and safety documentation that you provide to the account holders to try and ensure that work health and safety is being complied with?

**Mr FUNG:** We have worked together with Unions NSW on publishing a lot of educational content for our tasker community to make sure that they are aware of all the safety regulations and things that are applicable to their vertical. But I would say there that, as a horizontal marketplace in which there is everything from graphic design to lawyers, tax accountants and trade services on Airtasker, there is quite a variety of different legislation which would be applicable.

**Mr DAVID SHOEBRIDGE:** So you do not require the various "Airtaskers", if that might be how to describe them—

**Mr FUNG:** Taskers.

**Mr DAVID SHOEBRIDGE:** —the various taskers to read, to review and to indicate that they have understood work health safety policies and the like. You distribute information. That is where you go and not beyond that.

**Mr FUNG:** We distribute information and make an overarching statement that all of our service providers need to meet all of the safety and regulations that exist anywhere in the service's economy.

**Mr DAVID SHOEBRIDGE:** Your submission speaks about insurance services and you say that there is:

... a policy to cover a person for their liability to another member of the community for personal injury or property damage whilst performing common services.

That is third-party liability insurance that you provide. Is that right?

**Mr FUNG:** That is correct.

**Mr DAVID SHOEBRIDGE:** What about if the tasker gets injured?

**Mr FUNG:** Similarly, our independent contractors can apply to get their own insurances. We actually have run experiments to offer those insurances and it was not particularly welcomed by our service providers. The take-up was minimal and we are no longer offering salary continuance or the accident protection insurances.

**Mr DAVID SHOEBRIDGE:** So if a tasker gets injured performing a service and they have not separately arranged for any insurance payments, there is nothing that Airtasker offers them.

**Mr FUNG:** Nothing in the form of insurances.

**Mr DAVID SHOEBRIDGE:** Anything else?

**Mr FUNG:** No.

**Mr DAVID SHOEBRIDGE:** Do you have any data about how many taskers have been injured in the last few financial years?

**Mr FUNG:** I can take that question on notice and I am happy to respond back, but not off the top of my head.

**Mr DAVID SHOEBRIDGE:** Do you have requirements that injuries are reported?

**Mr FUNG:** No.

**Mr DAVID SHOEBRIDGE:** Do you think it would be part of your general duty of care to have those kind of arrangements so that people who are working on your platform, if they get injured, at least report the injury to you?

**Mr FUNG:** No.

**Mr DAVID SHOEBRIDGE:** Is this something you have sought advice about?

**Mr FUNG:** Yes.

**Mr DAVID SHOEBRIDGE:** Have you sought legal advice about it?

**Mr FUNG:** Yes.

**Mr DAVID SHOEBRIDGE:** Is it your position that your legal advice says you have no obligation to have taskers notify you about injury while they are working on a task assigned by Airtasker?

**Mr FUNG:** Broadly, yes. However, it is a specific legal question and in that context I would want to take it on notice and come back to the Committee

**Mr DAVID SHOEBRIDGE:** By all means, Mr Fung. Do you see a potential gap in the safety net if people are working for Airtasker and get injured, potentially very badly injured, and do not have any protections? Whereas if they were working as an employee they would have all the benefits of workers compensation protections. Do you see a safety net issue with that?

**Mr FUNG:** In the context of the overarching services economy, I think that there are fit-for-purpose models that work in which some, employment is the best model; and in others, independent contracting is the best model. I think in the components of the services economy that Airtasker is addressing, independent contracting is the right model.

**Mr DAVID SHOEBRIDGE:** But that does not really address my question about whether you see it as a gap in the safety net, Mr Fung.

**Mr FUNG:** I think there will always be gaps in safety nets and I would say that the reason why I answered the question in the way that I did is because I think it is more nuanced than taking a position of, "Is there a gap in the safety net?"

**Mr DAVID SHOEBRIDGE:** If somebody gets injured and they have no protection and they are working as a tasker, do you think that is acceptable?

**Mr FUNG:** I think it is equally acceptable to be booked on Yellow Pages, Google or any other form of an independent contractor connecting with work to be exposed to the risks of that work. I think it is equally the same situation as being booked on a marketplace.

**Mr DAVID SHOEBRIDGE:** You accept no responsibility at all as the entity that makes that arrangement, that brings those people together and has the work performed.

**Mr FUNG:** That is correct.

**The CHAIR:** Thank you for the submission; it is helpful to ground this. You make the point that there are 4.3 million Australian registered users.

**Mr FUNG:** That is correct.

**The CHAIR:** Do you have non-Australian users? Is your operation or platform global?

**Mr FUNG:** It is predominantly in Australia. About 99 per cent of our revenue currently is derived in Australia. But we have marketplaces in the UK, Ireland, Singapore, New Zealand and the United States.

**The CHAIR:** Okay, and you are planning to expand.

**Mr FUNG:** That is correct.

**The CHAIR:** You say in your submission that 52 per cent of people who complete tasks on Airtasker also post tasks on Airtasker. Can we infer from that that at least more than two million Australians have earned income through your platform?

**Mr FUNG:** No, that is not correct. There are 4.3 million registered users in Australia, so they have registered and created an account in the Airtasker community. To date we have had over 950,000 paying customers, so people who are paying to purchase services through Airtasker, and about 150,000 earning taskers, so people who have actually earned an income through Airtasker.

**The CHAIR:** Do you by any chance happen to have that number for New South Wales? How many of the 150,000 earning taskers are in this State?

**Mr FUNG:** I would have to take that on notice. Roughly I can say that Airtasker is fairly population distributed, so if you were to take 30 per cent to 35 per cent of that, roughly a third of that, from both a population and an activity level, I think that would be a fairly good starting point.

**The CHAIR:** You made the point that the spectrum of industries in which taskers provide services is broad. Is that a fair summation?

**Mr FUNG:** That is correct, yes.

**The CHAIR:** What is the market share per industry? How much of it is graphic design or furniture assembly et cetera?

**Mr FUNG:** Without wanting to go too deep and stretch my answer because I can talk about this for a very long time, the way we look at services industries on Airtasker is that there is an incredibly long tail of work. That long tail of work of all those minute verticals that are created is derived from two main dimensions. One is that there are variables within existing service categories—for example, cleaning is much more nuanced than just cleaning. So the variables within a category, but then also the categories themselves. Airtasker creates micro-verticals like removing spiders from ceiling fans or having people write poems for their wives. There are a

huge number of possible verticals which are not currently existent and therefore it makes it difficult to have conversations about things like market share or even share within the existing marketplace in category form.

**The CHAIR:** Is that because you consider the platform to be market-creating?

**Mr FUNG:** Absolutely.

**The CHAIR:** You are creating new forms of work.

**Mr FUNG:** Absolutely.

**The CHAIR:** I am going to invite you on notice to be as detailed as you would like to be in being able to provide us with as much information as you possibly can about what services are being provided in the community. What is the average fee earned per task?

**Mr FUNG:** The average task value is about \$189 on Airtasker. The company earns a take rate of around 17 per cent of that job value of \$189 per job. I would again, though, state that averages are probably not a great way of looking at the marketplace because \$5,000 jobs or \$2,000 jobs have a very large impact on the average. There is sort of two buckets. There is sort of smaller tasks and then there is some pretty significant tasks that go through the platform.

**The CHAIR:** How do you think we should be able to understand what is taking place on the platform? We are happy to look at whatever criteria you wish to nominate on that, but how much are people earning per hour worked? That can vary of course based on the scarcity of your skill as it would in any marketplace.

**Mr FUNG:** We actually do not track hours on Airtasker; we track task outcomes and task values. We actually think that hourly rates to some extent commodify labour and try to standardise it down to a level which we do not necessarily think is conducive to empowering people to realise the full value of their skills. I can paint a very anecdotal example of this. When I started Airtasker I was setting up our office and I was assembling IKEA furniture and it was taking me about half an hour to assemble a stool and I had about 20 stools in front of me.

**The Hon. ADAM SEARLE:** Only half an hour?

**Mr FUNG:** That is 10 hours to do that. I hired someone through Airtasker. That person turned up with a pocket drill and a lot more know-how than me and got that job done in an hour. If I paid him \$20 an hour or \$25 or \$30 an hour that would not have been good for that person. That person ended up getting paid about \$200 for the work that they did and that was great value for me on an hourly rate savings perspective and it was incredible value-creation for the service provider who completed the job.

**The CHAIR:** Do you have any information as to how many people are exclusively earning through Airtasker? That is, they are earning all the income through Airtasker? Do you keep information like that?

**Mr FUNG:** I think it is difficult to ascertain whether someone is full-time on Airtasker or not because we do not track all the other income sources that they have. I would say that we have a very large cohort of people that are not full-time on the platform. More than 70 per cent of our people do less than five completed jobs per month which would certainly indicate that it is not in any way a full-time job. To date all-time for Airtasker we have had 13,000 people and more than \$5,000 in a single month on Airtasker.

**The CHAIR:** I will again ask you on notice to provide any information. I accept that the data comparison in this area is generally opaque; hence it would be helpful to get whatever information is possible. Have you seen the Victorian government's report into the future of work?

**Mr FUNG:** I have skimmed it.

**The CHAIR:** I you aware of the research they undertook as a part of that to measure earnings, hours and the diversity of the platforms that was undertaken by Swinburne University?

**Mr FUNG:** I have skimmed the document but do not know it in detail.

**The CHAIR:** Is there any basis upon which you would disagree with that? We can accept that as being a relatively independent report?

**Mr FUNG:** I do consider it to be an independent report. As I mentioned earlier, I think there are so many nuances to this gig economy or flexible work economy that it is difficult to run a study which can accurately bring all of the different types of platforms together. There are incredible nuances here some of which are more obvious than others and make it very difficult to put that umbrella and create a study across all of them.

**The CHAIR:** I am going to pass to Mr Searle, but I would invite you on notice to provide whatever nuance we should know. As lawmakers we have to rely on some form of evidence-base to ground our actions. We more than welcome any information that you have to add to it giving the perspective of Airtasker. Would you take that on notice?

**Mr FUNG:** Yes. I do take that on notice. I do state that I think the overarching difference has to do with who is controlling the price and scope of the work. If it is determined by the central platform that is the major differentiation—categories where that is determined by the platform versus where it is determined by the individuals.

**The Hon. ADAM SEARLE:** Which is where I will start my questioning, Mr Fung. I think at page 8 of your submission you talk about the differences between a distributed and centralised control platform model. It is your submission that Airtasker is distributed because of those things you have just mentioned. The price particularly is negotiated and decided separate to anything Airtasker does. It is between the service provider, or the tasker and the taskee, if I can put it that way. That is your contention?

**Mr FUNG:** That is correct.

**The Hon. ADAM SEARLE:** Whereas other gig platforms that we might be talking about—whether it is Uber, Deliveroo, or what have you—it is a more centralised model where the price paid is controlled by the platform, is that correct?

**Mr FUNG:** That is correct.

**The Hon. ADAM SEARLE:** What sort of services are provided through Airtasker? Is it plumbing, electrical, flat pack assembly, or all of these things and more?

**Mr FUNG:** We describe Airtasker as an infinitely horizontal marketplace in which it is really completely up to the customer to describe the problem that they need solved. We then empower our taskers to solve that problem in any way that they see fit with their skills and within our community guidelines. This does go down the path of requiring the nuance to talk about the long tail of services that we create on Airtasker. When we frame-up Airtasker within the concept of existing service industries and look at how much of the existing services industries could capture what is currently being created on Airtasker it is actually quite a small fraction. In other words, Airtasker is predominantly creating new forms of work and new job opportunities as opposed to shifting existing service industries into a marketplace environment.

**The Hon. ADAM SEARLE:** Could you just develop that a little bit. For example, if we take your example of the IKEA assembly. That is potentially something that you might have hired a handyman to do. Another option is you might have gone to a local community newspaper and found a handyman's telephone number but you have managed to acquire this through Airtasker. In your view what are the bespoke or wholly new forms of working that Airtasker has helped create that are separate and distinct from the existing services industry?

**Mr FUNG:** I think the example that you provided of using the newspaper classifieds to find a local independent contracting handyperson in your local area is exactly what Airtasker does. The advantage and the reason why we are creating new jobs is because we are lowering the friction. Previously you had to call up the newspaper, pay \$100 for your ad placement and it would get placed in a few days' time into the printed newspaper and subsequently take time for that handyperson to reach out to you. With Airtasker all of that happens instantly and for free. There are a lot more of those opportunities. That is how we are creating more jobs.

**The Hon. ADAM SEARLE:** I understand creating new opportunities but the actual work that is being performed is just shifting work from the existing services industry. It is about accessing it in a different way. It is not creating new work.

**Mr FUNG:** I would say it is taking existing skills which are currently dormant. A lot of people have existing skills but they are currently not using those skills or do not have a channel to be able to realise value from their skills. By reducing friction Airtasker is taking existing skills and creating an outlet for them through our marketplace. They are not necessarily taking existing jobs and moving them onto our marketplace.

**The Hon. ADAM SEARLE:** Just so we are not talking at cross-purposes. On page 13 of your submission you talk about creating new Australian jobs and you say your current analysis indicates that 24 per cent of jobs created by Airtasker are new jobs that would not have otherwise materialised. In terms of the quantum you are saying about one quarter of the work that is captured through Airtasker is new work that would not have otherwise been performed in the economy. The concomitant of that is about 76 per cent has been accessed through Airtasker that otherwise would have existed, is that correct?



**Mr FUNG:** That is correct. If I may clarify?

**The Hon. ADAM SEARLE:** How did you do that analysis?

**Mr FUNG:** In our opinion 24 per cent of jobs are definitely not going to be able to be created without Airtasker. The remaining 76 per cent would utilise existing skills. However, the job itself may not exist without Airtasker either.

**The Hon. ADAM SEARLE:** Is this just your impressionistic analysis of what you see or have you actually got a paper or done some research that stands these conclusions up a bit more?

**Mr FUNG:** We do have principles that we have applied to the data to be able to infer the figures that we provided. However, I would say that it is an incredibly nuanced and complex space to determine what is an existing job and what is not. I would be open to feedback on the principles that we have applied.

**The Hon. ADAM SEARLE:** If you could provide on notice any further detail that substantiates the claims you make at page 13 that would be of use. In relation to the work that is captured on Airtasker, when you say that these jobs may not otherwise exist do you have any sense and do you track any information about if some of the service providers are electricians, for example, they might have their own business but they have also decided to try and access work through Airtasker? How much of it is that kind of thing and how much of it is someone who might not be traditionally employed and trying to get back into the workforce or trying to earn some extra money and saying these are the skills I have and trying to access work through Airtasker? Do you have any sense of the proportion of people providing the services?

**Mr FUNG:** I do not have on hand any indication of the proportions.

**The Hon. ADAM SEARLE:** Could you do that on notice?

**Mr FUNG:** I believe that we could do that on notice in relation to the specific call-outs. For example, if we wanted to investigate in relation to a specific skill such as electricians, plumbers or gasfitters, we certainly have data that we can use to look into that more deeply. A general question around how much of Airtasker's work is existing versus non-existing is a bit more of a nuanced question because the data points are less obvious compared to something like electricians who have electrical licences verified on Airtasker or gasfitters and the like.

**The Hon. ADAM SEARLE:** That was going to be my next question. People who are providing services in the nature of carpentry or construction or electrical or plumbing—is there any verification that these people are trades qualified versus enthusiastic amateurs who may have skills, and those skills may be good or not, but there is no way of verifying. Do you have any way of tracking that if someone is providing some wiring services they are actually a licensed electrician?

**Mr FUNG:** Yes, we have verification badges that can be added to any of our taskers' or service providers' profiles and those are verified with local authorities. What I would actually stand back and say is that I believe that the Australian landscape for regulating licensed work is actually very difficult for consumers to digest. When we have polled our customers on whether they know if they need an electrician to hang up some Christmas lights outside their home, and if that is something that would require that form of licensing, many consumers do not know where that electrical licence would be required. On top of that, it is predominately legislated on a State basis, so State by State, and that becomes even more complex. We actually think the biggest issue here is educating consumers about what their responsibilities are when they are engaging with service providers in different categories. One of our requests would be that government and regulators make that information more consumer oriented. I think that in these environments it is up to both the consumer and the service provider to work together to make sure that they are following that legislation.

**The Hon. ADAM SEARLE:** Sure, but if for example someone has a burst pipe at their house and there is water flooding everywhere, the consumer wants, as inexpensively as possible, to have someone come and fix it, but equally some of that work would potentially require someone who is actually a licensed plumber. Does your platform provide that requirement or could it be the case that an enthusiastic consumer could access the services of an enthusiastic amateur plumber who is not qualified to do work and so potentially makes the situation worse or performs work that is not to standard because they are not licensed and properly trained?

**Mr FUNG:** Our view is that we look at both consumers and service providers and make the assumption that people want to do the right thing and they are actually smarter and more responsible than we might intuitively assume. However, I think it is absolutely possible.

**The Hon. ADAM SEARLE:** So there is nothing you do in that exchange situation to actually say that if you are providing certain services, you must actually be qualified to provide those services.

**Mr FUNG:** We let both our service providers and our customers know that all the rules that apply and all the regulation that applies, whether they were to be booking someone via Google, Gumtree or the Yellow Pages, also applies on Airtasker, and we actually do require our taskers to sign up to those terms and conditions and we do that fairly proactively. We do not bury that in our terms, in fine print.

**The Hon. ADAM SEARLE:** You made the point that the average task is \$189, but that is a bit misleading because it does not take into account small tasks and large tasks. Are you able to on notice break down the volume of tasks in New South Wales or nationally, whatever is easiest, and say what percentage is \$189 and less, what percentage is \$1,000 to \$5,000 and what percentage is \$5,000 and up, just so that we can see where the volume of tasks are by value and perhaps the kind of work that that might represent?

**Mr FUNG:** We can certainly do the price breakdown because that is objective data and we are happy to provide that in a decile form.

**The CHAIR:** I was about to suggest a decile analysis would be really useful about the spread, to be technical.

**Mr FUNG:** Sure. We are happy to take that on notice. We can certainly provide that information. Again, I would point to the concept that it is extremely difficult to categorise data on Airtasker in terms of job types and skills. We can certainly provide one viewpoint on it, but this is actually a blessing of being an infinitely horizontal marketplace but also a complexity of being an infinitely horizontal marketplace.

**The Hon. ADAM SEARLE:** My last question is around payment. In the unlikely event that I was to get an Uber to go from one location to another, I pay Uber and Uber then pays the driver as I understand it. How does that work on Airtasker? Does the payer pay the payee directly when they come to provide the service or do they provide it through the app and so therefore the worker, if I can use that terminology, actually gets paid from you?

**Mr FUNG:** For the purposes of simplicity for our customers, they do pay through the app using a credit card that they have installed into our app, but I would state very strongly that the way that we operate, our escrow payment facility, is not one in which it would be characterised as Airtasker collecting money and passing that on to our taskers. It is actually such that money is charged, it is put into an escrowed facility that sits in between the customer and the tasker, and then only once the job is completed to both persons' satisfaction is the money distributed to the tasker and a component taken by Airtasker to earn our revenue.

**The Hon. ADAM SEARLE:** Who controls the escrow facility? Is it Airtasker or is it someone else?

**Mr FUNG:** Money is only released from the escrow facility once the tasker and the service provider both mutually agree—

**The Hon. ADAM SEARLE:** Who owns the escrow? Who has control of the escrow facility?

**Mr FUNG:** It is run by a company called Stripe payments.

**The Hon. ADAM SEARLE:** So that is not under the control of Airtasker.

**Mr FUNG:** I think "control" is probably a nuanced word there. I think Stripe, Airtasker, customers and taskers all have elements of control over it.

**The Hon. ADAM SEARLE:** Airtasker cannot take money out of that pot until the service provider and the customer, if I can use that terminology, both agree.

**Mr FUNG:** That is correct, largely.

**The Hon. WES FANG:** Can I ask a clarification question? Mr Fung, what happens in a dispute?

**The Hon. ADAM SEARLE:** That was going to be my next question. What happens when there is a dispute?

**Mr FUNG:** I would first step back and look at the data of how many disputes actually arise on Airtasker. Tens of thousands of tasks occur per month and there is a handful of disputes that occur. I think that actually points to what happens when we connect individuals with other individuals. People do not want to fight with each other. People like to fight with big organisations and corporations. So actually when you connect people together you have a very low occurrence of disputes. We also have a fairly simple cancellation flow on Airtasker and if the task is cancelled it is pretty easy for the customer to be able to cancel it and for the transaction to be effectively

nullified or reversed. In terms of what happens when we do have those disputes, they get escalated to our customer service team. I am oversimplifying the process here, but at a certain point along that dispute process both parties can opt in for Airtasker to make a decision. But both the tasker and the customer need to opt in to that decision to say, "We just want Airtasker to just tell us which way it is going to go." We do not enforce that.

**The Hon. ADAM SEARLE:** If they do not agree to that process, do they have to go to Fair Trading or maybe end up in the NSW Civil and Administrative Tribunal if there is some kind of dispute? For example, the customer might have paid the money. They do not get the money back, so they are unhappy. They are unhappy with the service. The provider of the service has not been paid, so they are unhappy. Do you sit back and wait until that otherwise existing legal process plays itself out and then you abide by the outcome and then release the money?

**Mr FUNG:** That is correct.

**The Hon. ADAM SEARLE:** Or pay the money back to the customer?

**Mr FUNG:** That is correct.

**The Hon. ADAM SEARLE:** Do you still take your cut in that situation?

**Mr FUNG:** No. In the case of some smaller transactions, Airtasker sometimes does just say that it is probably not worth anyone's time to go through this dispute so how about the customer will be given back their money and the tasker will also be given their money too.

**The Hon. ADAM SEARLE:** With disputes, do you have any sense about what they mostly relate to? What might be the kind of service that it might generally relate to, based on your experience?

**Mr FUNG:** Again, being infinitely horizontal makes it very complex there.

**The Hon. ADAM SEARLE:** Is there a pattern?

**Mr FUNG:** I would say that a change of scope of work is a common occurrence or inability to complete the work.

**The Hon. WES FANG:** If there was a quality issue and they asked Airtasker to intervene—for example, a painted wall—and the customer goes, "I'm not really happy with the quality of the work," how do you make that determination? Do you have people employed who are skilled in those fields to make the determination?

**The Hon. ADAM SEARLE:** The question is: What is your level of resourcing to be able to, if both parties decide to opt into this dispute resolution—

**The Hon. WES FANG:** Thank you for articulating my question.

**The Hon. ADAM SEARLE:** Do you have people in and around Sydney who could actually go to the sites and actually see the work and make an adjudication on these matters? Or is it all desktop and phone based?

**Mr FUNG:** Predominantly we are engaging with the individual people to make those determinations. So we do not claim to be the—we are not experts in cleaning or gardening or plumbing services. But we do believe that the people who we work with have valid opinions, and they are the stakeholders of the event. We typically work with customers and taskers to make those determinations.

**The CHAIR:** But is it a fair summation of your view—and it is not pejorative, either for or against this view—that you are not dissimilar to the Yellow Pages in a dispute about the quality of a service that is provided? That is, it is not the responsibility of the Yellow Pages to mediate or otherwise arbitrate the outcome. Is that a fair summation?

**Mr FUNG:** In relation to a dispute I would say Yellow Pages, Google and Gumtree would all be good analogies to make there. We are connecting people. We are providing them with the ability to communicate and identify people that they want to work with. But we are not experts in that trade, and we do not profess to be.

**The CHAIR:** Under what circumstances would you bar a tasker from offering to provide a service?

**Mr FUNG:** This is a great question. We are consistently reviewing our policies there. I would say Airtasker predominantly is extremely liberal in this case. What we want to do is create a culture of transparency and accountability. When a tasker does a one-star job, we display that very predominantly on their profile: This person's most recent task was completed to a level in which a customer has said that it was a one-star job. Equally, if a job is cancelled on Airtasker, we display that very prominently: This person has cancelled X percentage of their most recent jobs. Then from there we pass that information and make it transparent to other stakeholders in

the community. We believe that doing that is actually empowering and making people responsible for their decisions.

I think that, across the complexities of the infinite number of verticals on Airtasker, people are looking for different attributes. For example, it would be wrong to say that cancelling three out of 10 jobs is categorically dissatisfactory, because actually, if you are looking for the best graphic designer in Australia who is going to do amazing work for you but is a little bit unreliable, that might be okay. Equally, if you are looking for someone to do a job in which reliability is incredibly important, it might not be. So a lot of these data points are quite subjective in the eyes of consumers and also taskers.

**The CHAIR:** Can I just unpack that a little if it is okay? Is it a five-star rating system that you maintain?

**Mr FUNG:** Both a five-star rating system as well as qualitative reviews.

**The CHAIR:** Feedback, yes. Do you offer benefits or impose restrictions on a tasker depending on their rating?

**Mr FUNG:** No.

**The CHAIR:** Do you remove or otherwise restrict any tasker on the basis of any rating or review?

**Mr FUNG:** No.

**The CHAIR:** But do you accept that from a tasker's perspective—or actually a customer's perspective, but we are more interested in the tasker's side of the thing, for what it is worth—they have a right to procedural fairness about their rating or otherwise the ability to dispute with you the rating system?

**Mr FUNG:** I think the rating is a piece of content that is provided by the customer. That is objectively provided by that customer. It is also worthwhile pointing out that taskers also review customers. Those ratings also appear very transparently on the customer's profile as well. So it is not an imbalance of the way that we collect data on both.

**The CHAIR:** But is it wrong for us to infer that a person with a five-star rating is likely to attract more work than a person with a one-star rating?

**Mr FUNG:** I think that that would be correct, that if you have five-star ratings, you are likely to be more attractive and to earn more work as a result of that because of your five-star rating.

**The CHAIR:** Therefore you accept an adjustment in your ratings is likely to have an impact on your earnings?

**Mr FUNG:** Yes, I accept that.

**The CHAIR:** Again it is not a specific criticism or anything. It is this sort of view that surfaced in this inquiry as to how these rating systems are used and whether they should give rise to an independent review or other forms of procedural fairness for a person who is subjected to the rating, especially when it is tied to their income-earning potential as well. Do you have any views as to whether that is something that is a legitimate issue in your platform?

**Mr FUNG:** We would certainly be open to discussions and helping a group of smart people come together to actually solve this problem, because I think it is a very, very complex and nuanced problem and it is one that we are currently tackling internally ourselves every day: how do we help customers make the right decisions and how do we also simultaneously create a system which creates good outcomes for our service providers as well.

**The CHAIR:** Mr Fung, how do you define your market and your competitors?

**Mr FUNG:** That is extremely difficult. We do not have a strong view on what the existing market is and, by definition, we do not really have a strong view on who our competitors are. One potential analysis that we can frame the competitive landscape through is to look at online services marketplaces and to look at those that are in the local space, in which Airtasker predominantly operates. In that case, there are platforms like Hipages, Oneflare, ServiceSeeking and the like. However, if you then again segment that group by the business model that they operate, whether that business model is an advertising revenue business model or a business model in which the platform earns a percentage of the task value, then Airtasker stands uniquely in that space.

**The Hon. ADAM SEARLE:** Just on that, with goods and services tax, do you take any responsibility for whether or not the service providers are charging or remitting GST back to the Federal Government? Or is

that really just a matter for the service provider? Whether the benefit of their services is over the GST threshold is really just a matter of them.

**Mr FUNG:** I should start by saying Airtasker pays GST in relation to its proportion of the fees and revenue. In relation to our individual service providers, it is very much an educational—"This is the data that tells you whether you need to be registered for GST. If you are meeting these thresholds, then you need to pay and register for GST."

**The CHAIR:** Do you require a tasker to have an Australian business number?

**Mr FUNG:** No.

**The CHAIR:** So anyone can just enrol in the platform, as a sole trader or as an unincorporated entity or a person that is not registered with the Australian Taxation Office [ATO].

**Mr FUNG:** That is correct.

**The CHAIR:** If you on notice can provide us any insight into the list of who you think is at least operating in your space or at least you are aware of, that would be helpful as well. Can I just ask you some specific questions about some aspects of your submission if it is okay. You made the point that you are open to and you have engaged in discussions with Unions NSW, the Fair Work Commission, the ATO and the Department of Human Services. I think you said it on page 15. You make the point that you are distributing price guides and safety guides incorporating suggestions by Unions NSW. Is that reflective of an agreement you have with them?

**Mr FUNG:** That is correct.

**The CHAIR:** You are open to such arrangements?

**Mr FUNG:** Absolutely.

**The CHAIR:** That did not create any inhibitions or any issues in terms of your business model?

**Mr FUNG:** No. We think that that is absolutely helpful. Anything that we can do to provide information to our consumers and to our make things more transparent and accountable for our taskers is absolutely something that we think, is going to be conducive to job creation. That is exactly what we want to do.

**The CHAIR:** There is no reason why we would not recommend or otherwise suggest that other platforms should engage in similar levels of either information disclosure or direct relations with an employee organisation?

**Mr FUNG:** I think certainly from a government perspective that would be useful for the Government. I am not sure how the individual companies would react to that. Airtasker's business model is designed to align stakeholders together to all want the same thing, which is creating more jobs on Airtasker. So certainly from Airtasker's perspective we would be more than happy to lean in and share information and work together to help create more jobs.

**The CHAIR:** The second thing I wanted to talk to you about thematically—Airtasker was founded in New South Wales.

**Mr FUNG:** That is correct.

**The CHAIR:** When was it founded?

**Mr FUNG:** 2012.

**The CHAIR:** Part of our terms of reference is to look at innovation in New South Wales and how conducive or otherwise our State is to the creation of new businesses and new forms of work. You recently went through an initial public offering?

**Mr FUNG:** That is correct.

**The CHAIR:** Will you take us through that process? What was it like? Where can you shed light about the ability to create more innovation in the New South Wales economy?

**Mr FUNG:** Early on the R&D tax incentive, which I understand is a Federal initiative, was incredibly useful for Airtasker. It effectively provided us with an extension of roughly 50 per cent more than any sort of private capital that we could provide and there was very low friction to attaining that additional capital extension through the R&D tax incentives. That was incredibly useful for Airtasker. But subsequently some of the nuances and complexities of how that program has been administered have created a lot of friction and effort for Airtasker,

which was unproductive for us as a company. Other than that, the New South Wales Government has also been really great in bringing people together—for example through co-working spaces and the Sydney Startup Hub. Enabling that networking to happen has been very powerful for us. Other than that, I think mostly the role of government is the communication, messaging and PR around innovation. That is something that there could be more of going into the future.

**The CHAIR:** Is your access to skilled labour in this market easy or less easy in terms of you being able to attract the engineering, design and other talent you require to operate your platform?

**Mr FUNG:** Incredibly difficult. It is an incredibly constrained market for the talent bar that we are holding up in software engineering, data science, software product management and product design. All of those jobs are incredibly difficult to hire from. Some great companies are starting here in New South Wales, which are trying to expand. That has been exacerbated further by the lack of immigration due to COVID, though. Once that situation changes, enabling Australia and New South Wales to attract the best possible talent is something that I think the Government can help serve. That could be done in the forms of reducing friction, firstly, but also the PR and the messaging. Are we known to the rest of the world as a place in which people want to come and work in those industries? I would say right now that is probably not the case, but we could do an incredible job of telling the world why New South Wales and Australia are the best places to come and start a tech company or work for a fantastic tech company that lives here.

**The CHAIR:** Can you provide us on notice with any further details of specific changes you would like us to recommend around attracting more skilled labour and being able to develop the talent that is required to support—

**Mr FUNG:** I would love to.

**The Hon. MARK PEARSON:** Can providers do anything on your service to promote themselves over others?

**Mr FUNG:** On Airtasker's open marketplace model, the customer posts a task and the taskers reply to that task. As part of that reply, which we call making an offer on Airtasker, they have space to create their own pitch for that work. As they would in any other sort of quotation scenario, they can describe why they are the best person for the job and then of course put forth the price that they want to earn for doing that job if they are successful.

**The Hon. MARK PEARSON:** What causes the consecutive movement of presenting a provider to somebody who is seeking for work to be done? For the person seeking the service, what are the factors that determine which service provider they see first, second, third, fourth, fifth et cetera?

**Mr FUNG:** It is consecutive.

**The Hon. MARK PEARSON:** By alphabetical order or—

**Mr FUNG:** It is consecutive—time-based. The offers that come in are displayed in a consecutive order. That is something that we have experimented with as to whether it makes a large difference. With an average of three to five quotes received per task, though, it is not a huge differentiator. The customer can fairly easily articulate that information and make a purchase decision.

**The Hon. MARK PEARSON:** So there is no avenue for a service provider to offer a lesser fee or pay a higher fee to you to be promoted rather than another?

**Mr FUNG:** No.

**The Hon. WES FANG:** Thank you very much for coming in today. We have obviously seen during COVID that technology has allowed normality to remain with people, through delivery and the like. Did you find that COVID affected the Airtasker model at all, with no contact, and the way that the customer and the service provider would interact? How did you have to make adjustments to your model in order to adapt to COVID? What effect did it have on the business? Did it increase or decrease? We have heard from food delivery providers that obviously they had increases, but I was curious to see how you navigated the pandemic from a technical standpoint.

**Mr FUNG:** When the COVID pandemic hit, the first thing that we did was make sure that all of our community had access to the right information. One of the things that we took a firm stance on was that we did not want to create our own rules on top of the government regulation, because having a single source of truth and consistency was incredibly important for us. The way that we enabled that was by building out a COVID-19 safety hub on the Airtasker platform that contained all of the State and Federal regulations as well as importantly

information around things like access to stimulus and the relevance of that to taskers on our platform, which we were happy to be a part of fighting for. We then made that visible on every task on Airtasker, so before you engaged in an interaction with another person you were shown very prominently the COVID-19 safety regulations and how you could access all of that information.

In relation to the business impact during COVID, it was actually incredibly inspiring. In the initial phase of COVID we saw a significant drop in marketplace activity, which is to be expected given that in March 2020 there were a lot of unknowns and a lot of fear being created. As people started to acquire information about what was possible, we saw a change in the dynamics of what customers were requesting from Airtasker and we also saw that service providers started offering their services in new and innovative ways, for example remotely. As some examples of that change, we saw that domestic cleaning and home removals dropped quite significantly—up to 50 per cent during that period. But on the other hand, we saw bicycle repairs increase 160 per cent. We saw home office IT increase in multiples. We saw online fitness training increase in multiples. It showed us that by having an infinitely horizontal marketplace and lowering the friction for people to be able to request and provide those services, our community was able to adapt to the situation very quickly. The result of that is that our marketplace in 2020 grew rapidly point to point, despite having a revenue impact during specific lockdowns. Of course that causes friction on our economy.

**The Hon. WES FANG:** Now that we have seen that change in your marketplace, do you expect that change will continue into the future? Have people adapted and maintained that adaptation or are you starting to see more of the traditional tasking coming back?

**Mr FUNG:** I think the underlying point is there is no "normal" on Airtasker. It is constantly changing and adapting and it is a dynamic marketplace. The verticals are changing, day to day to day, so we expect that to keep changing. The new normal is that things will keep evolving. One point to call out is that we are expecting that migration and stimulus have both had an impact on the service provider side of our marketplace. As stimulus rolls out of the economy, that could have an impact on increasing incentives to work. I think, equally, migration will also have an impact.

**The CHAIR:** Thank you, Mr Fung, for taking your time to spend with us this morning. You have taken a number of questions on notice. You will have 21 days from the date of receipt of the transcript to provide those answers to the secretariat. Any further information that you need you can access from them. Thank you again for taking the time.

**(The witness withdrew.)**

**(Short adjournment)**

**DAMIEN SCHEIDEL**, Managing Director, National Supply Chain, ALDI Australia, affirmed and examined

**The CHAIR:** Thank you, Mr Scheidel, for your presence this morning. Equally, I know you have been waiting very patiently all morning. We appreciate the time you have taken to be present and to also observe the earlier proceedings, which always makes things more interesting. Would you like to make an opening statement?

**Mr SCHEIDEL:** Yes, thank you, Chair. I thank the Committee for the opportunity to appear today. Again, my name is Damien Scheidel and I am responsible for ALDI Australia's supply chain operations. ALDI's number one focus is on providing value for customers while ensuring the safety, wellbeing, and fair reward for our employees. This year, ALDI is celebrating 20 years operating in Australia. Our commitment is to provide high-quality groceries for Australians at everyday low prices. ALDI's positive impact on the Australian grocery retailing sector is well-established in terms of customer savings, competition and choice. Nationally, we are responsible for around 10 per cent of annual grocery sales.

In New South Wales we have 5,252 employees and we pride ourselves on finding good people and keeping them. For a business that is still relatively young but has grown quickly, we have an average tenure among our New South Wales employees of 4.8 years, which is remarkably long for a grocery retailer. We support our employees, providing them with comprehensive training to have an impactful and successful career at ALDI. We were recognised as an Employer of Choice at the 2019 Australian Business Awards. Our commitment to safety and fairness extends beyond our own employees and applies across our supply chain. We take measures to ensure all our suppliers meet their requirements under the Fair Work Act. The industry in which we operate has always been highly competitive. New methods of operation and technological advances offer the opportunity for grocery retailers to improve their business and the way they serve their customers.

While our major competitors have advanced more quickly than us in some of these areas, ALDI maintains a close interest in technology-enabled developments that are happening in grocery retailing and supply chain management around the world. In the medium to long term, ALDI anticipates that it will adopt an increasing level of automation and technology. This will be important to remain competitive and maintain our core promise of quality and value to customers. We see this scenario as an opportunity to create higher-skilled roles across various parts of our business. More broadly, we see the increasing intensity of technology and data-driven operations across the economy requiring a higher level of training in, and availability of, pathways to transition workers into higher skilled roles. ALDI welcomes the inquiry and the opportunity to appear today, and I would be pleased to answer any of your questions.

**The CHAIR:** Thank you, Mr Scheidel, for that opening statement and thank you also for providing us with a copy of it as well.

**Mr SCHEIDEL:** You are welcome.

**The CHAIR:** I am happy to kick off questioning, unless Mr Searle, Mr Fang or Mr Mallard wish to.

**The Hon. ADAM SEARLE:** No, no. You go.

**The CHAIR:** Firstly, can I just get some base or further information about ALDI's operations in New South Wales? How many stores do you have in New South Wales?

**Mr SCHEIDEL:** We have just over 575 stores nationally and I believe there are about 180 stores in New South Wales.

**The CHAIR:** So about a third of your national footprint is in New South Wales, or thereabouts.

**Mr SCHEIDEL:** Correct.

**The CHAIR:** Great. And your warehousing operations?

**Mr SCHEIDEL:** We have eight regional centres, which, within each of those regional centres, they comprise a regional distribution centre, which services our store network.

**The CHAIR:** So that is eight in New South Wales?

**Mr SCHEIDEL:** There are eight nationally and there are two in New South Wales.

**The CHAIR:** And where are they?

**Mr SCHEIDEL:** They are located in Sydney: One in Minchinbury and the other in Prestons.



**The CHAIR:** Are you predominantly an operator in Sydney or do you maintain the store network outside Sydney?

**Mr SCHEIDEL:** Sorry, repeat that?

**The CHAIR:** Do you maintain a store network outside of Sydney in New South Wales?

**Mr SCHEIDEL:** Yes. We have over 575 stores nationally.

**The CHAIR:** Yes, but of that 180 in New South Wales, is there a predominant concentration in the City of Sydney, or are you present in Newcastle, Wollongong and other parts of regional New South Wales?

**Mr SCHEIDEL:** Yes. We definitely have stores in regional New South Wales. Sorry. In New South Wales we have 5,252 employees of which 777 are in regional New South Wales.

**The CHAIR:** Great. For what it is worth, my mother-in-law shops at the ALDI shop and she did mention that she is quite a fan. Nevertheless—

**The Hon. ADAM SEARLE:** I am also a customer—just for full disclosure here.

**The CHAIR:** As well.

**Mr SCHEIDEL:** Thank you.

**The CHAIR:** Those two regional distribution centres in Sydney, in Prestons and Minchinbury—how many people work at them?

**Mr SCHEIDEL:** I do not have the figures at hand. I can come back to you with those but I believe we have about 700 employees across both sites, including our warehouse operators and our transport operators—drivers delivering from our distribution centres to our stores.

**The CHAIR:** Okay, sure. And just slightly a bit more information around the operations of your supply chain structure, in terms of the transport between your distribution centres [DCs] and the retail fronts, do you engage trucking companies or do you do that yourself directly? In terms of trucking operations, do you outsource the trucking?

**Mr SCHEIDEL:** For our distribution from our warehouses through to our store network, we do the majority of that ourselves. Approximately 80 per cent of outbound runs are performed by our own drivers with the balance performed by contract transport services.

**The CHAIR:** Yes. Okay. But suppliers, as in they deliver the goods to your DCs themselves. Is that right?

**Mr SCHEIDEL:** We have a mixture. We have approximately 30 per cent of all inbound freight to our distribution centres is managed or controlled by ALDI. The remainder is controlled by our suppliers delivering directly into our distribution centres.

**The CHAIR:** In terms of the automation point that you make in your submission about ALDI intending to further utilise automation, that applies in your shops? Is that right?

**Mr SCHEIDEL:** We are certainly watching very keenly any areas of innovation or automation within the industry. We keep a close eye on it. However, I would say that we are different. In fact, our brand is "good different". We have a very different way of operating in the market.

**The CHAIR:** Do you want to take us through that?

**Mr SCHEIDEL:** Yes, by all means. If you think about—if I was to think about innovation from an ALDI perspective, our operations have not changed largely since we entered the market 20 years ago. However, where we have been most innovative, I would suggest, is our market entry 20 years ago. We have certainly changed the landscape of grocery retailing in the Australian marketplace, particularly here in New South Wales, and that is by virtue of our core offer, which is offering a quality product at lowest prices. Our footprint of stores is substantially lower than our competitors. We have a store that is approximately 1,000 to 1,100 square metres versus a much, much larger footprint. We sell no more than 2,000 products in our stores versus the competitors in the grocery retailing sector selling 20,000 plus. We have on offer, the majority of our products, our private label, which means we do not incur the additional expense of branded products such as marketing that is built into the product of prices. All of these things help us to keep our price as low as it can be and continue to offer the highest quality, and that extends across all aspects of everything that we do.

Other examples would be we ask our customers to assist us when they shop in our stores by loading onto our long conveyor belts so that the customer is ready to be served by our check-out operators so that there is no downtime or waiting time—so again making us more efficient. We ask our customers to also pack their own bags. We have a coin trolley deposit system where we ask our customers to return the trolleys to our trolley base for the next customer rather than leaving them around car parks or littering neighbourhoods. Those type of operations extend all the way into our distribution centres. Our distribution centres are very manual in the way that they operate, but we take out costs by virtue of how we organise our supply chain. As an example to that I would give the example of we really want the first person who touches a product in our store to be the customer.

From our suppliers through into our distribution centres and through the store, we try to minimally touch any product. That is why we have open display cases, we have products that are displayed on pallets so they move through in a cross-stock style fashion, again removing cost from the supply chain. In addition, in our supply chain another example I would cite is that we multi-compartmentalise vehicles where the trailers have the ability to ship freezer ambient products and chilled products. We ship full truckloads with no empty airspace, again minimising any costs attached to the empty airspace that would have otherwise been shipped.

**The CHAIR:** That is fascinating. As a former transport nerd, that is very fascinating.

**The Hon. WES FANG:** Former?

**The Hon. COURTNEY HOUSSOS:** Former professional.

**The CHAIR:** Can we ask you about the automation intention of ALDI? You make the point in your submission that you pay attention to developments in the grocery and retail space. Can you take us through your intentions in that respect? What is currently being considered by ALDI as to what is most likely to be automated, be it at the retail front, be it at the warehousing front, be it on the transport front, or each of the sort of steps in the operations?

**Mr SCHEIDEL:** Unfortunately, this is an area I would suggest that we are just probably not that interesting. We do not have any current plans. We are certainly watching with interest what is happening in the market space around us locally and internationally. It is fair to say there is a great deal of automation happening in our sector; however, that does not apply to our current operations and we have no current plans in that space. We are watching and will continue to watch where that could apply to us. If I give an example, I think one that is relatively well-known—self check-outs in our competitor stores. They are predominant, they exist in all stores. We have no stores that have self-check-out operations; we still have people that man our check-outs and contend in that way.

**The CHAIR:** Why have you not done that? What are the reasons why you decided to maintain check-out assistants when your competitors have not?

**Mr SCHEIDEL:** I cannot speak to why our competitors have moved into that space, but what I would suggest is we have not felt that that is a necessary avenue for us to pursue at this time. We have been very comfortable with our core business model of taking cost out in the way that I was describing before, such as having long conveyor belts where the customers are then preparing themselves and being ready to be served by our very efficient check-out operators. I think our check-out staff are generally very well-known to be very, very efficient.

If I was to speak to our supply chain and automation as an example, the example I was citing before where we try to keep the supply chain relatively simple and efficient, one of the examples, as I understand it, from automation is you need volume. You need throughput and, of course, we have grown fast, we have grown very quickly in the last 20 years from zero to 575 stores, however, you need volume. In addition to that, I mentioned that we have open cases in the way that we display in our stores, and that is again for efficiency. I am not aware of any automation that is able to deal with open cases without sending baked beans flying around the room. So it just is not something that is part of our radar.

**The CHAIR:** Before I hand to Mr Fang, I have two short follow-up questions on that. You made the point that your market share in the grocery sector is close to 10 per cent, did you say?

**Mr SCHEIDEL:** Nationally, yes, close to 10 per cent.

**The CHAIR:** We are talking easily over \$1 billion in terms of sales?

**Mr SCHEIDEL:** Our sales in Australia in the 2018-19 year were \$8.7 billion.

**The CHAIR:** And your view is that even with that level of throughput the economics of automation do not make sense for ALDI. That is a short summary of what I have inferred. Is that correct?

**Mr SCHEIDEL:** It certainly has not made sense for us to pursue automation. We are certainly watching, as I said before, with a lot of interest. I think it is fair to say that automation will be a part of our future in some form or description in the future. The example I would give you is I would imagine that we would have self-check-outs in the future. We just do not have any plans to roll out or deploy that nationally into our stores.

**The CHAIR:** The second question I have is two of your competitors are investing heavily in automated distribution centres and are having issues, or at least transition issues have surfaced as they move towards automated distribution centres. Are you considering automating your distribution centres in the next five years?

**Mr SCHEIDEL:** We continue to look in detail at opportunities that could present in our distribution centre network. We have eight distribution centres nationally. We watch, as I said before, with interest what is taking place. We do not have any current plan for automation.

**The CHAIR:** Mr Fang?

**The Hon. WES FANG:** I just wanted to go back to Mr Mookhey's original question around automated check-outs and the fact that you have not gone down that path. Have you got any analysis on perhaps your competitors' loss through those automated check-outs through either items not being scanned or incorrectly entered versus your model of having an operator perform those duties, and is there a marked difference in the loss experienced by a store that has automation versus not?

**Mr SCHEIDEL:** Unfortunately, I cannot speak to our competitors and the experiences they have had with self-check-out. The question from my viewpoint would be purely theoretical because I do not have any experience or knowledge in that space. Certainly we have made the decision to keep with our existing operations where the customers load and then we serve the customers. We certainly would acknowledge that we believe that has assisted in minimising any theft that could have otherwise taken place, but I have no ability to be able to speak to the experience with others who have self-check-out.

**The Hon. WES FANG:** With regard to loss itself, does ALDI experience a low level of theft through its stores by the manner with which people enter and exit? Have you got any perhaps overseas experience as to how other competitors may operate versus the way that you do it and that level of loss?

**Mr SCHEIDEL:** Again, I cannot speak to what other competitors' losses are like. We definitely would aim to control losses within our supply chain. To that end, our store footprint is relatively small, which gives us full visibility across the entire store to the staff that are working in that store. We have entry airlocks which enable customers, one, to help from the environmental perspective of not letting air flow out but also to minimise the potential for people backtracking and leaving through the entrance. That then funnels all of the customers through our registers and check-outs, which are manned by people.

**The Hon. WES FANG:** With regard to the model in the store, obviously there is a level of human interaction at the register, but my personal experience is that there seems to be a lot less people within the store. Is that due to the way in which you stock the store, the unique model of palletising items? Is that viewed by the company and adjusted to have a workforce there? If you are in a store that is quite busy, do you have extra people come in to assist customers? Or is it just a case of that is who you have rostered on and that is who the store will operate with.

**Mr SCHEIDEL:** We certainly operate a very lean operation model. We look for avenues and opportunities to be streamlined and efficient and productive in the way that we conduct our business. It is then also fair to say that we roster in such a way as to be as productive as we possibly can. We try to conduct most of our filling operations in the mornings or the evenings, when customers are less present. That then allows the staff to move across into our registers to serve customers. I think it is fair to say that in grocery retailing, people do not normally require a high level of service. They tend to know what they want and what their requirements are, and then they get about doing their shopping accordingly.

**The Hon. WES FANG:** So there is no adaptability in the system that you operate in? It is almost a fixed staffing level. When COVID came up and you had more demand in your stores, was there an ability for you to increase the workforce or was it so set that you were not able to adapt to the rapidly changing market demand?

**Mr SCHEIDEL:** Without a doubt, in our business model our employees are our most significant assets. So we attempt to invest into them—remunerate and reward—to keep our employees safe but also to maintain the tenure, as I talked about before. We only employ a permanent workforce; we do not have any casuals. It is fair to say, if we relate back to the COVID experience last year, there were definitely challenges. I think every retailer faced challenges in the grocery retailing sector with the demand and the panic-buying that was existing. We certainly tried to accommodate that and increase our workforce where we could. The fortunate reality is things

stabilised and settled back down to a more normal pattern. But if we need to ramp up our requirements, then we obviously will do that to keep the stock on the shelves to serve our customers and continue to maintain that value proposition for customers coming in.

**The Hon. WES FANG:** Did that increased demand have to be initially absorbed by your existing workforce until you could employ more permanent employees or were you able to more quickly increase your workforce to meet that demand?

**Mr SCHEIDEL:** We worked as efficiently as we could to increase and add more resources where they were able to be provided. However, I do not think anybody planned for the COVID environment, the uplift or the panic-buying that ensued. We made our way through that and we would have learned lessons, but we are very happy that things have definitely stabilised.

**The CHAIR:** Can I clarify one point that you just made?

**Mr SCHEIDEL:** Yes.

**The CHAIR:** You said that all of your employees are permanent.

**Mr SCHEIDEL:** Correct.

**The CHAIR:** You make it clear in your submission that the extent to which you use contingent labour is through labour hire firms.

**Mr SCHEIDEL:** In our stores we have permanent full-time or part-time employees. We do not employ any casuals. In our warehouse and transport operations we have a full-time or part-time workforce. We use contingent labour as a recruitment mechanism, but we have the objective to convert those to permanent on average three months after their engagement.

**The CHAIR:** Today what percentage of your workforce would be engaged through contingent labour?

**Mr SCHEIDEL:** It varies depending on the distribution centre, but it averages between 5 per cent to 9 per cent.

**The Hon. ADAM SEARLE:** Just on that point, is most of the contingent labour employed at distribution centres or in your retail stores?

**Mr SCHEIDEL:** Only in our distribution centres. We do not have any contingent labour in our store operations.

**The Hon. ADAM SEARLE:** You mentioned you did not have any self-check-outs at your retail stores. I thank you for that. As a customer, it is certainly a selling point as well as a frustration in other stores. You say in your submission that it is inevitable that you will adopt an increasing level of automation and technology. I assume that applies to distribution as well as possibly to retail?

**Mr SCHEIDEL:** Yes.

**The Hon. ADAM SEARLE:** What are the criteria that you think would trigger a move to automation by ALDI as opposed to the current circumstances, where you are obviously not seeing any kind of impetus in that direction?

**Mr SCHEIDEL:** Again, we watch with interest what is taking place in the local market and the market internationally. We have not found any requirements to move on our current model. We are very focused on providing our core offering, which is value for customers and quality at low prices. We do not have any current plans in respect to those areas. Unfortunately, anything I would say would be purely theoretical and would not have very much substance. There are others in the marketplace who have a great deal more experience to be able to comment more widely on what the impact of automation and innovation is likely to be.

**The Hon. ADAM SEARLE:** Your market share nationally is 10 per cent. Do you have a sense of what it is in New South Wales? Is it higher or lower than that?

**Mr SCHEIDEL:** I believe it is slightly higher than that, at about 11.2 per cent or 11.3 per cent.

**The Hon. ADAM SEARLE:** Does that vary from, say, Sydney metro to, say, the region where I live in the Blue Mountains or other localities?

**Mr SCHEIDEL:** We do not actively look to the market share in small jurisdictions, so I could not comment on what the share would be in local markets. Certainly our market is larger in New South Wales because our first operation started in New South Wales and we have the largest store footprint in New South Wales.

**The Hon. ADAM SEARLE:** Is your evidence and submission that you are able to run your core offering—your retail and grocery business—without resorting to extensive automation of the kind seen elsewhere in that industry?

**Mr SCHEIDEL:** We certainly have not got any such examples of that in our existing operations today. We have been mostly focused on our growth, which is growing our current business model from zero stores 20 years ago to over 575 today.

**The Hon. ADAM SEARLE:** What about ALDI operations in other jurisdictions? Are they also operating in the way they are in New South Wales or has automation found a place in ALDI's operations in other countries?

**Mr SCHEIDEL:** Certainly there are similarities in our operations worldwide. Those similarities extend to wanting to offer a private label, quality product range at low prices in a small footprint of stores. However, in Australia we operate autonomously under an Australian-based CEO. So in that regard, we make most of our own decisions and we are not dictated to by anything that happens internationally. In saying that, the way we operate is very similar all around the world. There are no automation technologies in any of our distribution centres worldwide. What I would say is that in many of our worldwide distribution centres, there is not even any racking because we again try to maintain that very simple cross-stock quick flow through our supply chain network. I am aware that there is some ecommerce testing going on in our UK market, where we are selling a limited range of Special Buys and some liquor online. I am also aware that in the US we have partnered with a firm called Instacart to offer click-and-collect services, particularly through their COVID environment.

**The CHAIR:** Do you offer any such services in this market?

**Mr SCHEIDEL:** No, we do not.

**The CHAIR:** Do you do online sales?

**Mr SCHEIDEL:** No, we do not.

**The Hon. ADAM SEARLE:** Does self-service exist in ALDI stores in other countries?

**Mr SCHEIDEL:** I am aware of some self-service in our UK business. In our city stores we have a smaller format in the market closest to London. They are testing self-check-outs in some of those.

**The Hon. MARK PEARSON:** In your submission you state that ALDI's "*Social Standards in Production* define our commitment to human rights" et cetera, establishing standards in your sourcing. The submission states:

- No use of forced or bonded labour;
- No use of child labour;
- Payment of legal minimum wages ...

How do you monitor that?

**Mr SCHEIDEL:** We have a social monitoring program in place for our goods suppliers. That enables us to get reporting on—and have independent checking that is undertaken reported on—in our production facilities for many of our products that are produced. If I relate it more specifically to the supply chain, which is what I am responsible for, in areas where it is known and Fair Work has identified that there are high-risk areas—such as trolley services, cleaning contractors and security contractors—then we have introduced a pre-tender audit checklist before we engage any contractors or any persons to conduct any of those businesses for us. We also extend those pre-tender audit checklists to other areas of our business, like transport services or any transport contracting we do.

In that regard, the audit checklist is a comprehensive review to compliance with the law. If I speak to the example of heavy vehicle or contract transport services, that is compliance to heavy vehicle law, that is compliance to Fair Work law and work health and safety laws. The audits are done by an independent, suitably qualified expert who then reports and deals into a great level of detail in all aspects of their compliance. For instance, we will look into pay records and pay slips to see compliance. Only after those audits have passed would we then contract for those parties to do business with us.

**The Hon. MARK PEARSON:** Is that limited to the Australian border? Does this standard apply to imported products as well and how they are sourced?

**Mr SCHEIDEL:** The example I was just talking about with the pre-tender audit is related mostly to services provided for our business. If I refer back to production of goods that are supplied and sold in our stores,

then we have the social monitoring program that is in place. Unfortunately, I am not an expert in that area of our business, so I am more than happy to give you more details on that by taking that on notice, if you would like, other than to say the social monitoring program allows us to independently visit and report on compliance of suppliers internationally—

**The Hon. MARK PEARSON:** Yes, that would be very helpful, actually—and quite detailed would be helpful, about the whole story from the original product—everything that happens from the beginning of that product to your shelf. Are you aware of the Modern Slavery Act 2018 that was—

**Mr DAVID SHOEBRIDGE:** Mark, these were all my questions!

**The Hon. MARK PEARSON:** Sorry! Are you aware of the Modern Slavery Act that the New South Wales Parliament passed?

**Mr SCHEIDEL:** I am aware of the slavery Act that was passed by the New South Wales Parliament. But there is also a Federal one, which is the jurisdiction within which we are operating and publishing an annual report on modern slavery.

**The Hon. MARK PEARSON:** In relation to the Federal legislation or State?

**Mr SCHEIDEL:** In relation to the Federal legislation.

**The Hon. MARK PEARSON:** Were you approached for a submission or any input into the actual Act's being drawn up or whatever, or any other aspect that could be a consequence of the Modern Slavery Act? Were you approached by any party in relation to this?

**Mr SCHEIDEL:** I am not aware of that.

**The Hon. MARK PEARSON:** Could you take it on notice in case—

**Mr SCHEIDEL:** I would have to check.

**The CHAIR:** Just to follow on before I hand to Mr Shoebridge, you made the point about your pre-tender screening processes, but after you award a contract what systems do you have in place to ensure that those standards are continually maintained by a supplier?

**Mr SCHEIDEL:** Within our contractual terms we are able, if there is any instance or reported instance of a breach or a problem or an incident, to conduct or ask for another audit to be conducted at the same level by an independent contractor. We also require that before any term is renewed that we would also have that pre-tender checklist completed again.

**Mr DAVID SHOEBRIDGE:** Mr Scheidel, thanks for your evidence today. It is an interesting contrast to some of the other evidence we have received. Do I understand it—ALDI is an expanding global business, and your business model is based on direct employment for the overwhelming majority of your staff, compliance with minimum wages and other employment standards. Is that the sort of global stance from ALDI?

**Mr SCHEIDEL:** Certainly we have a position globally where we see our employees as our most important asset. If I speak very specifically to the Australian context, in the case of our employees, as I think I said before, we do not employ any casuals. We only have a permanent workforce. We removed any reference to casuals from our enterprise bargaining agreements. We pay above award wages. As an example, our store assistants are paid \$25.75 versus the award, which is \$21.78. If I move then to the example of our warehouse staff, they are paid \$35.05 versus the award, which is under \$22 an hour as a base rate. For transport, we also pay \$35.05 versus the award, a base rate which is under \$23 an hour.

We also have superior conditions. We were one of the first retailers—and certainly the first grocery retailer—to introduce paid parental leave. We have just changed our parental leave policy to now offer 12 weeks of paid leave for the primary carer and two weeks of paid leave for the secondary carer. The leave applies for adoption; it applies in the instance of neonatal loss that may occur. We were one of the first to have 10 days of paid domestic violence leave. At the beginning of COVID we introduced 10 days of pandemic leave, in the unfortunate event that one of our team members may have been impacted by COVID.

**Mr DAVID SHOEBRIDGE:** We will focus on Australia. The grocery market is a highly competitive industry, would that be fair to say?

**Mr SCHEIDEL:** Yes.

**Mr DAVID SHOEBRIDGE:** Can I ask you what the thinking is about not adopting a casual workforce in that industry and what your thinking was about having full-time permanent staff? Why did you adopt that model?

**Mr SCHEIDEL:** Our employees are our most important asset. In order to keep them as our most important asset, all of our activities are always working around making sure we do things that are best for the employee. That is how we managed to be considered an Employer of Choice in 2019. That is how we manage to have a very high tenure in our business.

**Mr DAVID SHOEBRIDGE:** In terms of tenure, do you have any data on how long people tend to stay with ALDI for compared to, perhaps, whatever the industry standards might be—

**The Hon. WES FANG:** You should have been here for the opening statement, David.

**Mr SCHEIDEL:** Yes. In my opening statement I said that in New South Wales we have 4.8 years of service for our employees.

**Mr DAVID SHOEBRIDGE:** It is often said by organisations that want to take advantage of casual employment, or even an independent contractor model, that those kinds of remuneration schemes—which often see less being paid to the employee over the course of a year, or less being paid to the independent contractor than would happen to a full-time employee—are essential so that they can compete in a global market. Do you have those kinds of discussions within ALDI, and can you maybe reflect upon that?

**Mr SCHEIDEL:** We are definitely in a situation where we think of the longer tenure of our employees as more advantageous to us. We do not feel that we need a casual workforce. We employ, as I said, on a permanent full-time or part-time basis. We spend a lot of time investing in training for our employees. We would hate to see that investment lost by our employees leaving. As an example, some of the training or the efforts we go to in our training regimes is the introduction of what we call an academy. We call it the ALDI academy and that deals with all the training, whether that is classroom training, online training, face-to-face training.

We take a four-phase approach to our training which is across "learn", "apply", "assess" and then "review". If I was to speak to those just for a moment because we have found those a very effective way to make sure we have a very qualified workforce. The first is where we give the opportunity to teach and so we explain and give the requisite skills for employees. The second part and the second phase is where we allow those to be applied, ideally in a live environment so they can hone the skills. Then we do an assessment to then look for any areas of gap and then we revisit any of those areas of gap to close out any of that training.

**Mr DAVID SHOEBRIDGE:** It sounds to me like you acknowledge the organisational benefits from a stable, well-trained and loyal workforce. It is not only good for the employees; you recognise that that provides substantial organisational benefits to ALDI as well. It goes both ways.

**Mr SCHEIDEL:** Absolutely.

**Mr DAVID SHOEBRIDGE:** Has anybody asked you about Ever Given and whether or not the Suez Canal issue has affected your supply links to Australia?

**Mr SCHEIDEL:** The fortunate news is the impact in the Suez Canal has cleared now, but it has not detrimentally impacted us. Fortunately we procure most of our products locally so we are not in a situation where that is playing out for us in this market.

**Mr DAVID SHOEBRIDGE:** It is just the Danish pickled herrings that are going to be a week late. Is that right?

**The CHAIR:** He has got a real interest this.

**Mr DAVID SHOEBRIDGE:** It does not affect the bulk of your products.

**Mr SCHEIDEL:** It does not affect the bulk of our products.

**The CHAIR:** Mr Shoebridge is assured that his Danish pickles will be on your shelves, which I am sure will give him some comfort.

**Mr DAVID SHOEBRIDGE:** It is not a direct concern for me but it does have an impact in the household.

**The CHAIR:** We all answer to a higher power. We all have our constituents.

**Mr DAVID SHOEBRIDGE:** I call them key constituents.

**The CHAIR:** I understand The Greens have a constituency with an interest in Danish pickles.

**The Hon. COURTNEY HOUSSOS:** Thank you for your time today, Mr Scheidel. You said that all your employees are permanent. Do they have minimum-hour contracts?

**Mr SCHEIDEL:** We offer a range of full-time and part-time contracts, so they can be from 15 hours, 20 hours, 25 hours, 30 hours and 35 hours.

**The Hon. COURTNEY HOUSSOS:** I am happy for you to take this question on notice. Can you give us a breakdown of part-time versus full-time employees? If they are employed for 15 hours, do they generally work for 15 hours?

**Mr SCHEIDEL:** Yes, they do.

**The Hon. COURTNEY HOUSSOS:** You mentioned the ALDI academy. Is that an accredited registered training organisation?

**Mr SCHEIDEL:** No, that is not. That is our internal training framework and organisation that ensures that we have our employees skilled to be able to do the jobs required in our workplace.

**The Hon. COURTNEY HOUSSOS:** They do not match up with any kind of external certificate III, certificate IV or diploma-type of accreditation; it is more like an internal training program.

**Mr SCHEIDEL:** It is an internal training program—correct.

**The Hon. COURTNEY HOUSSOS:** In your submission you state that you were named the Retail Employer of the Year, which you referenced earlier, by the Australian Retailers Association. Who nominated you for that?

**Mr SCHEIDEL:** I am not sure who nominated us for that. Obviously we are very proud to have received the accolade.

**The Hon. COURTNEY HOUSSOS:** Of course. Do you know the criteria that was judged on?

**Mr SCHEIDEL:** No, I am not aware of the criteria. I would have to take that on notice.

**The Hon. COURTNEY HOUSSOS:** If you could provide us with anything, that would be helpful, and the same for the Australian Business Awards.

**Mr SCHEIDEL:** I would have to take that on notice.

**The Hon. COURTNEY HOUSSOS:** Is it correct to say that the agreement you presented to your workers in September did not have a pay rise in it?

**Mr SCHEIDEL:** We do not list pay rises in any of our enterprise bargaining agreements. We specifically state that we will review pay annually on 1 January each year. We have always given a pay rise every year since our operations began 20 years ago, but we do not specifically set out an increase on an annual basis.

**The Hon. ADAM SEARLE:** Including last year? Did you give a pay rise last year?

**Mr SCHEIDEL:** Yes, we gave a pay rise last year. We also gave two lots of gift vouchers in recognition of the effort and the work that our employees put in through COVID and we also supplemented that with a \$500 bonus to all employees in December.

**The CHAIR:** That was in the 2020 year.

**Mr SCHEIDEL:** That was in the 2020 year.

**The CHAIR:** What about the 2021 year?

**Mr SCHEIDEL:** The 2021 year?

**The CHAIR:** Yes, the start of this year. You said you review it in January. What was this year's decision?

**Mr SCHEIDEL:** We change our pay rates on 1 January every year and we have changed it on 1 January.

**The CHAIR:** Got it, sorry.

**The Hon. COURTNEY HOUSSOS:** Is that an across-the-board increase? Does everybody get a certain percentage or is it specific to the agreement?

**Mr SCHEIDEL:** It is specific to the employee groups.



**The Hon. COURTNEY HOUSSOS:** Are you able to tell us what the increase was on average this year?

**Mr SCHEIDEL:** I would be speaking from memory so it may be better for me to come back and be very specific with that for you.

**The Hon. COURTNEY HOUSSOS:** A breakdown of each of the different employee classifications, what they were and what the increases were would be helpful.

**The Hon. ADAM SEARLE:** Can we get the same information by year for the past five years? So we can get a sense of how much you have increased your remuneration for employees across the classifications each year for the past five years.

**Mr SCHEIDEL:** Yes, no problem.

**The CHAIR:** In the section of your submission that the Hon. Mark Pearson read to you earlier about the social standards in production, you say that there is a right to freely join associations including workplace unions and that is requirement that you set for your suppliers. Is that a position that you honour in terms of your employees as well?

**Mr SCHEIDEL:** Absolutely. We require of our suppliers and also of ourselves to comply with national laws but also international labour conventions.

**The CHAIR:** On the enterprise agreements that the Hon. Courtney Houssos was asking you about, how many are there that you are a party to? Is it just one?

**Mr SCHEIDEL:** We have eight enterprise bargaining agreements with our employees.

**The CHAIR:** Are they—for want of a better term and Mr Searle might be able to correct me—non-union agreements or are they enterprise agreements? Do they include workplace associations including unions as parties to them?

**Mr SCHEIDEL:** Unions have participated in the negotiation of all of our agreements—that is the SDA, the United Workers or the Transport Workers Union—and I believe are signatories to agreements.

**The Hon. ADAM SEARLE:** Including the current agreement.

**Mr SCHEIDEL:** Including current agreements.

**The CHAIR:** Fair enough. Thank you, that is helpful. There is another point in your submission that I want your view on. On page 4 you talk about the adequacy of the New South Wales skills and education systems in helping people adjust to the changing nature of work. You say that your experience of recruitment flags skills and education as a long-term issue for industry. You say that your business is perhaps struggling to recruit people who are of low-skilled nature. Can you expand on that and give us some insight into what experiences you are dealing with in terms of the access to skilled labour or non-skilled labour as you see it?

**Mr SCHEIDEL:** I would slightly amend what you have said, Chair, to say that we do not actively have any challenges recruiting staff today or in the past. I think our remuneration and our paying above award has certainly assisted us to continue to attract and retain employees, more importantly to retain employees so we do not have to continuously recruit. What I would suggest is that what I would see in the future is it is going to become increasingly more difficult for lower-skilled jobs. Many people coming through the workforce today are less interested in those more manual type of roles in warehouses or in stores.

**The CHAIR:** Is that part of your calculus in terms of whether or not you need to automate your operations?

**Mr SCHEIDEL:** Yes. As I have said before, I think we will continue to watch and monitor what happens in that space and I think it is inevitable that automation will be a part of our business. It is just not part of our business today and we have no current plan.

**Mr DAVID SHOEBRIDGE:** But because you recognise that you need to retain a workforce with those long-term challenges of having people come and do relatively manual labour, that is also part of your thinking about paying them proper above-award wages and encouraging stability and permanency. Is that not also part of your response? Not just the automation line.

**Mr SCHEIDEL:** Correct. We have definitely always used the investment in our people and maintaining an investment in our people, whether that is via the remuneration or the conditions to keep them as long-term employees, as well as the training that we have done to keep them as long-term employees.

**Mr DAVID SHOEBRIDGE:** I am sorry I missed your opening. It was not an intentional discourtesy. In terms of the retention, do you notice a difference in the retention between the part-time and full-time workforce? Are there people who effectively commit to a full-time career with ALDI and does that change the retention rates to part-time workers who may have university courses or other parts of their life?

**Mr SCHEIDEL:** I am not aware of any difference between the full time or part time in relation to tenure. Our tenure is generally one where we hope to be as high as we possibly can be.

**Mr DAVID SHOEBRIDGE:** If you could, without excessive research, have a look at that on notice, I would appreciate that, Mr Scheidel.

**The CHAIR:** How much do you invest in training each year?

**Mr SCHEIDEL:** I do not have a figure that I can bring to bear other than to say that we have an ALDI Academy, which is a part of our business to continue to build training packages and programs. Then we have the ongoing training across our entire organisation. That ongoing training—obviously a new employee gets an induction and they get sufficient training to get them underway. There is training such as our Future Leaders Program, which is developing our leaders of the future. There is the ongoing training we do on a quarterly basis as a refresher into work health and safety areas of our business or into areas that we feel might need a little bit more attention. What those all add up to I am, unfortunately, unable to tell you.

**The CHAIR:** But you agree that it is a substantial investment by ALDI?

**Mr SCHEIDEL:** Absolutely. We feel that we need to continue to invest into our employees, and that is via training.

**The CHAIR:** Aside from the workplace health and safety and the induction training, which is probably common across the marketplace, the ALDI Academy-style structure is unique to ALDI, correct?

**Mr SCHEIDEL:** I cannot speak for any other organisation and what their structure is, but that is certainly a structure that we have in place and that we believe is working for us.

**The CHAIR:** But the ALDI Academy portion of your training program is also a significant investment by ALDI?

**Mr SCHEIDEL:** Definitely. We continue to invest in training.

**The CHAIR:** Is it fair to say that part of the reason why you are confident to make that investment is because you do have a secure and tenured labour force?

**Mr SCHEIDEL:** I would contend that we would make that investment in any circumstance, but definitely it is a much better return if you retain the people for a longer period, yes.

**The CHAIR:** Is it fair to say that part of the reason you eschew the further embrace of a casual model is so you do reap the higher return of your investment in training?

**Mr SCHEIDEL:** We will always want to invest into our people. They are our most valuable resource.

**The CHAIR:** Do you think you are at a competitive advantage or disadvantage as a result of that investment?

**Mr SCHEIDEL:** We are very comfortable with our business model and what our business model has offered to the Australian landscape. As I said before, I think that what we have done has been quite innovative in our offer in the market space. I think we offer a large degree of competition. That has certainly benefited our employees by offering jobs but also customers via lower products.

**The CHAIR:** Do you have a view that your investment in your staff's training gives you a competitive advantage in the market?

**Mr DAVID SHOEBRIDGE:** I do think that was asked and answered earlier.

**The CHAIR:** Final question then on that point: Is there any reasons why we should not be making a recommendation about the wider application of some of these practices that you have nominated as a part of a policy reform agenda that we are pursuing?

**Mr SCHEIDEL:** We have a business model that we are very proud of and that we think has been very successful, certainly over the last 20 years. We are happy with the investments that we have made and the return on those investments in this market space. Therefore, we are very supportive of our approach to business.

**The Hon. WES FANG:** On that point, would you be less interested in having restrictions placed on how you would operate your business in Australia or New South Wales, or do you prefer to have more freedom and flexibility to, for example, adopt the model that you have versus your competitors?

**The CHAIR:** I think it is a good question, Mr Fang, but I think you need to identify what specific restrictions you are asking the witness to respond to.

**The Hon. WES FANG:** Your question was around whether the witness thought that there would be value in our recommendation to adopt the aspects of their operating practices.

**The CHAIR:** The training practices.

**The Hon. WES FANG:** Yes. I am asking whether it is—

**The CHAIR:** It is a good question. I am just asking, for the witness to be responsive, do you mind just identifying the specific practice or set of practices or theme of practices to which the witness can then give you a response.

**The Hon. WES FANG:** In regard to Mr Mookhey's question where he asked you if we were to put forward recommendations about how you would conduct your business—

**Mr SCHEIDEL:** Around training?

**The Hon. WES FANG:** Yes. Would ALDI's philosophy be more aligned with having the freedom and flexibility to adopt what you found to be most advantageous to your business or would you prefer the Government to outline recommendations and requirements to your business?

**Mr DAVID SHOEBRIDGE:** I will just take an objection to it insofar as I think effectively what Mr Fang is asking this witness to do is contradict what is in the final page of ALDI's submission. So I think that should be put fairly.

**The CHAIR:** Maybe what we should do is put the position that is in the submission and the witness can say whether or not that is still his position.

**Mr DAVID SHOEBRIDGE:** You are asking a witness to contradict what they have got in their written evidence.

**The CHAIR:** Which part do you say is contradicting?

**Mr DAVID SHOEBRIDGE:** The fact that ALDI support and expressly comply with an array of minimum standards that they set out at page 5.

**The CHAIR:** Are you happy with that to be put to the witness, Mr Fang?

**The Hon. WES FANG:** That is different to the question.

**The CHAIR:** Why don't we put both questions? You are welcome to respond to both. Firstly, do you maintain your views on page 5 and, secondly, do you have any further comment or response to Mr Fang's question?

**Mr SCHEIDEL:** From a compliance standpoint, we absolutely aim to comply with or exceed State or Federal laws wherever possible. We have a strong compliance regime, and we will always aim to adhere and comply in all aspects of the law.

**The CHAIR:** In terms of Mr Fang's question, is there any specific restriction you would like the Government to remove or otherwise not impose on you? Is that fair?

**The Hon. WES FANG:** Sure. That is close enough.

**Mr SCHEIDEL:** We certainly have a business model that we are, as I have said before, very proud of and that we continue to invest in. As I have equally said before, we are different. We have our brand of "Good Different". Therefore, it has been to our benefit that we have developed our training and our process around satisfying our model of operation. We have not used any of the training schemes that have been offered by the Government.

**The CHAIR:** I think we are at the end, unless there is any pressing question in the last minute. Thank you, Mr Scheidel, for your time. You have taken some questions on notice for which you will have 21 days to return an answer after you receive the transcript. Again I note that you were present all morning and it was a

substantial investment of your time that you have spent with us today, for which we are grateful. Thank you very much for taking that time.

**(The witness withdrew.)**

**(Luncheon adjournment)**

**ALEX CLAASSENS**, Branch Secretary, Australian Rail Tram and Bus Industry Union, NSW Branch, sworn and examined

**TOBY WARNES**, Director of Organising, Australian Rail Tram and Bus Industry Union, NSW Branch, affirmed and examined

**ALISTAIR SAGE**, Senior Legal Officer, Australian Workers' Union, affirmed and examined

**JAMILA GHERJESTANI**, National WHS Director, Australian Workers' Union, affirmed and examined

**The CHAIR:** I am going to now invite each organisation to make a short opening statement, if they so choose.

**Mr WARNES:** We would like to thank the Committee, first of all, for allowing us to come and speak to our submission today. I understand that we will be speaking mostly to the submissions that we made with respect to the automation of work today rather than the workplace surveillance laws and their operation in the modern workplace. Our submission revolves mostly around obviously the automation of transport, which is our wheelhouse, so to speak. That relates mostly to the removal of workers in either customer service based roles or operational roles throughout the railway operations industry and also in the bus industry. Specifically, we made reference to the automation of trains in the north-west of Sydney, the driverless trains run by a company called Metro Trains Sydney owned by a company based in Hong Kong called MTR—Mass Transit Railways, I believe it is called. Our submission revolves mostly around what benefit society actually gains from the automation of that work and the increasing tendency to use modern technologies to remove customer-based roles and safety-based roles from the railway when there does not seem to be any tangible benefit to doing that.

We have had a recent experience with the New Intercity Fleet purchased by the New South Wales Government, which was designed specifically to remove the guard's role off railway services that operate between Newcastle, Wollongong and Lithgow, broadly. The purpose for doing that was to remove that role. We have had some success in restoring that role, but it is just a perfect example of utilising what seemed like modern technologies to remove customer service or operational based roles for no tangible benefit to the community that the railways are supposed to serve. Once again, thank you for the opportunity to be here today.

**The CHAIR:** Thank you, Mr Warnes. Does the Australian Workers' Union [AWU] wish to make an opening statement?

**Mr SAGE:** Just very briefly, the AWU also welcomes the chance to appear before the Committee, especially in the context of this important and wideranging inquiry. The initial submission that we have provided to the Committee does focus on two key parts of the terms of reference, being the issues around automation and the effect of automation on the workforce and on workers, and also the aspect of the terms of reference dealing with workplace surveillance, which I understand may also be the subject of later hearings as well. We also have received the discussion paper and we are proposing to provide a further response, if it is suitable to the Committee, on some of the other issues which we did not look to in our initial submission. The key issues that we have raised in our initial submission go to the way in which automation affects workers in New South Wales as compared with other countries and other jurisdictions. The model that we have adopted, in our view, largely is one in which the employers are left to determine the consequences of the redundancy process.

What we have pointed to in our submission are examples in other countries, and indeed former examples in New South Wales in the case of the Employment Protection Act, which require large employers which engage in significant retrenchment projects to actually negotiate with local government, with trade unions and workers' representatives as to how they are going to mitigate the effects of those retrenchments. We consider that that would be a model which this State should look to. That kind of arrangement exists in numerous OECD countries, including Japan and the Netherlands, so there is no real case to say that it is anti-competitive. We are certainly not looking at countries that are in the doldrums. They have put in place measures to say that if a company is going to engage in retrenchment on the basis of technological change they will likely reap the potential greater profitability and global competitiveness of those changes. In exchange for that, we think that it is appropriate that there is a dividend for the community and for the workers who are left behind. In our view, the current state of the law federally and at a State level in New South Wales does not really account for that.

The other point that we have looked to is also the effect in particular on injured workers. We have pointed to different laws in South Australia which we think are more effective at protecting injured workers from the consequences of retrenchment. An injured worker is clearly far less likely to be capable of finding re-employment, especially if they are a labourer who does manual labour, if they have a significant physical incapacity. In the case

of large employers and multinational employers, we think there is a case to be made for heightened obligations in the context of economic dismissals to take into account the special concerns in relation to injured workers.

**The CHAIR:** Thank you, Mr Sage. If either of the parties have written statements that you wish to table, now would be the time, and any additional detail you wish to provide, Mr Sage, you can table it now.

**The Hon. ADAM SEARLE:** Outside of what you have put in your submission, what impacts have there been on your membership in terms of automation in the industries that you cover? What are some ways in which you have been able to engage at an early time? How can those processes be improved? I know obviously something like the Employment Protection Act measures being strengthened would be good. There may be constitutional limits here in New South Wales now. But what other things could, for example, the State Government do or the State Parliament do that could really strengthen the ability of your organisations to engage at an early stage and have meaningful discussions that could not only mitigate any negative impacts on your members and on the workforce but actually enable your organisations to feed in positive ideas?

**Mr CLAASSENS:** I can give you two examples; one is a good example and one is a bad example. The good example of course is automatic train protection, which is a safety device that is gradually being tested and trialled over a number of years which assists the driver to make sure that the train continues to run safely. For example, it is an early warning system if you are coming up to a signal and stop. Those systems have been around for quite a long period of time and we have been testing those and trialling them. There has been lots of conversations, lots of consultation and lots of trialling. We have been part of that whole process all the way through. That is an example of where you can actually do it and do it properly. It actually benefits everybody because it helps maintain the safety of the railway system, so we are all for that. Obviously anything that can make our system safer, we all want to be a party to that. So I can say that in that circumstance we have actually done a lot of work in that space, and it is all being done collaboratively and together.

The difficulty we have though is in the private sector we had a situation where they were developing a new safe working system, for example, in John Holland initially. It was a private company. They were putting their own safety working system in place. Initially we had a lot of trouble getting in the door and having the conversation, but we were fortunate at the time where we had a very active CEO who understood safety. We did actually get involved in the end and we ended up with a really good, robust safe working system. They are two things that we have done from a safety point of view that we are comfortable with. However, then we turn to the New Intercity Fleet where the NIF was deliberately designed to get rid of the guard. That train was built over in South Korea and brought here.

They used a whole different system of introducing the train. We have got national rail safety legislation which is supposed to make sure that the end user is consulted and being part of the whole process of testing. However, the State Government—obviously working with a whole group of people—came up with a novel, new method of actually creating a new operator for the purpose of testing the train. They of course did not employ anybody in New South Wales. They seconded employees over from NSW Trains and therefore bypassed the union processes and our membership directly and allowed this train to start being tested in New South Wales without us being anywhere near it. They actually went to another step where they forced everybody to sign a non-disclosure agreement if you were a part of that process. They started this whole process from day one.

We have been fighting with this train coming here for over four years. It has only been in the recent history where we have actually been able to get access to the train. We actually had to pay for our own safety expert to go onto the train and tell us that the train in its current form, the way it has been designed—because it was never going to have a guard on it. Now that we have put the guard back on it, they still do not have any way in which they can operate the train safely because there are no door controls for them. No controls have been put there for them. Here you have got a circumstance where they have deliberately built a train with some new technology, supposedly, but they were prepared to put the public at risk by introducing that train.

That train is already 12 months behind schedule. At this point, we would not allow that train to operate in the New South Wales network because it is unsafe. That is another example of where they deliberately went out of their way to make sure there was no consultation, there was no opportunity for the end users to participate in the testing and trialling process. For the first time in 150 years, our union and its members have not been able to go anywhere near this train while it was being tested. If you want an example of what not to do, it would be that one. Clearly that is a big mistake. Unfortunately, what is going to happen is the New South Wales taxpayer is going to pay for that because those things come at a cost. But it is not going to come at the expense of commuter safety.

**The Hon. ADAM SEARLE:** Obviously, under awards there are usually what they call termination change or redundancy clauses where there are sort of statutory rights of consultation which employers often breach

and they are not very enforceable. How do you think those sorts of arrangements could or should be strengthened so that, in the examples you have given, Mr Claassens, your union and its members would have had a stronger statutory right of consultation before the introduction of a new train?

**Mr WARNES:** I might pick that up. I think we touched on it at the end of our submission in terms of the workplace consultation obligations. Obviously the traditional consultation obligation is between employee and employer, and that is how it sort of works. It is in that immediate workplace context. As Mr Claassens said just before, there are situations now that are seemingly manufactured towards avoiding that obligation occurring. The New Intercity Fleet is a perfect example. What Mr Claassens did pick up on when he was talking about the New Intercity Fleet though was an obligation in the Rail Safety National Law which obliges any rail transport operator to consult with not only its immediate stakeholders but also any union that represents workers who may be affected by its safety management system, health and safety representatives and the general public as appropriate.

There are other places where these sort of consultative obligations exist. Perhaps it may be prudent to go down a path like that. I do not know what sort of form it would take, but a path like what has been employed in the Rail Safety National Law ensuring that when someone seeks to do something that is going to affect workers, that they have an obligation to consult with those workers regardless of whether there is a direct relationship of employment between them. I think there is a good example in the Rail Safety National Law of that happening. Although, as Mr Claassens said, it did not work in this context. Unfortunately, it seems like there is always ways to get around that sort of obligation, wherever it sits, if you are wise enough to not want to engage in that process.

**Mr CLAASSENS:** Can I just supplement that with one point that Mr Warnes may not be aware of. We did actually have a more robust system in place in New South Wales when we had the Independent Transport Safety Regulator, which people around here will remember, which grew up because of Glenbrook and Waterfall and some other bad rail accidents we had. In my simple view of the world—and as most people would know, I have grown up in the railways—the rail regulator we had at that point in time was actually fantastic. It was purpose built, it was designed specifically to keep people in New South Wales safe. At the time, I think we were spending about \$20 million a year looking after that agency. It was actually really good; it did a lot of really good work. But as always, it gets rolled into the Federal sphere and of course it loses its power because unfortunately the Federal Act relies on the home State and the home State for the national rail regulator is Adelaide.

As most people would be aware, we run more trains in one day than they run in a whole year in Adelaide. Not having a go at them, but the reality is that we have got a weakened rail safety regulator compared to what we had in New South Wales. In my view, we had a rolled-gold model in New South Wales, and it was born out of necessity because we had some really bad accidents here. Unfortunately, railway history repeats itself. We will eventually have another really bad rail accident here. Nobody wants it, but we will end up getting one because we have actually got a national rail regulator at the moment that is not doing the job that the New South Wales one would have done. I despair about that because I worry about that every day of the week.

**The Hon. ADAM SEARLE:** Mr Sage, did you have something to contribute on this? If not, I had a particular question for your union, which was around some of the different industries you have mentioned in the second paragraph of the initial submission.

**The CHAIR:** Before we go down that path, Mr Sage, did you have anything you wanted to add to that? Mr Fang did want to ask a question on this line.

**Mr SAGE:** Yes, I think we both might have something to add. In the context of the question around when automation is rolled out, how does it differ when there is a consultation process followed or not. In my experience, when the workforce is engaged in the discussions around technological change at an earlier stage it is far less likely to lead to a dispute in one of our workplaces. Even if there is not complete agreement there is going to be a narrowing of the concerns. The situations which cause the most problems are the ones where the workforce and the union are only informed of the changes at the latest possible opportunity and it is presented effectively as a foregone conclusion. That is problematic both for the workers but also, in our view, for the company because generally the workers who are going to be implementing the change are the ones who can identify the more finely grained implementation and productivity issues. In my experience, the issues arise when the change has already been announced and decided and it is too late to sort of tinker with the issues. That is just in relation to that first point.

In terms of what the New South Wales Parliament or Government could do, there are a few things I thought we could mention. One would be, in the context of economic change, the regulation of agency labour is a significant issue. We do think that looking at labour hire licensing is a way of making sure that if there are changes taking place in a workplace that it is not just the direct employees who get the benefits of any consultation.

You do not have subcontracting or agency arrangements which are not necessarily following their obligations. That is something which we have seen in Victoria and Queensland.

We also think the Parliament could look at rules to publicly finance procurement and imposing obligations on companies that are going to be receiving public funds to ensure that they have robust and fair consultation arrangements for dealing with economic and technological change in their workplace. That is something which I believe the Victorian Government is looking at introducing at the moment as well. The final point is just that the New South Wales Government also has a role to play in industrial relations education. That is another place of awareness raising where the State Government can play a role.

**Ms GHERJESTANI:** I was going to quickly add, in addition to what my colleague Mr Sage has just said, that the biggest problem we face, based on my experience in the AWU and the Transport Workers' Union where I worked, is that decisions about automations are made. Consultation is when employers come and inform. They just inform the workers, "This is what we are doing." After the decisions are made, then employees are consulted and consultation really takes the form of, "Here is what we are doing, does anyone have any objection? If you have any objection, what is it? I'll think about it and come back. No, I don't really think your objections are relevant; we're going to go ahead and do this anyway."

**The Hon. ADAM SEARLE:** So you think that at that level the consultation is more proforma and the ultimate decision has been made?

**Ms GHERJESTANI:** Yes.

**The Hon. ADAM SEARLE:** Sometimes it is a long way down the track in terms of investment and procurement and what have you.

**Ms GHERJESTANI:** Yes. They have already done their homework. They have already procured. They are just really coming to the employees, the workers who will be implementing these changes, after the decisions have been made. At the end of the day, workers feel that they do not really have a voice; no matter what they say, the employer has made the decision. We get repeatedly told by employers, "We have spent millions of dollars already investing in this machinery. There is no U-turn. We cannot go back. The clause says that we must consult and we have consulted with you." But their consultation is really just them informing you of what they are doing. Consultation needs to change. Consultation needs to happen before decisions are made. The employers and workers and workers' representatives sit together and say, "This is what we are thinking. What do you think? How will this impact on you?"

Consultation needs to be not only with the direct employees, but also with other workers who would be impacted by that change, to get their views on board and consider their views. Then they can go ahead and think about whether they are going to make that decision or not. Just saying, "We're doing all of this and we're informing you", is not consultation. That needs to change, because it is having a significant impact. It creates a lot of tension in the workplace because we have members and contractors on site who do not have a very good relationship with management and it is caused by decisions that have been made, over and over again, that are impacting on their lives, their livelihoods, their families, their communities and they have not even been given a chair at that table to be involved in that decision-making. That decision-making does not involve the workers. The workers are the people who are impacted the most and yet they do not have a voice.

**The Hon. WES FANG:** That was where I was going to lead my original questions to Mr Claassens. But it is almost directly to your point, which is that part of the issue with consultation is how both parties engage. To the point that Mr Claassens was making around consultation on automatic trains, it seems to me that there is a tendency for both sides to be defensive. I certainly got that sense from you, Mr Claassens, when you were talking about the process. In an issue where there feels like there is a lack of consultation, do you think that there is actually a position where both sides need to approach the consultation differently? Perhaps there is a reluctance on the employer's side to engage in that consultation because of the reaction from workers unions and the like and the way in which they engage. Do you think that has a role?

**Ms GHERJESTANI:** Consultation starts at the employer's prerogative. Workers do not know what is happening. The employers make the decision and then they approach the workers, so that is the biggest and the first issue. If we are able to clear that part where, when they are considering a change, before they have made a decision, they come to the workers and say, "This is what we are considering; we genuinely want your views", no union or worker would fight that. Because, at the end of the day, we all want to improve productivity. We want our members and workers generally to have good jobs and obviously long-term jobs and a healthy and safe workplace. We would welcome that consultation, but we would not be comfortable with employers coming in with predetermined decisions. That is the problem. I do not see it as employees being defensive or workers being



defensive, because if the employer does not engage with them at the first instance to say we are considering this and comes to them and says, "Here you go, we've already made a decision. This is what's going to happen"—if, let's say, I was to do that to any member in here, how would you feel? It is the same thing.

**The Hon. WES FANG:** No, I appreciate that. But I guess history also shows us that say a government went to a union and said, "We're looking to implement trains with no guards. We'd like to start a conversation about that", correct me if I am wrong, but the first thing that would happen is there would be a press release from the union, there would be an uproar, there would be threats of strike action and that is possibly why—it is that escalation, as opposed to having a genuine conversation. Mr Claassens, am I wrong in that assessment?

**Mr CLAASSENS:** Well, you are wrong in that because—

**The Hon. COURTNEY HOUSSOS:** With respect, Wes, your example actually goes to exactly what Ms Gherjestani is just saying. She is saying you need to consult before you make the decision.

**The Hon. WES FANG:** But I am saying if we want to have a conversation they will not have a conversation.

**The CHAIR:** Okay, question and answer.

**Mr CLAASSENS:** In this particular case, I can answer that that is not right. Generally I have been talking about—driver only has been around since I joined the railway in 1978. It has been a long conversation. I was there when they removed the guards off the freight trains. In almost every case the decision had already been made, in most cases behind closed doors. They did not consult with the people. They came to us with a predetermined point of view. Having said that, every time that we have actually sat down from a WHS point of view or from a safety point of view, like they did with automatic train protection, it was a much different conversation. They came to us and they said, "We want to look at this new technology. We want to make it so it is safe for everybody."

Because we were involved in the very first part of the conversation, they came to us looking for our advice and our help. That is a totally different conversation. Driver only is not new; it has been around for a long time. We have always been prepared in our industry—and we are a little bit unique because there is only a small group of us that do this stuff. Traditionally, we have always been open to the conversation, but it should not start from the position of, "We are going to get rid of 450 jobs", like it did with the New Intercity Fleet. It should have been, "We think we can introduce a train that is safe." You might also remember when the Metro trains came out, apart from me making a little bit of noise initially about the fact that we were not consulted and we were not part of that process, I could not say anything about the safety of the train.

Because that was a train and a system that was purpose built to keep people safe. Getting on the Metro train today is like getting in a lift, except you are going horizontally instead of vertically, so it is perfectly safe. I have got no complaint about the Metro train not keeping people safe from the normal, traditional way in which we operate trains and get people on and off trains. We are complaining though about the fact that they are not supplying good customer service because there is not enough people. Sooner or later that thing is going to stop in a tunnel, there is not going to be anybody there and people are going to be very upset and annoyed about that. I can argue about that because, again, we were not consulted and we were not part of that. I think it is the way in which you have a conversation. It is like any marriage. If you walk into a marriage and you go in and start telling your partner, "I've already made this decision", where do you think you are going to end up? It is exactly the same. I am oversimplifying it, but to me—

**The Hon. WES FANG:** You really are not.

**Mr CLAASSENS:** It is just human nature. People want to be involved; they want to be consulted. Even if it is a horrible thing that you are going to end up with, you still want to be a part of the process.

**The CHAIR:** Mr Claassens, is it the case that circa the late 1980s and 1990s a person would buy their train fare from a physical person who was behind a stall?

**Mr CLAASSENS:** That is correct. Ticket sellers, yes.

**The CHAIR:** And it was the case, was it not, towards the late 1990s and early 2000s there was a program to replace ticket sellers with automated machines?

**Mr CLAASSENS:** That's correct, yes.

**The CHAIR:** That was a form of automation. Do you agree?

**Mr CLAASSENS:** Yes, absolutely. Opal cards.

**The CHAIR:** There was consultation with the union at the time?

**Mr CLAASSENS:** Yes, there was.

**The CHAIR:** And there was the ability for the union to negotiate about the redeployment of the ticket sellers?

**Mr CLAASSENS:** Yes.

**The CHAIR:** That led to those ticket sellers retaining their employment?

**Mr CLAASSENS:** Yes.

**The CHAIR:** And being redeployed on the rail networks?

**Mr CLAASSENS:** Yes, that's correct, in other customer service roles.

**The CHAIR:** That was an agreed process that took place between the union, its membership and, of course at the time, one of the agencies or all of the agencies?

**Mr CLAASSENS:** Yes. It would have been—

**Mr DAVID SHOEBRIDGE:** And there was a Treasurer at the time who was going to war with the transport unions and wanted to break them and first floated a metro?

**Mr CLAASSENS:** Yes.

**The CHAIR:** Is that all true?

**Mr CLAASSENS:** Yes, absolutely.

**The CHAIR:** I am glad that is part of the narrative in the detail. But, ultimately, that process resolved in a way which saw the introduction of automated ticket machines and the redeployment of ticket sellers. Is that a fair summation?

**Mr CLAASSENS:** Yes, absolutely.

**The CHAIR:** Did any of that process take place around the introduction of the Metro trains?

**Mr CLAASSENS:** No. There was no conversations with us at all about the introduction of the Metro trains. Even when they were taking our brand-new railway line—it was only 10 years old. The Epping to Chatswood line—they made that decision without any consultation with us. Only at the last minute did they come to us and say, "By the way, we are going to convert the Epping to Chatswood line to a Metro line. Can you come and talk to us about what we do with all the staff?" It is the same with the Bankstown line, which is now going to be in the same position.

**The CHAIR:** And at all times, you have been seeking to have that consultation?

**Mr CLAASSENS:** Yes. Always happy to have the conversation. I am here to help. The earlier we have the conversation, the better.

**The CHAIR:** And you made multiple requests for that consultation?

**Mr CLAASSENS:** Yes, absolutely.

**The CHAIR:** And at no point was that reciprocated or accepted?

**Mr CLAASSENS:** No. And it has gotten worse now because they have now introduced a new agency called Transport for NSW. So we are now sitting there with Sydney Trains, who are agencies of Transport for NSW. More often than not, we are sitting there looking at managers who cannot actually tell us what time of day it is because they are not part of Transport for NSW, who take their directions directly from the Minister, I assume. So we have now added extra complication into the process.

**The Hon. ADAM SEARLE:** It is almost like it has been designed so that you cannot have meaningful consultation.

**Mr CLAASSENS:** Absolutely, it has.

**The Hon. ADAM SEARLE:** I thank both organisations for their submission, and I note that the Committee will be having subsequent hearings that will focus on the workplace surveillance aspects. We may well invite you back to have a further conversation. My final question on today's matter is: Based on the experience of your two unions, have employers used the deployment of new technologies in a way which has enhanced and

made employment more secure or, whether intentionally or otherwise, has it contributed to undermining conditions and making work more fragmented and less secure? And how can that better be addressed?

**Ms GHERJESTANI:** I can start first because I have had firsthand experience of workplace surveillance in one of the largest sites in the Newcastle region. I will give you an example. This is a big blue-collar worksite with over 1,300 employees. The site introduced workplace surveillance cameras. They said, "These cameras are only coming for safety purposes and we will review it when there is a significant safety issue." There was no consultation. The shift leaders informed the workers that this was going to happen. They also informed the union that this was going to happen within 14 days. Once those cameras were installed, the cameras were not used for reviewing safety incidents only. What they then did was, of the whole team of supervisors, they made redundant half of that team. They then moved the supervisors into another area. The supervisors now remotely supervise the workers through a screen. Workers no longer receive support from their supervisors on the ground. The cameras are now used—and they have put more advanced cameras in—to zoom in on workers. They are able to zoom in to such an extent that they can read a newspaper that a worker is holding.

What they also do is they use the cameras to discipline workers. If a supervisor does not get along with certain workers in this worksite they will use that camera to threaten that if, you know, "If you don't do what I tell you", or, "If I am not happy with you, I will be watching you on the camera and I will find something to pin you." They would call workers on their mobile phones while watching them on the camera. If a worker answers the mobile phone, the worker is sacked. They say, "You breached our policy. You answered a phone while you were working." They time how long workers use the bathroom for. It is extremely harmful. Workers in this workplace are anxious all the time. As soon as they enter the workplace, they are anxious. A lot of them are seeking mental health support. One worker was targeted to such an extent through the cameras—the cameras were bought for a specific purpose: safety. It was hardly ever used for that. It was really used to monitor, supervise and discipline workers. It was used to such an extent that that worker just said, "I'm resigning. I can't take this anymore." This worker then went to get a job in the steel mill next door. Within three months, he hung himself in the workplace.

In his eulogy, which the union officials attended, his wife said where he was mentally was caused by how he was treated at work—by the fact that he was constantly being followed by management and by supervisors through those cameras. The worst part is those cameras are all in the lunch room, so if someone else is at lunch anyone can look at footage. Anyone can see which area is doing what. In terms of who accesses this footage, the workers cannot access the footage. It is in the hands of management. When management use that footage to discipline workers, they say to the workers, you know, "We've seen you do this on camera." When we ask them for the evidence so that we can actually respond back to their allegations, we are not provided with the evidence. The worker is sacked and we are provided with the evidence once the worker is in front of the Industrial Relations Commission or the Fair Work Commission when they put in their evidence to say here is what they have done. So the worker does not even have the appropriate evidence before him or her to respond before they are actually dismissed from their employment. That is just an example in one site. I can give the Committee various examples of how workplace surveillance is being used.

There is no privacy for the worker. There is a significant power imbalance between workers and employers. Employers have access to the camera. Employers have access to how the camera is used. All the Workplace Surveillance Act does is the employer has got to give 14 days' notice of the surveillance happening, surveillance cannot be inside bathrooms and change rooms, and that there should be visible signs in the workplace saying that there is surveillance. There is no requirement for them to actually consult with workers and get workers' agreement. The other biggest problem is that the purpose that they bring in the surveillance—they bring it in for safety purposes. That is what they usually say. The unions are a big supporter of safety. Health and safety is our number one priority. They bring it in for that purpose, but they do not use it for that purpose. It is used as a tool to threaten, to harm the mental health and to really target specific individual employees, and also to make the workplace feel like a jail. That is how a member described it to us, "We go in there anxious as to what they are going to do to us today."

**The Hon. MARK PEARSON:** Is that becoming usual or is that an unusual example?

**Ms GHERJESTANI:** It is usual. It is not unusual.

**The Hon. MARK PEARSON:** How usual? What percentage increase in this sort of surveillance is occurring?

**Ms GHERJESTANI:** I can let you know that in most of our worksites that have workplace surveillance, the workplace surveillance is used for more than the purpose than it was initially intended to. So they bring it in for safety, but they mainly use it to discipline workers.

**Mr DAVID SHOEBRIDGE:** Ms Gherjestani, it seems to me that the gap you are pointing to in the workplace surveillance laws is about somehow mandating and limiting the purpose for which workplace surveillance can be used. That is where the obvious gap is. Is that right?

**Ms GHERJESTANI:** Yes, that is an obvious gap. The purpose that it is being bought for, it should only be used for that purpose. If the employer wants to change it and include other things, they should then go to employees and consult on what those other things are and why those changes need to come in. There needs to be consultation on it, and it needs to be used for the purpose that it is coming in there.

**Mr DAVID SHOEBRIDGE:** So you recommend there being a mandatory consultation process before it is rolled out and a need to justify it?

**Ms GHERJESTANI:** Yes.

**Mr DAVID SHOEBRIDGE:** Then you also are proposing that, whatever purpose is agreed is reasonable, there be provisions that limit it to that use?

**Ms GHERJESTANI:** Yes.

**Mr DAVID SHOEBRIDGE:** You also propose that the Industrial Relations Commission becomes the umpire in the event of disputes about these things?

**Ms GHERJESTANI:** Yes.

**Mr DAVID SHOEBRIDGE:** Is that the core of your recommendations on workplace surveillance?

**Ms GHERJESTANI:** Broadly, yes.

**Mr DAVID SHOEBRIDGE:** I see you are the national WHS director. Is there any jurisdiction in the country that has that kind of model?

**Ms GHERJESTANI:** No, not that I am aware of.

**Mr DAVID SHOEBRIDGE:** Is there any jurisdiction that does it better than New South Wales that we can look to?

**The Hon. COURTNEY HOUSSOS:** You can take that on notice.

**Ms GHERJESTANI:** I can take that on notice and come back to you. Maybe not specifically in Australia, but there are jurisdictions outside of Australia that would have that. But I can take that on notice and I can come back to you on that.

**Mr DAVID SHOEBRIDGE:** It is my own lack of due diligence. You indicated that there are some OECD indicators of employment protection relevant to Japan and the Netherlands and it may be somewhere in there that there is some additional information, in those annexures to your submission. I do not know if Mr Sage or yourself have any details about that?

**Mr SAGE:** Sorry, those were in the context of the automation and redundancy aspects.

**Mr DAVID SHOEBRIDGE:** Okay. Mr Claassens and Mr Warnes, do you support those measures of additional protections for workplace surveillance that the AWU has put forward?

**Mr WARNES:** We made submissions similar, to a point. We think that the purpose for which workplace surveillance occurs and how data is collected and footage is collected, the use of that surveillance and data, needs to be for the purpose of the outcome it is trying to achieve. What we see quite a bit throughout at least the rail industry is that there is a move to use cameras, for example, to collect footage for the purpose of ensuring the safety of people on trains, which is fine and it is something the union absolutely supports, but it can only be used to ensure the safety of the people on that train. As I think my colleagues from the AWU were saying, our experience is that it is used for much, much more than that. Rather than just ensuring the safety or ensuring the future safety of the operation of those trains, it is used to discipline union delegates and to discipline health and safety representatives who are perceived as problems for particular organisations.

**Mr DAVID SHOEBRIDGE:** What about that package of additional protections that are proposed by the AWU requiring consultation and clarity about what the purpose for the workplace surveillance is in the first place; in the event of a dispute about the reasonableness of that purpose, having the Industrial Relations Commission there as the arbiter; then a requirement to limit its use to that designated purpose; and, again, if there is a breach, having the Industrial Relations Commission as the independent arbiter on those matters—is that a package of reforms that you would endorse?

**Mr WARNES:** Yes, I think so long as any effective consultation process which is put in place has that circuit-breaker that is an independent arbiter, like the Industrial Relations Commission for example, I think that would work. Obviously, we spoke at length about some consultation problems earlier in today's proceedings. So long as you do have that circuit-breaker so that if there is not an agreement able to be reached about the reasonableness of the surveillance or the purpose of the surveillance—because you do not want a situation, for example, where an employer—

**Mr DAVID SHOEBRIDGE:** Just has a log of claims which covers everything in the beginning and therefore it is covered.

**Mr WARNES:** Yes, that's right, comes outright and says, "We want to surveil you so that we know how long you're going to the toilet", I cannot imagine a circumstance where that would be reasonable. So long as you have that circuit-breaker of somebody who can determine whether or not it is reasonable, I think that system could and would work.

**Mr CLAASSENS:** Yes. Just to supplement that with a practical example, the New Intercity Fleet. The train was designed obviously not to have a guard on it, so they decided that it would be really smart to have a camera permanently trained on the driver, in the event that the driver collapses. Obviously we have been able to convince the Government to change that position and we have now got a guard on the train, but they have still got the problem that this train has been designed with a camera that focuses on the driver the whole time. We have been trying to negotiate with them, saying that the guard is back on the train now so you no longer need that camera. Unfortunately, they have designed this train to have it wired into the rest of the system. The rest of the surveillance system on that train is accessible from anywhere—namely, the Rail Operations Centre—so at any point somebody can dial in and have a look at all the people on the train. Because the other thing that happens on this train is that if you hit one of the help buttons on the train it is not answered by anybody on the train. It actually goes to the Rail Operations Centre, so they can immediately dial in. They can have a look at the train driver while they are going along and doing all that stuff.

We have been sitting there consistently saying if we were a train driver and we are driving for eight hours of our shift we do not want to have somebody looking at us the whole time we are driving the train. We can certainly understand the argument that says that in the event of an incident, or a critical incident where somebody dies or the train is involved in an accident, we could live with the idea that they do in the airline industry where there is a black box that is opened up by the regulator—in our case, the rail regulator. We could live with that. But, unfortunately, they want to keep this thing on the train as it is, where anybody has got the ability to access the CCTV, including contractors, and actually have a look at all the images on the train. We are, again, opposed to that. Again, there should have been consultation. Some of the things that have been suggested here would actually help that process.

**The Hon. MARK PEARSON:** What does the Privacy Commission say about this?

**Mr DAVID SHOEBRIDGE:** You jest.

**Mr CLAASSENS:** We do not know. Every time we have tried to raise it with anybody, we are told New South Wales has got the best privacy laws in Australia, in theory. That is it; that is all we get told.

**Mr DAVID SHOEBRIDGE:** Have you tried to contact the Privacy Commissioner?

**Mr CLAASSENS:** I personally have not.

**Mr WARNES:** No, I have not.

**Mr CLAASSENS:** We might have a job to do.

**Mr DAVID SHOEBRIDGE:** Well, good luck.

**The CHAIR:** We are sure her number is publicly available.

**Mr DAVID SHOEBRIDGE:** There are elements of surveillance that have a genuine public benefit to them.

**Mr CLAASSENS:** Absolutely.

**Mr DAVID SHOEBRIDGE:** When it comes to train drivers, the concept of the dead man's handle or switch—I cannot remember what it is called.

**Mr CLAASSENS:** Yes, well, it is both. It is a number of things now. We have got a whole bunch of safety systems, button pushes—

**Mr DAVID SHOEBRIDGE:** Yes, but the idea you have to touch it every 30 seconds otherwise the train grinds to a halt.

**Mr CLAASSENS:** Yes, that is correct.

**Mr DAVID SHOEBRIDGE:** Are there developments in that space that are acceptable to you, a sort of more real-time monitoring of the health of the driver or something that is acceptable? Is that where the negotiation is happening?

**Mr CLAASSENS:** No. The problem we have had—unfortunately you missed some of the earlier parts of my submission—is that the whole design of this train was done overseas; we had no input into it at all. There was no consultation with anybody, even after they brought it here, so we are playing catch-up on all of these things now that the Government is finally ready to talk. You are right, we would have always been happy to sit down. We have previously done it with the automatic train protection and a whole bunch of other systems. We would have happily talked to them about different ways in which we could do this, but we are now up against it because we have now got a train that is—half the fleet is already here, some of it is in Kangy Angy, some of it is here in Sydney and the train has already been designed in a particular way and now we are trying to undo it or change it. Well, it is just not going to happen; the Government is refusing to budge on it.

**The Hon. MARK PEARSON:** Was any input sought from you in relation to the actual design of the train?

**Mr CLAASSENS:** No, not at all. Not at all.

**The Hon. MARK PEARSON:** Do you know why?

**Mr CLAASSENS:** I can only make assumptions on that.

**The Hon. MARK PEARSON:** What would that be?

**Mr CLAASSENS:** That they did not want us to be any part of this process. Like I said, every other train for 150 years—every train, every locomotive—has always had our involvement in it. We have always been consulted at some point during the process. This time, it was very deliberate. They deliberately kept us right away from it. We had no say in it at all. In previous years and under RailCorp we would have had designers and engineers, and there would have been our members that would have been part of that process. This time it was deliberately taken out of everybody's hands and nobody got any say in it at all.

**The Hon. COURTNEY HOUSSOS:** Mr Claassens, it really goes back to the point that Ms Gherjestani was making earlier, which is actually engaging with your workforce and then utilising their expertise can actually have benefits for the company as well or the government department?

**Mr CLAASSENS:** Yes, I one hundred per cent agree. That is the name of it: You have got to talk to people early, have that conversation about where it is appropriate, where it is not appropriate and for what purposes it is going to be used and then reach some agreement around that.

**The Hon. COURTNEY HOUSSOS:** Just really briefly, you talked in your submission about there being a customer service benefit to actually having people on trains and there is obviously a community safety benefit. A camera is one thing, but actually having a guard there on the train, having a person there, will particularly help women who are trying to use public transport into the evenings. Would you agree with that?

**Mr CLAASSENS:** One hundred per cent, yes. It is vital. We need to have people, particularly in the regions. We are asking people to jump on a train out the back of Newcastle et cetera. I could not think of anything more scary for a female on their own to be travelling out there on those trains late at night. You need to have somebody there.

**The Hon. COURTNEY HOUSSOS:** I am just going to be brief as well. I wanted to come back to Ms Gherjestani. Your union in particular has put forward some ideas around this and has been involved in some examples of where workers and the employers have come together to find a solution, for example, down at BlueScope. Isn't that correct? I am just disputing Mr Fang's characterisation that unions do not proactively and constructively engage in conversations with their employers.

**The Hon. WES FANG:** Mr Fang might object to the putting of words in his mouth.

**Ms GHERJESTANI:** I would agree with what you have just stated. In 2015 BlueScope Steel in Port Kembla was going to close down. The union saved BlueScope Steel, the union saved that community, the union stepped in. We had very constructive and productive conversations with that employer. BlueScope came to us before they had predetermined any decisions. If employers come to us before predetermining decisions, we feel

like we are a part of that business. We want to work with employers. This theory which is alluded to that unions are defensive or they would create issues is incorrect. We want those jobs. We want our members to be happy and to go to a safe and healthy workplace where they are making good money and creating good livelihoods for their families. We want long-term employment in all of our communities. We would love to sit down with employers and work with employers to ensure that we can get that for workers. We are open to having those discussions. But when employers come back with predetermined decisions and say, "This is what we're going to do. Take it", that is not consulting, that is not cooperative and that is not going to benefit anyone.

**The Hon. COURTNEY HOUSSOS:** And it is also sometimes about actually getting workers into the conversation a bit earlier. Your national secretary has proposed, for example, that we should have a workers' representative on boards, which is seen in some overseas jurisdictions.

**Ms GHERJESTANI:** Yes.

**The Hon. COURTNEY HOUSSOS:** That means that the consultation is not just a tick box on the end; it is actually being part of that conversation in an earlier and a constructive way. Is that correct?

**Ms GHERJESTANI:** Yes. It is genuine consultation. All we want is genuine consultation, not employers informing workers, "This is what's going to happen." We have to keep in mind that when we say "workers", this is their livelihood. This is what feeds their families. It does not only impact on one individual but their family members. A site like BlueScope, it is the biggest employer in the Illawarra. If that site had shut down, it would not only be workers in that site affected, it would be their families and their extended families, and it would be the surrounding small businesses that support that community and support that workplace.

**The CHAIR:** Just to be clear about the BlueScope case study, that was a scenario in which BlueScope was dealing, at the time, with very high currency exchange prices. That is correct?

**Ms GHERJESTANI:** I believe so, yes.

**The CHAIR:** And that put them at a competitive disadvantage in the international steel market.

**Ms GHERJESTANI:** Yes.

**The CHAIR:** And this was occurring at the same time that they were facing serious decisions around investment in their furnaces to be able to make a substantial capital investment to secure the future of the steelworks. That is correct?

**Ms GHERJESTANI:** Yes.

**The CHAIR:** As a result of that, in order for them to obtain investment certainty—and also, incidentally, for the bankers and others to lend to them—they required an ability to negotiate changes to the agreement. That is correct?

**Ms GHERJESTANI:** Yes.

**The CHAIR:** And the AWU responded in that.

**Ms GHERJESTANI:** Yes, we did.

**The CHAIR:** And was in a position to be able to negotiate effectively, at the time, a wage freeze. Is that correct?

**Ms GHERJESTANI:** Yes, that did happen.

**The CHAIR:** Then in exchange for granting a wage freeze—or at least the members consenting to having their pay frozen—the union negotiated so that when BlueScope experienced a corporate recovery, some of that additional wealth and profit would be shared with the workers through higher wage increases.

**Ms GHERJESTANI:** Yes, that did happen and those were shared. Their payments were increased. Overtime provisions that were taken out in the original agreement, in the last bargaining period, did come back in.

**The CHAIR:** In contrast at the same time was it not the case that OneSteel, which was BlueScope's principal competitor, was equally experiencing corporate distress?

**Ms GHERJESTANI:** Yes, in Whyalla.

**The CHAIR:** And they chose a different approach of non-cooperation with their workforce. Is that correct?

**Ms GHERJESTANI:** I was not specifically involved in that matter, so I cannot state.

**The Hon. WES FANG:** I think he is leading you down a path that—

**The CHAIR:** Either way, as a model for industry restructuring it is the case, is it not, BlueScope is now highly profitable?

**Ms GHERJESTANI:** Yes, it is. It is making lots of money.

**The CHAIR:** Its share price has gone up, I think, by a factor of 30 or 40 since that 2015 low.

**Ms GHERJESTANI:** Yes, it has.

**The CHAIR:** As a result, the Illawarra community is in a healthier economic position than otherwise.

**Ms GHERJESTANI:** Yes, it is. I would not give BlueScope too much of the kudos. That was one of the only times that they came to the table, and they had to. They worked well with the union. They cooperated and we consulted well. It does not happen every day, but that is an example that when employers do come in and consult genuinely we can achieve great results.

**The CHAIR:** So the AWU, in its submission, nominates that matters which should be subject to negotiation prior to a decision as including employment transfers, retraining, early retirement measures and financial compensation. Is that a matter which the RTBU would agree with, there being legitimate subject areas of negotiation prior to a decision?

**Mr WARNES:** Absolutely.

**The CHAIR:** One thing which I am interested in is your submission does not touch on the principle of sharing the wealth created by productivity gains with the workforce. That remains. Is it the case that you would agree that one of the principles should be that, after automation takes place, the additional savings is returned to the workforce either through higher pay or better conditions?

**The Hon. WES FANG:** Now he is leading you down a path.

**Ms GHERJESTANI:** One hundred per cent.

**Mr SAGE:** We do think that, but the focus of the submission was on the people who are no longer working there. They are both valid things to consider, but the focus of the submission was on the people who are no longer working.

**The CHAIR:** Mr Warnes and Mr Claassens, in your submission you make the point that, following the introduction of the Metro system and the removal of the guards, did it lead to any increase in pay for existing members across any part of the network?

**Mr WARNES:** No. The New Intercity Fleet is not in service yet so that is yet to be seen.

**The CHAIR:** The best I can tell, it has not led to any fare reductions for consumers.

**Mr WARNES:** No. Absolutely not.

**The CHAIR:** Who has pocketed the gain or the saving—if there is a saving—from the introduction of this technology?

**Mr WARNES:** In the context of Metro Trains Sydney, we can only speculate that it is the company running it. In the context of the New Intercity Fleet, because of the corporate and contractual arrangements put in place to actually make it—there is a consortium of three companies, I believe, in RailConnect NSW, who are the ones contracted to manufacture, test and ultimately maintain the New Intercity Fleet of trains, which was a multibillion-dollar contract. We would only be speculating. I cannot tell you where that money goes, but should the proposal to take guards off trains had gone through, there would have been a significant saving just on those wages and associated employment costs.

**The CHAIR:** How many guards are there in the current fleet?

**Mr WARNES:** We were talking about it before. I think about 450 in the intercity fleet.

**The CHAIR:** So it is a substantial cost.

**Mr WARNES:** Yes, very much so.

**The CHAIR:** And if those jobs disappear, there is no idea what is happening to the money that otherwise would be saved?



**Mr WARNES:** I can talk about this for hours, but I will not. A good deal of the duties of the guards was to be transferred to the drivers and the rest being handled by various technological improvements. At least that was the position pushed, which we have managed to debunk. There was a proposal to increase the drivers' pay to try and compensate somewhat for the extra duties they had to take on from the guard that was being jettisoned. But they were only offered a pay increase of 4 per cent, which was essentially to take on at least half the guards role. Where the other 96 per cent of that guards role went, we do not know. But it is all academic at the moment as the positions move back to having the guards on the train.

**Mr CLAASSENS:** We should say that the bulk of those 450-odd jobs were all out in the regions too—so Newcastle, Gosford, Lithgow. Those locations.

**The CHAIR:** The major depots for the intercity fleet.

**Mr WARNES:** Wollongong.

**Mr CLAASSENS:** Yes, Wollongong. They were all the areas that would have been hardest hit.

**The CHAIR:** I am sure Mr Fang will be interested in Wagga.

**The Hon. WES FANG:** I was going to say Wollongong, Newcastle and the Central Coast are not regional.

**The CHAIR:** We are out of time. I understand that you may have taken some questions on notice. You will have 21 days to return answers after the receipt of the transcript. Again, we appreciate the time you have taken as well. I also stress, as Mr Searle has pointed out, your submission does touch on workplace surveillance issues. It is possible that you will be asked to return to provide evidence, if required, after we have the opportunity to see. The Committee has chosen to examine workplace surveillance issues towards the end of the year in what will be a second report.

**(The witnesses withdrew.)**

**NEVILLE STEVENS**, Chair, NSW Innovation and Productivity Council, affirmed and examined

**PETER ACHTERSTRAAT**, NSW Productivity Commissioner, NSW Productivity Commission, sworn and examined

**The CHAIR:** We welcome our next set of witnesses and thank them for their time. Mr Achterstraat or Mr Stevens, would you like to make a short opening statement?

**Mr ACHTERSTRAAT:** Just a few things I will cover off and then I will talk about our green paper. First of all, traditionally in New South Wales and Australia productivity has increased every year. Each year there has been more goods and services produced than the year before, and this has meant that there can be rising living standards and real wage increases on average. But over the last few years the rate of productivity growth has slowed down considerably. In fact, there is a real danger that in the next few years productivity may reverse and that will mean per person in New South Wales there will be less goods and services produced. There are a number of reasons for that. There are cyclical reasons, being in relation to COVID et cetera, but there are also structural reasons for this—things such as demographics and the aging of the population, which means that there are more people turning 65 than turning 18. So there are more people leaving the workforce than joining the workforce, and if a smaller percentage of the population is working then there is a possibility that less goods and services will be produced.

If there are less goods and services produced per person in future years, there are a number of options for society. One option is just to accept that and to accept a lower standard of living and downward pressure on wages. Another option is for the existing smaller number of workers to work longer hours to produce the same level of goods as before. A third option is if we can find new ways of working—using technology, using better regulation—so the existing smaller number of people in the workforce can actually produce the same level of goods as the larger cohort did the year before, or indeed more if we can do that. The role of the Productivity Commission is to look for ways that we can do it. It can be done. In the United States of America, for example, it takes workers four days to make things which on average take five days in Australia. Now there are probably lots of reasons for that. It could be better use of capital, it could be different skilling, it could be different regulations, it could be greater use of technology—all sorts of different reasons. So it can be done, and the role of the Productivity Commission is to look for ways where we can get this smaller number of people to produce more goods.

The way we have done it is to use the traditional Westminster system of policy development, so we issued a discussion paper which sets out a number of questions. For example, why is it that spending per child in New South Wales schools has increased every year over the last 10 years but the Programme for International Student Assessment results have come down? Why is it that in Sydney the average person uses 217 litres of water per day and in Melbourne it is 171? Why is it that recycling in New South Wales has fallen over the last five years? We asked a lot of questions in the discussion paper and we asked the community, not-for-profits and the public sector to give us ideas on how we can address some of these issues. We have pulled all those together and we have put them into draft recommendations in the green paper. The green paper consists of 56 draft recommendations. They are not our final recommendations, but these are the draft recommendations which we are putting out.

I would like to highlight two particular areas in the green paper which may be relevant to the Committee. One is in relation to forward-looking regulation that supports competition and innovation, and the other is in relation to VET. We need a VET system which will deliver the skills that we need. In relation to regulation, the citizens of New South Wales have responded particularly well during COVID to the resetting of some of the regulations. We have reset some of the regulations temporarily over the 12-month period. Things that we have relaxed, for example, include that we have permitted activities to be undertaken digitally which used to have to be done physically, displayed documents electronically, compulsory meetings can be held electronically, signing and witnessing of documents can be done electronically. Also, in the non-IT type space, we have allowed pharmacists, for example, to dispense schedule 4 medicines et cetera. So there has been a lot of regulatory changes over the 12 months and they are due for expiry soon.

Our goal is to ensure that the regulations are technologically neutral, so that it is not specific on any particular one. I will give you an example—I can see a couple of questions there. An example is drones. We refer to drones in the green paper. The legislation covering drones basically prohibits people in the agricultural area from using them as effectively as they could because the Commonwealth Civil Aviation Safety Authority regulation and others were made well before people were using drones for stock purposes, for weed control et cetera. Those regulations were appropriate at the time, but now there is a feeling in the agricultural sector and

what they are telling us is that drones could be used more effectively and it could reduce the accidents on quad bikes and all sorts of things. It may well be that the regulations which were fitting when the technology of drones was certain is no longer fitting. So that is a question we have asked in the draft: Is there scope to change that sort of regulation in relation to the zones?

In relation to VET, we could say there has been more productivity over the period for tasks. People were able to do their tasks over the 12-month period; whether they can do their water cooler discussions any better is a bit different. The green paper shows us where there are structurally some real gaps in the labour market. Now we know there are tens of thousands of vacant jobs in the regions. People have moved to the regions but the skills—we have got a shortage of air conditioning mechanics. We have got a skill shortage of large numbers and these sorts of jobs which cannot be done online, we do need to skill up people to do that. There appears, some people might say—

**The CHAIR:** Commissioner, I do not wish to interrupt unduly but I will just give you a two-minute warning because I do need to take an opening statement from Mr Stevens as well, if you do not mind? There will be plenty of time for questions.

**Mr ACHTERSTRAAT:** Okay. I might wind up then and just to say you can see how—in fact, if any members would like a one-on-one briefing, I would be happy to come around and talk to you at length, or short.

**The CHAIR:** I am likely to take you up on that offer.

**The Hon. ADAM SEARLE:** Same.

**The CHAIR:** Are you in a position to table that green paper here?

**Mr ACHTERSTRAAT:** I can do so, yes.

**The CHAIR:** It is publicly available. We have already got it, great. Thank you and I did not mean to cut you short, Commissioner, it is just we do want to take some questions as well and you will have opportunity to expand in your question and answer session.

**Mr ACHTERSTRAAT:** Absolutely. I completely understand. In the interests of productivity, I will hand over to Mr Stevens.

**The CHAIR:** Indeed. Mr Stevens, I am sure your statement will be innovative.

**Mr STEVENS:** If only. Thank you. I am the chair of the NSW Innovation and Productivity Council [IPC]. We are an independent statutory body created by the Innovation and Productivity Council Act 1996. We are a little bit unusual in that respect in that we are actually set up under an Act of Parliament. Our mission is to champion evidence-based policy for research. We bring together a lot of expertise from universities, from industry and from government to actually address the issues, to do the research and to try to have an evidence-based outcome on that research.

I should emphasise that our reports are independent and they do not necessarily represent government policy. There are two particular research projects that I think are relevant to your work today and I will very briefly cover those. The first is our remote working insights project and the second one is our adaptive workforce project. The New South Wales remote working insight project was launched very early on after the advent of COVID when people were working from home. For the first time there had been a sudden step-shift towards remote working around the world. We thought it would be useful to try to do some work to try to understand how people were coping with that, the benefits and the pluses and minuses. At that stage there was not very much information around on that and the work we did was fairly innovative in that respect.

At the end of the day it is clear that there has been a change. With COVID people do have different expectations and we do not know where it is going to end up. That is really my point. We do know that as State governments and others and planners start to work through what does a CBD look like down the track, what happens to transport, what happens to highways, there is a real need to try to understand where this trend may lead whether it is medium-term or long-term and what the implications are. We thought we would do a series of reports on this to try and shed some light into that. The first we produced is an attitude survey of 1,500 remote workers. It was a survey that looked at attitudes at that point to remote working. It looked at the costs and benefits of remote working. It looked at some of the barriers and it looked at some of the impacts.

It covered a sample of about 59 per cent of the New South Wales workforce. We will use the results to try to make some estimates overall of what it might mean for the entire New South Wales workforce. The key report findings were that a remote worker's preference suggested that about 30 per cent of all work in New South Wales might be able to be done remotely, this was a 69 per cent increase on pre-pandemic levels. In other words,

once people started doing it they realised it was possible. That is not surprising. This was a survey of the workers, it was not a survey of managers. The workers themselves reported substantial benefits from working from home. Most of those are pretty well known now: clearly time saved on commuting is a plus for everyone; more family and personal time; better work-life balance; and, many felt that they were more productive when they were doing this work. I have to stress that this was early stages of the process.

It was clear also that remote working differed substantially across sectors. Some areas could do remote working a lot more effectively than others and that will become clearer as we look down the track. We also identified some real challenges for remote work including the difficulty of collaborating and sharing knowledge. Again that is a function sometimes of the area that we are working in but that clearly is an issue. A number of people felt social isolation from remote working and again that is understandable given what happened. The report looked at a hybrid model which has pretty much become a practice these days where people work sometimes from home and sometimes from the office and what that might mean for life going forward. We realised that this was only the first report we needed to do on this and we are now doing a report which will actually focus more on the experience of employers. We want to get their feedback on how it is going and the factors that might impact their decisions about remote working. How they feel about the whole thing as well as employees.

We are doing a follow-up survey that will tell us 12 months down the track where things are and what the attitudes are to that. We can see any differences between employees even in that. We will be looking at the employer's perspective. It is a work in progress and it is really interesting. Hopefully we will learn something from our second report. The other report is on the adaptive workforce. It is something that we think is really important going forward. We need to look at what is the future of work. There is a lot of work being done on this and the council felt that we could contribute to that as part of the process of understanding better where the future of work was going to be. We have partnered with Faethm AI to undertake a detailed modelling on the future of industries and skills. We are trying to predict key trends in future skills, tasks and jobs.

**The Hon. MARK PEARSON:** What was the sentence?

**Mr STEVENS:** We have partnered with Faethm AI, it is a company. It is one of our partners in doing this report. We will look at key trends and try to gain a better understanding of what will happen down the track for occupations, jobs, how flexible people might be to move across jobs when circumstances change. That is really where we are on that and I think at that point probably I should stop rather than take up all of Commissioner Achterstraat's time.

**The CHAIR:** Mr Stevens, when is your adaptive workforce project going to produce its first report?

**Mr STEVENS:** We hope later this year. We are looking towards the end of this year.

**The CHAIR:** I am a bit disappointed about that because I think in your submission to us you said you expected it to be in the first half of 2021, "The project is currently in its early stages, with research findings expected to be published in the first half of 2021."

**Mr STEVENS:** I think it is probably a bit later than that now. Like a lot of things we are perhaps a little optimistic about how fast things can go.

**The CHAIR:** Fair enough. You should talk to the productivity commissioner.

**Mr STEVENS:** He can probably help us.

**The CHAIR:** Outside the adaptive workforce process do either of you have any other data about any projections as to the rate of automation you expect New South Wales to experience in the next 10 years?

**Mr ACHTERSTRAAT:** We have not done any work on that, Chair.

**The CHAIR:** That has been covered by the adaptive workforce report?

**Mr STEVENS:** Yes, we expect that will be part of our report.

**The CHAIR:** Are you, as part of that report, producing information about likelihood by industry?

**Mr STEVENS:** Yes, occupation, industry and region.

**The CHAIR:** And occupation?

**Mr STEVENS:** Yes.

**The CHAIR:** And region?

**Mr STEVENS:** Yes.

**The CHAIR:** In that sense, there has been other analysis produced in this field which looks at tasks and the distribution of tasks, is it going to that level as well?

**Mr STEVENS:** I cannot answer that at the moment, it depends on where the research goes. The way we work is that we look at the research and if there is something that we believe we should concentrate further on we do it and if it is not very productive we will not.

**The CHAIR:** Commissioner Achterstraat, in general is automation associated with an increase or decrease in productivity?

**Mr ACHTERSTRAAT:** That is a very general question and I know you prefaced it by saying "in general" but I think you would have to look at every particular sector. If we look at automation or even technology changes in relation to aeroplanes. In 1970 it would cost \$4,000 to fly to England and back and now it is \$2,000. To a certain extent automation does improve productivity and makes things cheaper. I guess what we are saying is that we need the appropriate regulation to ensure that we address the safety issues there. We do not over-subscribe the regulation and tell people that you have to do bang, bang, bang. It is more technologically neutral regulation.

**The CHAIR:** What does that mean?

**Mr ACHTERSTRAAT:** What it means is yes and no.

**The CHAIR:** What does technologically agnostic regulation practically mean?

**Mr ACHTERSTRAAT:** I guess it basically means less prescriptive. For example, we might say back in the days when taxis first came around they said we are going to regulate taxis: This will be the size car, this will be the uniform the person has to wear, and this is how far from the rank he or she is able to be. Now when the technology is changing those sorts of regulations are no longer relevant. What we are after is only to regulate safety rather than prescribing every minor detail. It is more the outcomes that should be regulated rather than the inputs. When they were designing the tollways originally they would say the toll station has to have this colour bricks, this high and this, that and the other. When technology changed they said we do not care what the toll station is like, you can collect the toll any way you like, and as it has turned out it is all done electronically now. The regulation has changed there. That is, in general terms, what we mean by technologically neutral.

**The Hon. WES FANG:** In that respect is it the case that perhaps regulation legislation is actually the handbrake on productivity? It so prescriptive that it has not caught up with technological innovation and that is the handbrake to the productivity that we could be experiencing in the current climate?

**Mr ACHTERSTRAAT:** It can be, certainly, Mr Fang. That is why at the Productivity Commission we go through the regulations that are there and get submissions from people to say which ones are no longer relevant. Some of the regulations were installed five, 10 or 20 years ago. They may or may not no longer be relevant. I think it is a very good point.

**The Hon. WES FANG:** When you are saying that you are technology neutral, you are really just saying that so long as safety factors and other components that are not related to productivity are adopted by an organisation, they can freely flow into, for example, taxis with rideshare apps and the like. Cover off the safety aspects, go for your life and we will get out of your way.

**Mr ACHTERSTRAAT:** I think that is very well put. I think the issue is defining what outcomes are mandatory that need to be regulated. Safety may well be an outcome that needs to be regulated, but certainly the size of a car or the colour of a uniform may not be. So there should be, in my view, less number of outcomes and they should be the things we are aiming for rather than regulating the inputs.

**The Hon. WES FANG:** You are speaking my language.

**The CHAIR:** Just to be clear about that, to be specific, your position is such that you would not support recommendations which imposed an undue barrier to entry or exit without clear public benefit? For example, you made the point about taxis and one of the effects of those regulations in the eyes of some was that it created a barrier of entry for people to be able to enter the market and provide services which inhibited competition. You would agree with that?

**Mr ACHTERSTRAAT:** I would have to look at each individual one as it comes, Chair. Because, for example, we take the view that there should be, in many cases, mutual recognition of qualifications from other States. People say that that should not be the case. Others will say if we stop the mutual recognition, that is a barrier to entry.

**The CHAIR:** I am asking you because Mr Fang did put a general proposition. In order to tease it out, I am trying to understand is your position that we should apply this as a general philosophical position, as Mr Fang has outlined, or is it the case that we need to be looking at this specifically and contextually according to what is purported. I am trying to understand the balance we are trying to reach here in terms of your position.

**Mr ACHTERSTRAAT:** I am not a big fan of having barriers to entry. But there may well be situations where there are other factors which require it. There may well be particular nuances on safety or other reasons why the status quo has to be maintained. Philosophically, I am not a big fan of barriers to entry.

**The CHAIR:** A classic example might be, if you wanted to operate an airline, you would have to satisfy people that you have got minimum safety standards in place. You could not just offer a service. You would agree with that?

**Mr ACHTERSTRAAT:** Sorry, I missed the question but is it that if you are running an airline you would have to satisfy the safety? Clearly.

**The CHAIR:** Yes, you would agree with that. That is a clear case of an example in which a regulatory requirement around entry is required.

**Mr ACHTERSTRAAT:** I would imagine there should be the regulation to control safety and there may well be other ones in relation to pollution that is caused by planes.

**The CHAIR:** But the point you are trying to make about not regulating inputs but rather focusing on outcomes means that we should not be tying regulations to a specific form of technology or requiring the use of a specific form of technology. Is that the way to appreciate your answer?

**Mr ACHTERSTRAAT:** Yes. In general terms, yes.

**The CHAIR:** Thank you. That is clear.

**The Hon. WES FANG:** For example, if there was a lottery from which the Government generates an income and another independent private operator might want to introduce a lottery, there might be a barrier to that because of the way that we generate income as a State. We would not want to open that up. I am not talking about that, but in general where we are talking about a workforce and a productivity gain that can be beneficial to a populace, is it generally your opinion that by opening up and removing those restrictions and barriers that we are opening ourselves up to not only productivity gains but also a benefit for the State moving forward?

**Mr ACHTERSTRAAT:** In general terms, Mr Fang, opening up competition tends to encourage productivity and innovation et cetera. But there may well be reasons—other reasons, extraneous reasons—why it should not be open. Regarding the lotteries one, it may well be that there are other factors which may suggest, from a gambling point of view or for some other reason, why the outcomes are such that there could well be a barrier to entry. We have to define what they are.

**The Hon. MARK PEARSON:** Just on that, when the Productivity Commission does an analysis, do you take into account ethical considerations around that subject?

**Mr ACHTERSTRAAT:** We are getting into Robert Kennedy type of analysis about what is productivity and what is the wellbeing of the community. We have utilitarian ethics, we have Jon Stuart Mill, we have all sorts of ethics—a wide spectrum.

**The Hon. MARK PEARSON:** Are they taken into account, any of them?

**Mr ACHTERSTRAAT:** I would not say specifically because everyone has a different set of ethics, but we do take into account community acceptance and wellbeing. But, Mr Pearson, we do not sit down and do a checklist of, "These are ethics: bang, bang, bang." But we do look in more general terms at it.

**The Hon. MARK PEARSON:** Just coming to you, Mr Stevens, you said in your analyses, the work you have you been doing, the surveys et cetera, you have not really looked at how employers view this remote working et cetera. But have you formed a view just by your research so far as to what might be most employers' view of this change into remote work by their employees and themselves as employers?

**Mr STEVENS:** We have not done that yet and that is why we are doing the work. Because at the end of the day we would like to do the work rather than just have a general feel for it. Yes, we can talk to individual people and frankly the view differs. When I talk to people, it differs. I cannot say there is one group who think yes and one group who think no. We need to do that work as a whole.

**The Hon. MARK PEARSON:** Do you think this whole crisis, this major shift in the way we work, has changed what work is? What is the actual meaning of work to people?

**Mr STEVENS:** It may change how some people view work. I think others would probably think the work was the same but simply being performed in a different location. That is probably, I suspect, the more common view. But I think people are seeing being part of a workforce perhaps differently than they did 12 months ago.

**The Hon. MARK PEARSON:** Do you think that seeing is more positive than it was before?

**Mr STEVENS:** I think it is very important to know how attitudes change over time because I think, at the end of the day, people can have one view after a month of doing it and have a very different view after 12 months of doing it, when they suddenly find that things they take for granted are not there. If I can use my own experience, I think, to an extent, a lot of things work on human capital. In other words, I chair a few boards and I think people interact electronically because they know each other. Up to now they have actually been physically together and when they suddenly do a Zoom meeting they can actually do it quite well. But for someone coming into a new arrangement like that just by say Zoom is not that simple. So those sorts of issues over time are what I think is really interesting.

**The CHAIR:** It is absolutely clear that in its modern iteration it is different, but the remote work phenomena is actually the return of homestead work, is it not? It was the case that, for the majority of human civilisation, most work was performed in the home.

**Mr STEVENS:** I think if we go back far enough that is probably right. But equally I think there is a lot of different—

**The CHAIR:** It is not that far back.

**Mr STEVENS:** It is certainly before my time.

**The CHAIR:** Fair, but you understand my point.

**Mr STEVENS:** I do understand your point. What we have also seen over time is a lot of trends towards mega metropolises and people coming together and a lot of work done internationally and in Australia suggesting that people coming together actually is important, so these are different sorts of trends which need to be balanced.

**The CHAIR:** Agglomeration is correlated with both innovation and productivity, is it not?

**Mr STEVENS:** Exactly. It has been.

**The CHAIR:** In fact, it is a huge reason why we have cities in the first place.

**Mr STEVENS:** I think that is right and I think, if you look at some of the trends in innovation precincts, that is one of the factors.

**The Hon. ADAM SEARLE:** Just on the remote working insights report—and I note you talk about productivity increasing by about 1.6 per cent if people continue to work. What has been the major way in which you have calculated that? In one sense it seemed to me to be reasonably low, given the scale of remote working.

**Mr STEVENS:** A lot of that was self-assessment. Self-assessment is just that. To some extent I think that needs to be balanced then by the assessment of the employers as to whether they see it as well. But I think, most importantly, as Peter Achterstraat said, productivity is about outcomes at the end of the day. Some areas' productivity and outcomes may be affected by remote working in a way that other jobs are not. I think to my mind this is not one size fits all, at the end of the day. There are going to be some industries where it works well, other industries where human interaction—we talked earlier about innovation for example—is going to become more important.

**The Hon. ADAM SEARLE:** Obviously, with the issue of collaboration, there are limits to what can be done remotely. I accept that. But certainly, if you take into account the freeing up of the rail and the road system through less people commuting, the less physical wear and tear—I live in the Blue Mountains. If I commuted every day, that would be like four to five hours travelling every day. That is nearly one day out of seven travelling. There are tens of thousands of people across Sydney who are commuting that kind of quantum. If you take a large proportion of that out of the system, that is a lot less wear and tear on people, wear and tear on their relationships, and more time, theoretically, in the home. You would accept that all of those things may be intangible but they add to productivity?

**Mr STEVENS:** Absolutely. That came through in our survey, that people saw those as benefits, particularly time commuting. I am not aware of anyone that particularly likes a long commute. That was seen.

**The Hon. ADAM SEARLE:** The second thing which comes out a little bit in your research but anecdotally has come through very strongly to me in talking to people in the public and the private sector was—with the lockdown and the pandemic, people were working at home. Obviously, they were very grateful to work. People tended though to be working much longer hours than they would if that had been commuting, partly because they did not have to watch the clock and leave at a given time, but also, I guess, there was a sort of sense of enterprise in that. We were facing this terrible challenge, and people were working to that. What has come through to me is that this intensification and extension of the workday has actually continued to the present, where, whether they are now going back into the office more frequently, the expectation of their managers is now still to work your 12-hour day rather than your eight- or nine- or 10-hour day. That seems to be, whether it is the private or the public sector—is that something that has come through in your research?

**Mr STEVENS:** That has not yet come through. It will come through in a second round when we look at employers' attitude to this. A lot of people did report the fact they were working longer hours, as you say, partly because they probably had more hours to work, to be frank. I think also it is very hard to separate it from the entire circumstances around COVID and the lockdown and the isolation. I think that creates a different atmosphere from when it becomes more normal. Really what our second survey is about is to see whether attitudes have changed in 12 months since then and what are employers thinking of this in terms of how do they see it—whether they see it as being good, how do they see the balance. I think there are a lot of things we are doing now which, frankly, we will not get back to doing the old way. I think that is absolutely right.

**The Hon. MARK PEARSON:** There was a lot of fear at the beginning too as to whether a person will actually keep their job. So that would have been factored into their attitude to the work. Correct?

**Mr STEVENS:** Correct. That is why I say we need to look at it when it becomes more normalised.

**The Hon. ADAM SEARLE:** But a lot of workplaces, including employers, were very resistant to allowing people to work from home not just regularly but on a significant scale, because there was this sort of apprehension that you would not be able to carry on the enterprise. If that was a myth, that has now well and truly been busted. But I think you are seeing where people would rather be collaborating in a workplace two or three days a week but also getting the benefits of not commuting two or three days a week. Is that with a balance of the—

**Mr STEVENS:** Yes. That is the hybrid. That is really what is coming through. A lot of people like the flexibility to have that option.

**The Hon. ADAM SEARLE:** My last question on this topic is this. Obviously, you are talking about surveys, self-reporting, people's perceptions, their employers' perceptions. Is there any way we can get a more objective appreciation of the beneficial impact to the economy, including intangible benefits such as a lack of commuting and more personal time, at least in theory, that can come from these different work arrangements and work patterns?

**Mr STEVENS:** It is going to be hard because at the moment any macro trends are completely swamped by the effects of lockdowns and other restrictions on travel, which are still there, so that, if you are looking at a macro sense to what has happened to economic growth, then you are not going to see the benefits of this sort of hybrid or working from home because there are too many other factors swamping it. So I think it is very hard to look at objective stats. That is why we are looking at more attitudes and views.

**The Hon. ADAM SEARLE:** Given that so much of our economy is services, how can we meaningfully measure productivity in that sense? Mr Achterstraat, do you have a view about that?

**Mr ACHTERSTRAAT:** I will give feedback on a question that Mr Mookhey asked and you built on, Mr Searle. It is a two-edged sword, working from home, because if people, particularly in the accounting and professional services area, think the work can be done from home, it can be done in suburban Sydney, it can be done in regional New South Wales, the next step is it can be done off shore. And I guess that is the real issue that we have got to come to grips with. We have got to make sure that in New South Wales we have got the value add to keep the work in New South Wales so that they do not think it can move over. How do we define productivity? Working longer hours to produce a little bit more is not necessarily productivity in my book. It just means you are making people work harder. Productivity in my book is an increase in the amount of goods and services produced per hour worked.



**The CHAIR:** Mr Searle asked you about some macro or, I guess, other forms of analysis which are less dependent on perception methodology. In your submission you make the point that, if New South Wales remote workers worked remotely as much as they prefer after the pandemic, then the State's productivity could rise by 1.6 per cent compared to 2019. Do you know how that figure was sourced?

**Mr STEVENS:** It was basically an estimate based on people's perception of their increased productivity and also overlaid with some international experience. It has been—

**The CHAIR:** On notice do you mind providing some more explanatory detail about that figure?

**Mr STEVENS:** I am happy to take that on notice and let you have that.

**Mr DAVID SHOEBRIDGE:** Thank you for your submission. I am sorry I missed the opening statements and that first part of your evidence. But I assure you I will go back and check the transcript. I suppose I was interested in the make-up of the IPC, Mr Stevens. I know you get appointed. Then were you consulted on the make-up, the membership and the spread of membership for the IPC?

**Mr STEVENS:** Yes, I have been consulted. I think the membership of the IPC is interesting because we do have a fair number of vice-chancellors from universities on it. I think that is a strength because what we have actually been able to do is leverage a lot of university research into our work. That has then been balanced by the fact we have industrialists and others on it. It is a good mixture in my view. Yes, I have been consulted.

**Mr DAVID SHOEBRIDGE:** I think I counted three vice-chancellors.

**Mr STEVENS:** There are more actually, to be honest.

**Mr DAVID SHOEBRIDGE:** Yes, I see there are more. I counted three in my first glance, but now I look more deeply. About half of them are vice-chancellors. You have a couple of people from industry?

**Mr STEVENS:** Yes.

**Mr DAVID SHOEBRIDGE:** You have a couple of departmental representatives?

**Mr STEVENS:** Mainly as observers.

**Mr DAVID SHOEBRIDGE:** You have at least one appointment from Treasury, I think.

**Mr STEVENS:** An observer.

**Mr DAVID SHOEBRIDGE:** Joann Wilkie is just on the—

**Mr STEVENS:** She is a deputy secretary in the Treasury, and she is an observer of a council meeting.<sup>1</sup>

**Mr DAVID SHOEBRIDGE:** It is not clear from your website who are observers.

**Mr STEVENS:** We will try and make it clearer.

**Mr DAVID SHOEBRIDGE:** You have two special advisers?

**Mr STEVENS:** Yes, we do.

**Mr DAVID SHOEBRIDGE:** But what is, from my perspective, notably missing is anybody from organised labour. There is no union representative. There is no kind of workplace or worker representative. Was that a conscious part of the make-up of the IPC?

**Mr STEVENS:** I do not believe it is conscious. I take your point. There is no-one. But I do not think it was a conscious decision to exclude anyone.

**Mr DAVID SHOEBRIDGE:** A lot of the kind of reviews that you do—for example, the November review you did was actually testing the response of people actually working. Surely, having a perspective from somebody from organised labour when you are designing those kinds of questionnaires and then when you are considering the views would be valuable.

**Mr STEVENS:** Yes, it would be and I think it is probably worth explaining how we go about our projects because it is not just the council that does it; we actually have a subcommittee, which we set up and which

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<sup>1</sup> In [correspondence](#) to the committee dated 21 April 2021 Mr Neville Stevens AO, Chair, Innovation and Productivity Council clarified his evidence.

does involve people who have expertise in the field. We recognise that all council members do not have expertise in this in remote working, so we do consult these groups in both setting it up and in the work of the committee.

**Mr DAVID SHOEBRIDGE:** So, in the example of that, which unions did you consult?

**Mr STEVENS:** I would have to take that on notice.

**Mr DAVID SHOEBRIDGE:** But did you—I counted between special advisers and may be some other observers as well there were 15 persons who I identified in your members section on the website. Do you think it might be valuable to reflect upon the absence of any union representative or any worker's representative to ensure that you actually have that perspective on the innovation council?

**Mr STEVENS:** I am very happy to reflect on it.

**Mr DAVID SHOEBRIDGE:** Do you accept it is an absence in some way?

**The Hon. WES FANG:** No, it is not.

**Mr STEVENS:** Look, at the end of the day it is the quality of the people.

**Mr DAVID SHOEBRIDGE:** I was kind of asking you, not Wes Fang.

**Mr STEVENS:** No. I happen to think it is the quality of the people.

**The Hon. WES FANG:** I am happy to give you my opinion.

**The Hon. ADAM SEARLE:** Yes, but it would be better if we heard from the witnesses.

**Mr DAVID SHOEBRIDGE:** If you would just be quiet, that would help.

**Mr STEVENS:** At the end of the day, people are not on as representers of their industry. We are on as individuals and I think the quality of individuals is really important, and they can come from any walk of life and from any industry group.

**Mr DAVID SHOEBRIDGE:** In your position, Mr Achterstraat, how do you go about consulting with workers' representatives—you know, unions and the like—when you are looking at productivity issues?

**Mr ACHTERSTRAAT:** Sure.

**Mr DAVID SHOEBRIDGE:** Because obviously it really deeply impacts upon somebody's working life these productivity issues.

**Mr ACHTERSTRAAT:** Absolutely, and so how do we consult with various people? We do not have a council, as it were, but we issued the discussion paper, which had ideas in it and we circulated that. We liaised and spoke with large numbers of people—community housing groups, all sorts of people—who responded to us—the NCOSs of the world and industry associations we liaised with. We got all their ideas and put them together in the green paper. We met the Environmental Defenders Office, I think, on various things or on something and I am not sure to what extent, Mr Shoebridge, it is push-pull, whether we go out and reach. But we published this document and I think it has been seen by over three million people.

**Mr DAVID SHOEBRIDGE:** Yes.

**Mr ACHTERSTRAAT:** Not read by them, hopefully, but they have seen the cover and so we have been able to attract lots of input from various people.

**Mr DAVID SHOEBRIDGE:** So your engagement is through that, and I am not being derogatory in that, but more the white paper-green paper kind of process where you put out discussion papers—

**Mr ACHTERSTRAAT:** Correct.

**Mr DAVID SHOEBRIDGE:** —and in that way it is open to all-comers.

**Mr ACHTERSTRAAT:** And after the green paper, Mr Shoebridge, we did run workshops and we did one on each topic plus the western Sydney one and I go out, and I think I have met with hundreds of groups to talk to them and various things. I am going up to Newcastle in a couple of weeks to talk to groups of people and get ideas because, as you say, with the discussion paper, green paper, white paper we need to show people what the problem is before we get into the solution, or ask them to help us with the solution.

**Mr DAVID SHOEBRIDGE:** Is part of your review about productivity looking at the actual imbalance in workloads that is increasingly part of our workforce? We have a group of people who are grossly overworked

and then another group of people who are either unemployed or underemployed and desperately looking for more work. Is that part of your remit to try to more fairly share work?

**Mr ACHTERSTRAAT:** Look, I am very conscious of that issue. I am conscious of the fact that while we have lots of job vacancies out in the country or in the regions, it is a different type of work. There is the level of underemployment and people working in the wrong industry, et cetera, is a factor. I am also, in my introduction, I spoke about average costs of living, average living standards and average real wages, I consciously made that decision that, while productivity improves, average real wages can go up, but that does not mean that everyone's real wages will go up. It means some may go up. It is like the NAPLAN results: If the average goes up some of them are going to go up, but, to answer your question, no, I have not specifically looked to see has there been an overload in some areas compared to others.

**Mr DAVID SHOEBRIDGE:** Well, I think there is a variety of studies, but it would also be our own anecdotal lived experience that we can see that there are parts of the workforce that are working ridiculous hours, some of that unwilling, and there are other parts of the workforce that are desperately looking for more work.

**Mr ACHTERSTRAAT:** I agree with that. I agree with that.

**Mr DAVID SHOEBRIDGE:** Yes, but that is not part of your broader remit.

**Mr ACHTERSTRAAT:** We have not looked at that to date but in the future when we look at other work I might look at it through that lens. I think that will be a helpful lens to look through at it because, when we talk about the average train being on time, it does not help you if your one is always late, all right? It is similar with work.

**Mr DAVID SHOEBRIDGE:** And in terms of productivity, you know, the promise of all these productivity gains at least traditionally was that we would get increased leisure time, you know. I do not think the promise was ever fully automated luxury communism.

**The CHAIR:** Not yet.

**Mr DAVID SHOEBRIDGE:** But the promise was increased leisure time. When you are looking at productivity, is it part of your remit to consider whether or not they could actually be returned rather than just as the income but also as leisure? Do you look at that trade-off?

**Mr ACHTERSTRAAT:** Look, it is a very good point. I have not specifically looked at it. When we say the promise of increased productivity with these measures, I have never made that promise.

**Mr DAVID SHOEBRIDGE:** I accept that you have not signed onto the fully automated luxury communism model. I accept that.

**The Hon. WES FANG:** Because it does not exist.

**The CHAIR:** To be fair: Have you? You should put it to him: Have you signed up to that?

**Mr DAVID SHOEBRIDGE:** I have not asked Mr Stevens. I will ask him next.

**The Hon. ADAM SEARLE:** It seems unlikely.

**Mr DAVID SHOEBRIDGE:** But in terms of returning some of the productivity gain as leisure?

**Mr ACHTERSTRAAT:** Look, if we do not increase productivity, our real wages are going to fall, right? If productivity falls, our standards of living, on average, will fall. If fewer goods and services are made per person in the population than the year before, they will have to fall. If we can make more goods we can either distribute that surplus value by real wages or, I imagine, by leisure time. I have not specifically looked at that as to say, "Well, how would we distribute that to more leisure time?"

**The Hon. ADAM SEARLE:** I am sorry to interrupt.

**Mr DAVID SHOEBRIDGE:** That is okay.

**The Hon. ADAM SEARLE:** But just to take up Mr Shoebridge's point, he makes it extremely valid point about the work rich and the work poor. If you go back to the intensification of work, particularly in the lockdown that we were discussing a little bit earlier, there are people in the private and public sector where people were being frazzled—worked to the bone with more and more expectations with the vacancies in organisations not being filled and therefore other people looking for work. I mean, we were hearing about, you know, some gig operator getting 1,500 job applications every week during the lockdown, perhaps unsurprisingly given that people

are looking for work and so much of the new work is being sort of fragmented and vulnerable as opposed to people who are being sort of overworked. How do we get a better balance?

**Mr ACHTERSTRAAT:** I wish I knew. I do not have the answer to that.

**The CHAIR:** Sorry, Mr Shoebridge. I want to pick up on your line. You make the point, which is a point that is made often by Productivity Commissioners and commissions, that productivity is tied to future living standards.

**Mr ACHTERSTRAAT:** I am sorry, productivity?

**The CHAIR:** Is tied to future living standards.

**Mr ACHTERSTRAAT:** Yes.

**The CHAIR:** And the way in which we measure its distribution, amongst other things, is through real wage increases. Is that a fair summation of your position?

**Mr ACHTERSTRAAT:** Among other things and I think I quoted Robert Kennedy, who said that that is not the only way you measure gross domestic product. If we measured gross domestic product purely by dollars and average wages, I think we would be a poorer society.

**The CHAIR:** Sure.

**Mr ACHTERSTRAAT:** We do have to measure it by other wellbeing attributes but everyone will have a different view on that. I think Mr Pearson asked a question about ethics and there is such a spectrum of that. But wages is a necessary—increased real wages is quite helpful to improve living standards. It is not the only answer.

**The CHAIR:** For what it is worth, we support real wage increases. What I want to tease out of this is to focus on that link and not the others, which you rightly point out exist too. You said in your opening statement that generally in the last 30 years trends in productivity in Australia have been on the increase. Is that correct?

**Mr ACHTERSTRAAT:** Correct.

**The CHAIR:** But in the last few years it is faltered.

**Mr ACHTERSTRAAT:** In the last few years the rate of increase has gone lower and there is the potential that next year and in future years productivity may fall.

**The CHAIR:** And you have identified and you are continuing to do more research to identify factors that might explain why there has been a falling rate of productivity, or a decline in greater productivity growth.

**Mr ACHTERSTRAAT:** Yes. I guess there are two parts to that.

**The CHAIR:** I have got further questions, if you do not mind. But you are researching that?

**Mr DAVID SHOEBRIDGE:** But I do think we should get that answer, though.

**The CHAIR:** Sure. If you wish. Mr Achterstraat did talk about it in his opening statement, or bits of it, but if there is anything further you would like to add as to what work you are doing to investigate the decrease in productivity growth?

**Mr ACHTERSTRAAT:** Two parts to that, and I guess the reasons why productivity may or may not have fallen, as I indicated, there are cyclical reasons, which is COVID, there are structural reasons and the ageing of the population and the reduced percentage of the population in the workforce with fewer people in the workforce as a percentage of the total population will mean that. I am not, Mr Mookhey, looking in a lot of detail at why it is all happening. Is it our regulations are not as good? Is it that our skillings are not as good? Is our capital intensification not as good? I guess they are symptoms and I guess what our green paper does is try to come up with ways where we can increase productivity by re-skilling et cetera. So there are probably two ways to look at the same question.

**The CHAIR:** Yes, and I appreciate that, and I do also appreciate the additional detail you did provide in your opening statement on this point too. To be fair, New South Wales and Australia is not the only society with an ageing population.

**Mr ACHTERSTRAAT:** Correct.

**The CHAIR:** I think Japan is probably the most famous example of that.

**Mr ACHTERSTRAAT:** Absolutely.

**The CHAIR:** In fact, for the last 15 years we have offset an ageing population to immigration—

**Mr ACHTERSTRAAT:** Correct.

**The CHAIR:** —which, in the last 12 months, it has proven that that is vulnerable to shock, if nothing else. Do you agree?

**Mr ACHTERSTRAAT:** Absolutely. In the last 12 months some of the shortages in staff are in aged care and things like that where we used to be able to import immigration to meet those needs; now there could well be a skills shortage in those particular areas.

**The CHAIR:** So obviously in terms of that climate, skills investment and skills training—which is a point you make aggressively in your submission—has to have some priority in terms of investment by both employers and government. Would you agree?

**Mr ACHTERSTRAAT:** Skills training, whether it be VET or at schools, is essential. Human capital is, I believe, the biggest lever for productivity improvement, or one of the biggest, and technology and innovation, but skills.

**The CHAIR:** Thank you, that is very helpful. I want to talk about that link between real wages and productivity. The increase in real wages, is it not the case that that has happened from a decline in inflation and necessarily wage growth?

**Mr ACHTERSTRAAT:** I am talking real wages here. If we were to take out the inflation factor—

**The CHAIR:** Right, yes, fair.

**Mr ACHTERSTRAAT:** —then wages have gone up, but the rate of increase has fallen over the last few years—the rate of increase, taking inflation out.

**The CHAIR:** The rate of wage growth relative to the rate of productivity growth is not in sync. That is fair?

**Mr ACHTERSTRAAT:** I would have to look at the—

**The CHAIR:** Productivity growth is increasing much faster than real wage growth and has been for the last seven years. Is that fair?

**Mr ACHTERSTRAAT:** I would have to look at the data on that.

**The CHAIR:** And, as a result of that, the profit share of the economy has gone up to an historic high, you would agree?

**Mr ACHTERSTRAAT:** I would have to look at the data as to the profit share versus the wages share.

**The CHAIR:** And one of the concerns that has been raised in this inquiry and elsewhere is that as that link breaks down, the acrimony around change increases, especially there is a perception that any gain for productivity is redistributed through extra profit. Do you accept that is a concern?

**Mr ACHTERSTRAAT:** I can see if people cannot see the benefits of short-term pain it is a little bit more difficult for them to accept change.

**The CHAIR:** And that is one of the reasons why enterprise bargaining, amongst others, is collapsing in this country, do you agree?

**Mr ACHTERSTRAAT:** I do not know enough about it to comment on that, Mr Mookhey.

**The Hon. ADAM SEARLE:** But that is a fairly important driver of productivity, I would have thought.

**Mr ACHTERSTRAAT:** I am sorry, Mr Searle?

**The Hon. ADAM SEARLE:** I would have thought the outcomes of workplace bargaining would have a very material impact on driving or inhibiting productivity.

**Mr ACHTERSTRAAT:** I have not done enough research on workplace bargaining to be able to give a valid comment on that.

**The CHAIR:** But you accept that the introduction of enterprise bargaining in 1993, amongst other things, was responsible for a huge increase in productivity in the late nineties and early 2000s?

**Mr ACHTERSTRAAT:** I am not an expert in that area and I could not comment.

**Mr DAVID SHOEBRIDGE:** The IPC has a whole series of academics on its board. Have you looked at those reports that suggest a greater share of profits going to wages would actually be a boost to productivity?

**Mr STEVENS:** No, we have not looked directly at that. We tend to look more at the projects we are undertaking than the more generalised issues you are raising.

**Mr DAVID SHOEBRIDGE:** I could just give you one example—

**Mr STEVENS:** I am sure they would be aware of it, but the council itself has not.

**Mr DAVID SHOEBRIDGE:** I will just give you one example. The Deakin University study on profit sharing from 2019 did a meta-analysis of the studies about a fairer distribution between profits and wages and found a significant linkage between an increased share of the gross domestic product going into wages and increased productivity, which seems to align with a kind of understanding about ensuring that a restructure has self-interest in it, but you are not aware of that, Mr Stevens?

**Mr STEVENS:** It is not something the council itself has looked at closely, no. We tend to, as I say, look at other projects.

**Mr DAVID SHOEBRIDGE:** All right, but if you look at the post-war trend we saw in the 1950s into the first half of the sixties, an increasing trend towards the share of the economy into wages, but then from the late sixties onwards we have seen this almost inexorable push towards a greater share of the economy going in profits and we have also seen a softening of productivity over that long arc. But that is not something you have looked at from the IPC?

**Mr STEVENS:** Not directly, no.

**The CHAIR:** Has the NSW Productivity Commission, which I think you run, Commissioner—have you looked at this at all?

**Mr ACHTERSTRAAT:** I am not an expert on that, no. I do not think we have looked at that.

**The CHAIR:** Again, this is not a criticism, so do not take this as one, because I understand you are looking at other things, but this has been a feature of the national economic debate for a number of years. We have had the Reserve Bank governor recently make the point about the broken link between productivity and wages and the fact that we need to get wage growth up in order to sustain high demand. Is this an area that you can look at or you will look at? Is it within your remit your ability to do that?

**Mr ACHTERSTRAAT:** I could certainly look at it and then work out—it would be an interesting exercise. I have not looked at it yet. In my forward work program I will take it into account whether I should look into it in the future.

**The CHAIR:** Thank you. I appreciate that.

**Mr DAVID SHOEBRIDGE:** Just on profit share, do you accept that in most economic analyses the saying "never bet against self-interest because you know it is trying" has a kind of resonance in most economic analyses?

**The Hon. WES FANG:** I am going to call this "Three lawyers and a pilot".

**Mr DAVID SHOEBRIDGE:** Do you accept that that is a good check if you are looking at a restructure?

**Mr ACHTERSTRAAT:** I think that was a colloquialism by an elected member that said that, was it not, rather than an economic analysis?

**Mr DAVID SHOEBRIDGE:** Yes, but there is an inherent truth in it: never bet against self-interest because you know it is trying.

**Mr ACHTERSTRAAT:** I think that was a statement made by an elected—

**Mr DAVID SHOEBRIDGE:** I am not endorsing the author of it, but I am acknowledging that there is a certain thread of truth to it.

**Mr ACHTERSTRAAT:** Well, look, I am a bit more philosophical than that, Mr Shoebridge. I think, and I firmly believe this: one of the reasons why Australians and New South Welsh people, I believe, have been able to get through this pandemic is because of the mateship factor rather than the self-interest—the mateship. Traditionally, we do not always follow rules and regulations, but when it comes to looking after your mates, people have said, "Yes, I will wear a mask. I will take this." So I do not know whether self-interest is guiding that principle.

**Mr DAVID SHOEBRIDGE:** I am not suggesting it is the only factor—far from it. That is not my view of politics or economic structure, but there is an element of truth to it, which accords with the analysis that shows that if you give a greater share of profits to the people actually producing it—

**The Hon. WES FANG:** He is not agreeing with you, David.

**Mr DAVID SHOEBRIDGE:** —that they are more likely to be more productive.

**Mr ACHTERSTRAAT:** There is an attraction to what you have said; I do not know if there is any proof, but clearly if you reward people for effort then they may in fact be more productive, I would imagine, but I have seen no evidence of it.

**The Hon. WES FANG:** I thought profit was bad, David.

**Mr DAVID SHOEBRIDGE:** In terms of Australia has been not following rules, I have always thought if you show an Australian someone with a high-vis vest and a clipboard they will do whatever you want.

**Mr ACHTERSTRAAT:** Okay.

**The CHAIR:** I was going to ask you about competition rules. In terms of the interaction with the national competition framework, of course that is led by the Australian Competition and Consumer Commission [ACCC] but we are a party to the national competition policy. Does the Productivity Commission have any involvement with the ACCC in respect to the application of competition laws in Australia?

**Mr ACHTERSTRAAT:** We are mindful of the ACCC's work on that and I think we are keeping an eye on it. I do not know, Mr Mookhey, whether we are in negotiations or discussions with them on the Helmer review or whatever.

**The CHAIR:** It might be the other part of the Treasury that responds or not. I am just interested to see whether it is. But you do engage with the Australian Productivity Commission, do you not?

**Mr ACHTERSTRAAT:** Absolutely.

**The CHAIR:** One of the points that the Australian Productivity Commissioner has made, or, to be fair, other academics have made, which I think the Australian Productivity Commission is examining at least—I could be wrong on that—is that Australia's highly concentrated industry structure, in which we have duopolies or four major providers, is a serious inhibitor of productivity and innovation. Do you accept that general finding that Australia's industries are highly concentrated in a few firms in general?

**Mr ACHTERSTRAAT:** I have read that analysis, but I am not in a position to endorse it one way or the other. Probably different sectors, I would imagine, some would benefit by having a large group of players; others, for various reasons, it might be beneficial to have a smaller number.

**The CHAIR:** It is within our remit in our terms of reference to look at the adequacy of competition laws in preventing the emergence of monopolies, particularly in the platform economy. You may not have noticed that as part of our terms of reference but it is, and it does strike me that both the innovation council and the Productivity Commission might have some insight to whether or not there is risk of monopolies emerging in the platform economy, whether that is going to inhibit or otherwise disrupt and bring competition or otherwise stop competition and, therefore, stop innovation and/or productivity. On notice, is it possible that you could substantiate your submission by addressing that specific aspect of our terms of reference?

**Mr DAVID SHOEBRIDGE:** You can take it notice and then work out how to respond to it.

**The Hon. WES FANG:** I think he needs a translation first.

**Mr ACHTERSTRAAT:** Yes. I am a fan of competition and I think that drives efficiencies.

**The CHAIR:** On notice, would you mind supplementing your submission with your specific views on our terms of reference that require us to look into the competition laws?

**Mr ACHTERSTRAAT:** I would be happy to do that.

**Mr DAVID SHOEBRIDGE:** I suppose it becomes apparent in the space of particularly the gig economy, where if one player ends up being ubiquitous, that becomes self-reinforcing in terms of market power and market share. Everybody goes to the same provider because everybody has got the app and it has the coverage. And if you are not careful, that behaviour in the gig economy or the online economy could produce deeply anti-competitive results—either a monopoly or an oligopoly, both of which tend to provide less than perfect value for consumers.

**Mr ACHTERSTRAAT:** I can see how that could be possible.

**Mr DAVID SHOEBRIDGE:** But is it part of your current workload or the IPC's workload?

**Mr ACHTERSTRAAT:** I am getting some good ideas here that I can take forward into a forward work plan and it is really invigorating us. Unfortunately, Mr Shoebridge, I have not done any analysis on that but they are the sorts of things that we will certainly consider in our forward work plan.

**Mr DAVID SHOEBRIDGE:** Mr Stevens?

**Mr STEVENS:** It is pretty clear from the work of the ACCC that there is concern about the power of the platforms going forward. That is why the ACCC has launched a series of inquiries into various aspects of how the platforms are working. I think it is very clear.

**The CHAIR:** Hence we would like your view.

**Mr STEVENS:** Sorry?

**The CHAIR:** Hence we would like your view and the Productivity Commission's views.

**Mr STEVENS:** It is a personal view, it is not a counselled view. But it is pretty clear that there is increasing concern about the monopoly power of some platforms in some areas, and that is why the ACCC is involved.

**Mr DAVID SHOEBRIDGE:** And the self-reinforcing aspect, which I think would degrade from productivity outcomes. Obviously if you have a monopoly provider and there is no competition push, there is not a huge amount of incentive for innovation and productivity. They seem to go together.

**The CHAIR:** On that specifically, would you mind looking at the work of the Federal Trade Commission in the United States? They are the ones who are responding the most with respect to a lot of the rethinking about monopoly and competition law in the United States, particularly to do with the emergence of bigger platforms in a bigger economy as well. There is a lot of rethinking of this stuff. I would be interested to hear your views on it as well. On that note, I thank you. It was certainly a productive and good use of our time.

**Mr DAVID SHOEBRIDGE:** It was at least 2.3 per cent more productive than the previous session.

**The CHAIR:** Mr Commissioner, as I excuse you I cannot help but say that you did not deny that you are a supporter of fully automated luxury communism, so that perception may linger in the public community. If so, you can thank Mr Shoebridge for that. You have taken multiple questions on notice. You will have 21 days to return your answers from the date when you receive the transcript.

**(The witnesses withdrew.)**

**(Short adjournment)**



**ALEX VEEN**, Lecturer (Academic Fellow), University of Sydney Business School, affirmed and examined

**DARYLL HULL**, Executive Chair, Transport Education Audit Compliance Health Organisation, affirmed and examined

**DAVID PEETZ**, Emeritus Professor, Department of Employment Relations and Human Resources, Griffith University, before the Committee via videoconference, affirmed and examined

**TOM BARRATT**, Lecturer, Centre for Work + Wellbeing, Edith Cowan University, before the Committee via videoconference, affirmed and examined

**Dr VEEN:** I am giving my affirmation in my private capacity.

**Dr BARRATT:** I am appearing in a private capacity.

**The Hon. ADAM SEARLE:** I open the final session of the hearing today. There is the capacity for witnesses to give a brief opening statement. Given the number of witnesses in this session and the limited time, if witnesses wish to give opening statements, could they limit them to two or three minutes?

**Dr VEEN:** I can start on behalf of Dr Caleb Goods, Dr Brett Smith and Dr Tom Barratt—who is here on WebEx—and myself. We thank the Committee and its honourable members for the opportunity to discuss our research with you today. Our research on on-demand or gig work commenced in 2017, focusing on app-based food delivery services like Uber Eats and Deliveroo in Australia. It has been one of the first empirical studies on this sector and in the Australian context. The initial study consisted of semi-structured interviews with 58 workers, who were interviewed in the period between January and June 2017. The findings of this study have been published in three peer-reviewed, high-quality academic journals with international readership. We have further published some book chapters on gig work and the gig economy more broadly, and wrote several translational pieces for *The Sydney Morning Herald* and *The Conversation*.

Since the original project we have broadened out our gig work research to interrogate other stakeholders like consumers and employer associations, as well as different parts of the gig economy like rideshare driving services. In 2018 we conducted a survey of Australian consumers and their sentiments towards worker entitlements and conditions in food delivery services. Following COVID-19, we ran a repeat survey in a slightly adapted form in 2020 and we are still in the process of analysing these results. We further supervised honours and doctoral students who are focused on different parts of the gig economy, we are collaborating with international colleagues in terms of collaborative comparative studies and we have been engaging with different industry stakeholders.

**Professor HULL:** I thank the Committee for the opportunity to speak to the submission that I made earlier this year on behalf of the Transport Education Audit Compliance Health Organisation [TEACHO]. The report we commissioned through the University of Technology Sydney [UTS], which has been made available to you, now adds to decades of empirical research and expert opinion concerning the adverse effects on workers of a continuing lack of regulation and a lack of systemic enforcement of work health and safety standards as applied to road transport in Australia, from a lack of training for transport operators through to unregulated and under-regulated remuneration systems and from deliberate movement of people by companies away from national employment standards and into precarious work using online technologies. There are, for example, over five decades of independent evidence-based research reports running into the dozens and scores that demonstrate clearly the link between safe work, remuneration and regulation. And more, various programs to improve the industry have been piloted, trialled, implemented and mainly abandoned over the past 50 years without any sense of real gut commitment to the working lives of thousands of transport workers.

Some of those, I might say, were started enthusiastically here in New South Wales. However, in 2021 we stand at the start of two seismic shifts in the road transport sector in New South Wales: The rise of new technologies in road transport and the aggressive spread of major global players in the on-demand freight business—for example, Uber Freight and Amazon Flex—not to mention the appalling state of play in the gig economy and food delivery riders in urban settings. When we got the report commissioned, two more food delivery riders had been killed on the road and there was one last weekend as well in Liverpool. In combination with external forces such as the new COVID normal of supply chains and the all-pervasive online economy, we are reshaping the ground under our feet even as we try to cope with definitions of employment, training, safe work and decent work. Perhaps the tipping point for real change and innovation has finally arrived—and this Committee is part of it. One can only hope and trust in the common sense of those who have been elected to serve the

community through the making of laws, introduction of regulations and the setting of standards, although I am often reminded by my more cynical colleagues that hope is not a strategy.

**Professor PEETZ:** Thank you for the opportunity to present evidence. I just want to focus on one of the key policy responses to the issues that are in the gig economy and, indeed, to the deep and complex area of digital disruption. In the text of my submission and in the first three attachments, particularly attachment A, I propose something called "directed devolution", which basically devolves responsibility to those in the best position to understand the circumstances but does so in a way that gives them very clear directions on what their objective is.

Under directed devolution the legal entitlements or obligations are set at a higher level—being the State jurisdiction—and then at a lower level the "subsidiary bodies", as we call them, would be required to work out [audio malfunction] implementation [audio malfunction] to protect the affected workers' interests. Subsidiary bodies might cover specific industries or groups of industries and they might need to be quite innovative to get results. But [audio malfunction] is generated from it, so it has got flexibility but it enables actors to learn from the experiments of other actors. An example of such an experiment was the regulation of the road passenger transport industry in New York in 2019. It was a highly innovative policy that converted, really, a highly time-wasting minimum standard into a practical [audio malfunction] rate [audio malfunction] worker solution. New York decided that a [audio malfunction] minimum wage should apply on passenger transport and then a specialist commission worked out how that could be done. But what works in the New York taxi industry might not be all that useful for ridesharing in New South Wales.

Directed devolution is a complement to, not a substitute for, specific regulatory interventions such as determining who is an employee, which is one of the problems [audio malfunction]. Then in [audio malfunction] submission I discuss how these principles could be applied at the organisational level concerning the potential misuses of algorithms and data. I propose establishment of independent ethics committees for organisations. They would have the expertise and responsibility to assess the ethical dimensions of each use of algorithms by the organisation and, if necessary, they would be able to block it.

Such committees would probably first be established in public sector organisations and phased into large corporations operating in New South Wales. Much like with the affirmative action Act at the Federal level when it was drafted, smaller organisations were first. I propose this model because governments really lack the expertise to adequately regulate the use of algorithms at the corporate level and their intervention would be too ham-fisted. There has been a fairly successful model along these lines in university ethics committees, and we can learn from that. I am happy to [audio malfunction] aspect of my submission [audio malfunction].

**Dr BARRATT:** Thank you, Chair. Dr Veen's opening statement covers our submission, so I have nothing further to add at this point.

**The CHAIR:** We will proceed to questions, then. Mr Shoebridge?

**Mr DAVID SHOEBRIDGE:** Thank you all for your submissions. I will first go to you, Dr Barratt or Dr Veen. One of the findings that you made was that your review of gig economy workers saw a good many of them getting less than the basic minimum wage. Then when you reviewed the willingness to pay on a consumer's behalf, there was a willingness to pay slightly more than they were paying if it improved the lot for workers but that willingness was not enough to cover the gap between what gig workers were getting and what the basic minimum wage would be. Did I misread your report, or is that a fair summary of that part of your report?

**Dr VEEN:** Dr Barratt, do you want to start and I will chip in after?

**Dr BARRATT:** That is a relatively fair characterisation. One of the things that we found—and this was out of the 2018 survey of consumers and participants—was that there was a willingness amongst those who were surveyed to pay more money. We tested this using an econometric technique called choice modelling, which sought to find the stated preferences of the users as to whether they would be willing to pay more money if it was to guarantee a level of protections for the workers that was commensurate with employment in Australia. As you correctly characterised, there was a willingness to pay some more money but it fell some way short of reaching the standards of employment. The lessons we would suggest to be drawn from that is that leaving these issues to the market and to consumer preferences will be insufficient to raise these workers' terms and conditions of work to those equivalent of an employee.

**Mr DAVID SHOEBRIDGE:** Sorry, Dr Veen, did you want to add anything to that?

**Dr VEEN:** No, ask your question.

**Mr DAVID SHOEBRIDGE:** One of the conclusions you could draw from that would be that there is a need for active intervention and regulation to lift the standards. For me, that is one of the obvious conclusions. Is that a conclusion you drew from that?

**Dr VEEN:** From our perspective, there are certain issues around the desirability, I guess, of the fact that these workers are earning less than a minimum wage. I guess the related issue is the current use classifications with the independent contractor model that a lot of these platforms are using, which actually allow this practice to happen. What we find is that some workers who are able to pick the most favourable hours to work, such as weekends or evenings, can have earnings above that minimum wage level. But the issue is, particularly for those who see this as a full-time opportunity, that they report earnings that fall below that threshold. That does indeed raise questions about the need, perhaps, for some regulation or standards.

One of the things that we have been advocating is perhaps greater transparency around the availability of this work. Platforms know how many workers are locked in at any certain point in time; workers do not. They do not know how many peers they are competing with for a finite number of gigs at any point in time. Having such transparency on these platforms might even be a first step to mitigate some of these most pressing issues. But, falling short of that, there is a broader question around the desirability of earnings falling below minimum wage levels.

**Mr DAVID SHOEBRIDGE:** It may not be a united political position, but assuming that there was majority support to ensure at least basic minimum wage conditions were met, your research would suggest that will not happen if it is just left to the market; there needs to be some regulatory intervention to make that happen.

**Dr VEEN:** If I may add to that—Dr Barratt, feel free to further chip in—I guess one of the issues that we have also seen through further research in the COVID context—with more workers turning towards this particular sector because of the lack of the ability, particularly for temporary migrant workers and the like, to access provisions like JobKeeper or JobSeeker—is that when there are more workers on these platforms but there is a finite number of gigs that go around that this becomes a very pressing issue. There may be a need to enforce some sort of regulation to deal with this. I believe that is an accurate characterisation of some of our views but feel free to further add to that.

**Dr BARRATT:** Yes, thank you, Dr Veen. I would add to that also the idea that if it is just left to the apps and to consumers, there is no guaranteed mechanism by which an increase in the fee per gig will be transferred to the worker. This idea of, if consumers are willing to pay more for a product, it is not guaranteed that that increase in pay goes one-to-one to the worker to increase their standards. If regulators—and I understand that we are speaking with regulators at the moment—would seek to generate a system where there is a minimum level of pay and conditions, then that would require regulatory intervention and the market of its own would not sufficiently deal with that.

**Mr DAVID SHOEBRIDGE:** Again I am going to simplify your submission, and I am sorry for that, Dr Veen. You talk about three levers you could pull on to try and fix this. The first is giving increased opportunities for workers to have a voice and to have recourse, particularly about unilateral decisions being made by a platform—maybe they are being deplatformed or their rates are being unilaterally changed or the like. The second is some minimum requirements in terms of safety and requirements for training and minimum standards for safety. And the third is transparency so that workers actually know who they are competing against in part or what the available pool of money is. Again I may have bowdlerised that and I apologise so if you wanted to clarify what your position was, feel free. How much of that regulatory response is at a State level?

**Dr VEEN:** I guess to answer the first part of your question, to what extent is that an accurate characterisation of our recommendations. I think that fairly accurately represents our views about some of the broader issues. We did not solely focus on earnings. We looked at some broader issues affecting these app-based food delivery workers, including safety issues and including issues around their ability to have ongoing access to work and to have recourse and redress to unilateral decisions by platforms' organisations or by the algorithmic management systems that these organisations have in place for their performance management practices. One of the big issues is, because the workers are independent contractors they cannot go to employment tribunals like the Fair Work Commission and so that is one aspect of it. Then there is the issue around the transparency that we already touched upon. In terms of your question, to what extent this sits within state or federal jurisdiction, I think that is not within our remit to discuss at length but I think Dr Barratt would perhaps be better placed to add something to that.

**Dr BARRATT:** Thank you, Dr Veen. What we have seen, and perhaps this will indicate some of the regulatory issues here, is that platforms have spoken to similar inquiries stating that they do not wish to jeopardise the independent contractor classification. While workplace health and safety, as an example, is something that

falls within State jurisdiction, it is something that platforms could provide to their workers and might be required or compelled to do so under occupational health and safety regulation within the State domain. But that would also threaten the independent contractor classification and perhaps push the workers into an employment category under the Fair Work Act and under the Fair Work Commission's jurisdiction.

There are really complex mechanisms that I am sure the Committee will understand better than we do. But this idea that those things, which are within the State domain, will also have an effect on other regulatory mechanisms within the Federal domain—that idea that while there are some things that do exist within the State domain here, the consequences of which must be considered in this more general perspective—might explain some of the regulatory stasis here in a general setting because of the interplay between State and Federal jurisdiction, although I am far from a constitutional law expert.

**The CHAIR:** I apologise for missing your opening statements but your submissions were all very excellent and very helpful. The first question I have arises from the TEACHO submission; but the question is not to TEACHO, it is to everybody. Your table on page 35 of your submission about the summary of regulatory features of existing and prior legislative schemes is very useful. I accept that not everyone on the panel has probably read it, but it is a very excellent examination of what a system needs to provide or could provide as well. In general, does the panel agree that any such system of regulation should provide a mechanism to determine minimum rates for people who work regardless of whether they are an employee or an independent contractor?

**Professor HULL:** I wonder, Chair, if I might jump in and endorse the work of my colleagues and segue across to New South Wales specifically, and thank you for referring to the submission that we had the University of Technology Sydney put together. The first point is that there is a State jurisdiction in Australia in which those questions that you have posed are able to be answered with a minimum change and that is New South Wales. Chapter 6 of the Industrial Relations Act in New South Wales has since 1991 regulated independent contractors in the State in terms of minimum conditions. It was one of the few exemptions when the State passed its employment law to the Federal government under the Fair Work Act that remained under New South Wales jurisdiction. Our understanding is that the most recent situation could be a simple matter, should the Government or the Committee determine to go down that road, to create a regulatory framework for delivery drivers and the gig economy simply by adding on another couple of categories to chapter 6 of the Industrial Relations Act, which does give the whole constitutional coverage of this matter. That is the first thing.

We did also say in our submission, however, that we felt that might be a reasonable solution for New South Wales but it does not help the country generally because the rest of it falls under the categories that you are describing under the Fair Work Act. Which is why we then, in the submission, accepted the recommendation from our colleagues at UTS that maybe one way to get through this is not talking about employment status but be talking about beyond employability standards. In other words, talk about standards rather than legal status under the Fair Work Act. If you set the standards and they apply to everybody, then whether you are an employee or a contractor does not matter as long as the standards apply.

**The Hon. ADAM SEARLE:** So with the dispute over the control test, the multi-factor test, whether you are in category A or B—

**Professor HULL:** Goes away.

**The Hon. ADAM SEARLE:** —you just apply the standards to the worker.

**The CHAIR:** Apply it to work.

**Professor HULL:** Apply it to work. It just goes away. Our proposition is: Having seen this employability argument going on for decades now, with independent contractors I might add on it, it has been resolved in New South Wales since 1991.

**Mr DAVID SHOEBRIDGE:** What about the contract determination model that you see in New South Wales and the transport industry? Do you see that as a—

**Professor HULL:** Absolutely, and I might say that your question about who gets what return from the gig economy, the minimum rates that have been set—I keep saying—since 1991—just to make the point—have meant that in New South Wales independent contractors receive a decent minimum rate for their work.

**Mr DAVID SHOEBRIDGE:** If you compare the remuneration in the Melbourne CBD against the Sydney CBD, one has a contract determination for the work and one does not.

**Professor HULL:** One does not.

**Mr DAVID SHOEBRIDGE:** How does it compare when you—

**Professor HULL:** The rates in New South Wales are amongst the best in Australia. The Victorian and Queensland situation is much more market-driven and the owners of freight get to determine a lot about independent contract rates, which does not happen in New South Wales. Again, I might say, I know this is a New South Wales committee so therefore I guess you are interested in New South Wales. But from the TEACHO perspective as a national organisation, it would be great if New South Wales did this because in our meetings with Federal Ministers under the present Government the then Minister for Skills, Senator Cash, made the observation that federally the Federal Government would be very keen to pursue this line of inquiry. However, it has got to be driven from the States because a lot of this business is State matters and not Federal matters. So we are now talking to Western Australia and to Queensland.

**Mr DAVID SHOEBRIDGE:** Someone needs to move.

**Professor HULL:** Someone needs to move.

**The CHAIR:** I appreciate your explanation, Professor Hull, about what a standards-based approach looks like, but that does raise the question of: What should the standards be that we should be creating laws to reflect? The first one I point to the panel. Should that standard include an entitlement on minimum rate of income?

**Professor HULL:** I would think my position, having made that explanation, would have been self-evident. I think it does.

**The CHAIR:** And that is a view that Dr Veen, Dr Barratt and Professor Peetz would have?

**Professor PEETZ:** I think the issue is basically: How do you express that entitlement to minimum remuneration or minimum standards of employment? For employees, minimum standards are mainly expressed on a time rate basis, X dollars per hour, whereas for contractors they are mainly expressed on a piece rate basis, X dollar per item, per use or whatever. It is then a question of working out how we convert the appropriate minimum standard from a time rate basis into a piece rate basis. I mentioned earlier the New York taxi driver and rideshare driver issue and that was essentially the sort of issue they encountered. They wanted a minimum wage, which in New York City was \$15 an hour, to apply to those drivers.

But how do you do that when you pay a taxi fare or an Uber fare of X dollars to get you from A to B? So, this commission basically looked at how long it takes to get from A to B for a typical driver and how long they spend waiting between jobs, which is quite a lot. There is something like 40 per cent of their time that they would spend waiting between jobs. So, what they basically did is they added up how much time it took people to get money, including waiting time and driving time; how much money it was that they were entitled to; and then what that needs to be in order to be equivalent to \$15 an hour. The way they did that and the conclusions they came to were very relevant for the rideshare and taxi driver industry in New York City, but you basically have to do that calculation separately for each group of independent contractors that you are looking at.

The minimum wage is basically set by—well, in Australia, it is the minimum wage in Australia for ordinary employees. How do we then translate that into a piece rate for various aspects of the gig economy? It is really the people who have been doing research in those areas, some of which you have got in front of you at the moment, who are in the best position to provide advice and submissions on that particular thing. I think there is a broad question as to how we go about it. What are we trying to do? And then there is a detailed question of—how does that apply in each of these particular aspects of the gig economy?

**Dr BARRATT:** I will take over. Thank you very much, Professor Peetz, for those comments. I think there are a couple of complicating factors, given the mechanics of the gig economy and how it has been set up. I thought it would be helpful perhaps for the Committee for me to explain a couple of the issues in terms of how you would actually go about making such a calculus of the type Professor Peetz explained. The first relates to our submission comments about data transparency and the idea that this data does exist, but it is the domain of the platforms and it is owned by the platforms. In order to make such a calculation there would need to be some form of data sharing or transparency, perhaps of the type that Dr Veen, Dr Goods, Dr Smith and I have outlined.

Another complicating factor here, though, is the presence of a concept called multi-apping, where workers are actually logged into multiple apps simultaneously. In the food delivery sector it might be Deliveroo and Uber Eats. The worker is on both apps. They might be logged into both simultaneously and find that they will be allocated a gig from one or the other, therefore finding a way of increasing their income on an individual level by having access to more gigs. And so, how you would apportion such responsibility for a minimum wage or some form of minimum standards would also need to be calculated in terms of this multiple contractor situation, which is not necessarily reflected in the taxi example. It also makes it relatively difficult, then, in terms of who is responsible for the payment of a minimum standard if a worker is logged into multiple apps, or multiple apps over multiple periods of time, or in different areas.

The question itself pertains to a very important issue that was expressed by the riders or the couriers that we interviewed, in terms of—it was not just the base rate of pay that was problematic. It was variability and it was uncertainty that was associated with independent contracting—the idea that the workers did not know how much they would make at a particular time of engagement, and also that it would change from week to week and day to day, depending on the particular market circumstances. Making such an aggregate calculus—as Professor Peetz says, while that might be a very helpful way of dealing with something like a minimum standard in terms of rates of pay, it becomes increasingly complicated just because of the mechanics and the operations of how platform work is actually arranged. I just thought it would be helpful for the Committee to understand some of the complications of deriving such a calculus.

**Dr VEEN:** If I may add something to Dr Barratt's explanation around multi-apping, I think one of the critical questions is around waiting times. Workers are paid for the deliveries that they make, depending on the platform, whether they structure that on a per kilometre basis or a fixed rate. But one of the critical issues is that workers spend considerable periods of time waiting between deliveries. For instance, we have seen recently in the United Kingdom with the Supreme Court decision there that one of the critical issues around the changes that the court recommended—that these workers be recognised as workers, not employees—related to the issue of waiting times and whether or not platforms will be paying for waiting times.

The issue around waiting times is even more complex when you take that into the scope of this multi-apping practice, whereby a worker can have multiple mobile devices on them and be logged into multiple platforms, and work for them interchangeably. That is one of the real challenges associated with determining the most appropriate rate and remuneration. That is why we believe it is also quite challenging to directly regulate for those minimum standards. But perhaps by equipping workers with better and more accurate information about the industry in which they are operating, they can make more informed decisions.

**The Hon. WES FANG:** Is that not happening now? Those workers are pretty well informed as to the operation of their industry. They understand exactly how they are paid and what their waiting times are. They probably know it better than some of the companies because they effectively game the system.

**Mr DAVID SHOEBRIDGE:** Sorry, is that reflected in any evidence we have in the Committee or is that just your personal view?

**The Hon. WES FANG:** Well, we got it from the workers themselves in their testimony when they appeared.

**Mr DAVID SHOEBRIDGE:** That must have been a different hearing to the one I was in.

**The Hon. WES FANG:** Dr Veen, what is your opinion on the matter? Do the workers understand how the actual systems work?

**Dr VEEN:** Based on the interviews that we conducted with workers, they have an idea about how these systems work, particularly around the allocation of these gigs, but often they have an imprecise idea because there is no transparency about how these algorithmic management systems operate. So, they may have assumptions that gigs are allocated on the basis of perhaps proximity to a particular restaurant or past performance ratings, but the precise ways in which these gigs are allocated are often unknown to these workers. So, they make inferred decisions around that, perhaps around what has worked for them on particular or previous occasions.

I would say they have an understanding about what is valued and what is communicated by these platforms—what are the critical issues—but to what extent that really is the case, they most likely would have an imperfect understanding of this. In terms of the data points, these organisations log how long a worker is logged into the application. They know how many riders are logged into their platform. They would have a much better understanding of that than these individual workers. I would say that, yes, workers have a bit of an understanding as to perhaps the most desirable times for them to operate and the periods of peak demand, but it is an inexact science. Perhaps Dr Barratt wants to further add to that.

**The CHAIR:** Before you do, though, the question was about knowledge—and that was important, good interchange—but what about any sense from the interviews that you did with workers as to whether they feel like there is a sense of control of the algorithmic management systems that they can share in? Has any worker in your interviews exhibited a view that they feel able to negotiate with the platform to adjust the algorithm or to otherwise adjust management practices to impact on how work is allocated?

**Dr VEEN:** We did not encounter any workers who experienced that they were able to have discussions with these organisations about these processes. In part, that is due to the way in which they operate, and these are often dehumanised practices. I think it is important here also to differentiate between different types of platforms.

Some organisations that operate here in New South Wales, they use sophisticated algorithmic management systems to allocate tasks to workers. There are others who sort of portray themselves also as platform type organisations, but they do not necessarily use this sort of sophisticated technology and have higher levels of human intervention in the allocation process. This is platforms like EASI or HungryPanda. They have different practices from Uber Eats and Deliveroo. So I think it is important to understand that depending on the workers you talk to it will depend on the platform that they are operating on.

I think that is very important—to a make differentiation between these organisations and not treat them as necessarily alike—and so we, in our study, focused on platforms like Deliveroo and Uber Eats whereby they use these sophisticated algorithmic management systems and whereby it can be quite challenging for these workers to actually have a direct human interaction with a representative of the organisation. One of my honours students has been doing research on platforms like EASI and HungryPanda whereby these workers have much more direct interactions with dispatchers of these organisations who are involved in allocating the tasks. So I think it is important to differentiate even within the sector.

**Mr DAVID SHOEBRIDGE:** I think Dr Barratt had something to contribute, but I could be wrong.

**Dr BARRATT:** I was just going to add to the previous question about rider knowledge. There is a time and space dimension to this, and so the idea that a platform would have live information whereas the worker can only ever really understand what is happening post-hoc is a really important asymmetry there.

**Mr DAVID SHOEBRIDGE:** I think everybody accepts, particularly in, say, the food delivery space, there is a whole lot of complex issues to consider, and it is not just a question of regulating a minimum rate. That seems to be the flavour of the evidence across the board, but if we assume that—that it is a complicated space and it is not just about legislating a minimum rate where you have multi-apping and the like—surely one of the answers would be to hand it over to a specialist tribunal to consider it in detail and then make a determination, having heard from the interested parties. We have an off-the-shelf arrangement in New South Wales, which is chapter 6 of the Industrial Relations Act 1996, which makes contract determinations, but currently it excludes food delivery. Taking up your invitation of actually doing something, Professor Hull, one thing we could do is remove the exclusion from chapter 6, allow a few contract determinations to be made by a tribunal that hears all the various issues, and then reflect upon it and see if that is delivering the expected outcomes. Professor Hull, I might go to you first.

**Professor HULL:** It is a possibility. There is an old story about it does not matter how complex a problem looks, you look at it the right way, it will actually become even more complex. I think that is where you might be going with this whole concept of how do you determine minimum rates. In 2011-2012 in New South Wales there was a road transport committee that was bipartisan. I think Ron Finemore was on it; I think the Transport Workers' Union was on it. They explored for a couple of years the concept of a rating system for organisations, not looking at the minimum wages but looking at the criteria that impacted upon the outcome of minimum wages. They looked at speed, fatigue, driver health, vehicle and equipment conditions. In other words, they set standards in those areas, and setting standards in those areas drives a conversation towards rates. So I think it can be come at from two different angles.

The rate stuff, I defer to my colleagues, and I expect that that conversation could go in a whole bunch of directions and probably should. However, I think there is a tail on the dog here, which is that you have chapter 6 if you want to use it. You could do precisely what you said and try it and see what happens. You have an agreed position that has been sitting on the table for eight years in New South Wales—bipartisan, by the way—for looking at a concept of a star rating system, which could be standards driven by either a regulatory framework or a joint regulatory framework or by a market mechanism. All three options are in the reports that have been tabled with the Government, and all are possible depending on the appetite for regulatory frameworks. But all three, I think, would move you in the direction of resolving some of the issues you are discussing here, or a choice of one of the three.

To me, the exploration of the journey is that you do not have to, in my view, reinvent the wheel. If I was having this conversation in Brisbane or Melbourne, you would have to reinvent the wheel, but you do not have to here. It is already on the table. The frustration that comes from myself and my colleagues in this area in New South Wales is that this is not the first conversation. The algorithms are different, the names of the companies are different, the purposeful nature of the business is different, but the underlying issue about the relationship between work and people who do it is the same as it was then. It would be interesting if the Committee was able to maybe pick up some trials or some experimentation—I hate the use of the word "experimentation"; it sounds scientific, but it is not—to pick up some trials and try them. I think you will chase your tail down a rabbit hole for a long period of time on this—and good luck—but I am not sure why there is not a cutting-of-the-Gordian-knot

conversation taking place. We have some tools, we have some levers; why do we not pull them and see what happens?

**The Hon. ADAM SEARLE:** That is right. To take up Mr Shoebridge's suggestion, I think I introduced a bill into Parliament that did remove the current exemption in chapter 6 for food delivery. The Parliament was not persuaded at that time, but that is at least a simple step—simply removing an exemption to see whether the Industrial Relations Commission could, in consultation with stakeholders, craft a solution in this space, at least for that part of the gig economy. That is a possibility, would you agree?

**Professor HULL:** Absolutely. I guess my frustration in a two-minute opening statement, in which one cannot actually say more than one wants to say, is that when I have appeared in front of a Senate committee of inquiry not too far from here, talking about a similar issue, I pointed out that I have sat in front of State and Federal Ministers—you can see I am one of the older generation. If I hear a Minister say to me once more, "But, Daryll, you don't understand, it's just politics"—I get it. That is what happened to the Road Safety Remuneration Tribunal, the kind of institution you were referring to. I watched that come and go. I sat with the Minister concerned who was involved in that, and her comment was, "You've got to understand, it's just politics." There was nothing in it apart from that, and I am thinking, "Well, yeah, but for thousands of truck drivers it is more than just politics." So my desperate plea to every forum I can get in front of is: I get the politics. Anyone who has lived for more than 20 minutes gets the politics in all this stuff. Is it possible to find a way to try to do things that are different, simple, that might get a better outcome and then choose the one you want to argue over, as opposed to having the argument first and then trashing the solutions?

**Mr DAVID SHOEBRIDGE:** Do any of the other three witnesses have a view on or have any of you reviewed chapter 6 of the New South Wales Industrial Relations Act and how it works in regulating non-employment relationships?

**Professor PEETZ:** I might. I am familiar with chapter 6 itself, but I would say that what Professor Hull said made a huge amount of sense in terms of removing the exemption. The question is whether you actually want to go so far as to giving a positive instruction for the industry to review, but certainly removing the exemption, doing something through that public discussion makes a lot of sense to me.

**The CHAIR:** But to be fair, that legislation only applies to the transport industry.

**The Hon. ADAM SEARLE:** Yes.

**The CHAIR:** The difficulty that we face is that the gig work is spreading beyond the transport industry, which brings me to the next question that arises. The other model that has been talked about here is a system that would have the same functions as the previous Road Safety Remuneration Tribunal writ large for the contractor space, not limited just to road transport. I see that in the submissions that have been made, I think by everybody, you all have some familiarity with that system as it operated for a year, I think it was. That is fair? That is fair to assume. Professor Peetz spoke about that in his submission as did both Dr Veen and Professor Hull. In terms of examining what a system design should look like to deliver an outcome-based approach, is that also a system that we should be looking at a principal level to apply and recommend?

**Professor HULL:** The answer from TEACHO's perspective is yes. When you do a post-mortem on the Road Safety Remuneration Tribunal, I think there were two issues with it that supported its demise. One was that there were tens of thousands of owner-drivers who were in a situation where they felt that the Road Safety Remuneration Tribunal was going to affect their businesses adversely in terms of making of determinations. One would argue that consultation was not sufficient in that space leading up to the situation. The second one was that it was more of a rates tribunal than a standards tribunal. My view would be—and I do not know whether that is where you were going—that the notion of a tribunal independent with standard-setting capacities, and I think my colleagues are moving down that road, would have a different remit than simply doing determinations on safe rates.

I think the two things that helped to crash and burn the remuneration tribunal were those two things. Would it be possible to rejuvenate it at the Federal level? Again, the argument from the present Government is "we would like to see some States take the lead and then we will follow along behind," because they do not particularly want to pick this one up. Again, if New South Wales were to take the lead I think you might find yourself with a good outcome not just for the State but possibly something that would be useful for the country as a whole. I will defer to my colleagues.

**Dr BARRATT:** I would just add that if such a direction was embarked upon I would be cautious or happy to caution those who were to go down that path to be clear as to definitions of what is and is not in the gig economy in that it does catch, depending on the definition that is employed, a whole bunch of different activities



that might or might not be intended to be captured in terms of such a tribunal or similar body. We have relied on a particular definition in our submission. We have been quite clear in terms of we talk about on-demand app-based food delivery services, to make sure that if such a thing was to be expanded beyond food delivery as part of road transport that it was very clear what was and was not under the remit of such tribunal.

**Professor HULL:** I might say, just to add to that, I agree with you. The tipping point that I referred to in my opening statement for a lot of those people who were concerned about the Road Safety Remuneration Tribunal outcome has been reached by the arrival of Uber Freight and Amazon Flex. A specific series of statements have been made that their intention is to take market share in Australia specifically from the major companies like Linfox and Toll by applying to the owner-drivers the same sort of apps that have been applied to food delivery riders at two summits that were held in Canberra over the past two years. The owner-drivers are now beginning to understand that they may not be the recipients of the new economy; they may become the victims of it.

**Mr DAVID SHOEBRIDGE:** If anybody wanted to add something in that space on notice having reflected upon it, I give you that opportunity now, but it is not required. One of the areas that I think cuts across the gig economy, perhaps on a uniform basis, is the absence of workers compensation rights for workers who are injured in the gig economy. That seems to be almost ubiquitous. Do any of you have a view about whether or not workers compensation rights should be expressly extended to cover work in the gig economy or not?

**Professor PEETZ:** That was an issue I looked at when I did a review of the workers compensation system for the Queensland parliament. Basically the model that I recommended, which they are still thinking about, was to calculate premiums—to have the agents, as they were, Uber and Deliveroo, pay a fee, a premium, that would be risk related in much the way as premiums are calculated for all sorts of industries. And it would be based on the amount of money that the agent or firm takes as part of the transaction. Then you need to have, as was mentioned short time ago, some caution in how you define the gig economy for some things that might fit the definition of an agent are not at all what you would be thinking of as being part of the gig economy.

So you need to have the capacity to exclude from these provisions certain groups like recruitment agencies and so on otherwise some of them might fall under and you want to avoid that. The general principle, I think, is valid. Given that most workers compensation systems calculate premiums based on some form of risk rating, I think it is quite a feasible thing to do. These people are workers and they deserve to be compensated and not to be asked—or not asked—to take out insurance. It is very inefficient having people take out their own insurance. It is much more efficient if the workers compensation system covers it and much more equitable.

**Dr VEEN:** In principle, based on the research that we have conducted and the discussions we have had with workers who sustained injuries on the job and the like, they would find it challenging to navigate insurance coverage by their platforms—or there is perhaps a responsibility on themselves to be insured. We believe there is a need for these workers to be captured within current definitions to also make sure that they are covered by the right systems. We spoke with workers who made false claims on their student insurance or false claims on the Medicare system even though they sustained their injuries at work. From a broader social perspective and sustainability of other initiatives, it is important that if injuries are sustained at work as a result of an accident that that is adequately covered by existing protections. I think Dr Barratt would be able to confirm that

**Dr BARRATT:** I would just add to that, Dr Veen, thank you. Just the idea of the definition of "at work" also becomes quite problematic in this domain. If you take, for example, a food delivery courier, a very narrow definition would be for the paid portion of work delivering the food from the restaurant to the customer. However, you could expand that through many layers including when they are waiting at a restaurant having been assigned a gig—so the workers are not always of the very place where the restaurant is—or you could increase that definition to times they are logged onto the app or it could include riding, for example, to the position where they want to log into the app in order to then win and perform gigs so that can they can earn some income. What Dr Veen says is accurate but just to even more carefully consider what we would mean by at work and where workers are covered under such insurance-type systems.

**Professor PEETZ:** I think most States systems have definitions of "at work" to apply to employees and you would be much advised to apply the same definitions to the gig economy. They vary with the travel time to and from work apply but whatever system is in place in the State for employees is the system one would apply, I think, for gig economy workers.

**Professor HULL:** I agree with what my colleagues have said. I would add to it from a slightly different perspective, I guess. I think there is a benefit-cost analysis that comes into play on this workers compensation question. The latest research coming out of the Monash University accident study, which is becoming available with several thousand participants in it, there is tsunami of mental health issues beginning to emerge in the

transport sector generally. The increasing claims that are going to be made and that are going to emerge and the accidents accordingly coming from that in the transport sector are occurring to drivers under the age of 25. So what we are getting now is one in three transport drivers under the age of 25 by survey are having suicidal thoughts on the job, which was not happening 10 years ago. There is something going on in the whole transport space—on-demand and normal demand economy—where, if we do not sort out the workers compensation stuff fairly quickly, along with the work health and safety stuff, I think we could be looking at serious trouble further down the track generally in this area.

**Mr DAVID SHOEBRIDGE:** They are disturbing data points. Could you provide more detailed references to that on notice, Professor Hull?

**Professor HULL:** Happy to do so.

**The Hon. ADAM SEARLE:** That would be very useful.

**The CHAIR:** I am conscious of the time, which has elapsed. I thank the panel and all the people who have provided input into your submissions, which have been very useful and thorough. You will have 21 days to provide answers to questions taken on notice after receipt of the transcript. It is also possible that the Committee might have some further questions we will provide to you on notice later on as we work through and progress towards our recommendations as to what policy solutions could be. Thank you again for taking the time to appear before the Committee today.

**(The witnesses withdrew.)**

**The Committee adjourned at 16:52.**