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1. Ms Lawrence referred to an alleged case of casual conversion in a Victorian hotel in her testimony, and said she would provide further details on notice. Could the ACCI confirm the following:
- a. The name of the hotel
  - b. When the conversion occurred
  - c. How many staff were converted from casual to permanent part-time contracts
  - d. What the minimum hours of work per week were under these new arrangements
  - e. What the average actual hours worked per week were subsequent to this arrangement coming into effect
  - f. How many of the staff who converted remain with the business
  - g. What the average wage of workers engaged at the hotel is by-occupation, and by-employment arrangement.
  - h. The increase or decrease in wages experienced by the workers who were converted, at the time of their conversion.
  - i. How many and what proportion of the hotel's overall staff are now engaged as:
    - i. Employees engaged directly as permanent full-time workers
    - ii. Employees engaged directly as permanent part-time workers
    - iii. Employees engaged directly as casual workers
    - iv. Workers engaged as independent contractors
    - v. Workers engaged as casual staff through an outsourcing arrangement to a contractor or labour hire firm
    - vi. Any other employment arrangement

*The information available to ACCI on this matter is restricted to the following news report: <https://www.afr.com/politics/federal/part-time-flexibility-is-a-win-win-for-workers-and-business-20201209-p56m26>*

2. Ms Lawrence acknowledged in her testimony that the construction sector has the highest prevalence of independent contractors, and subsequently that it is not an unusual correlation that there is a high degree of sham contracting. Ms Lawrence was not aware though, that the ABCC has not prosecuted any companies for sham contracting. Could the ACCI confirm whether it has any evidence contrary to the notion that the ABCC has not prosecuted any companies for sham contracting, or alternatively, confirm that this is the case?

*This would seem a matter that would be best answered by putting the question to the ABCC itself, directly for the confirmation of facts. However we have looked at the*

organisation's most recent annual report and can provide the following information which may assist:

The following is drawn from the Annual Report of the ABCC (2019-20) (<https://www.abcc.gov.au/about/plans-and-reports/annual-reports/abcc-annual-report-2019-20>)

It shows the investigation of 62 matters relating to 'sham contracting', which is not then identified in Table 15 on the commencement of proceedings.

Note when Table 15 is compared to Table 10, we would argue the following conclusions should be considered:

- The ABCC does investigate sham contracting.
- Alleged contraventions on sham contracting rank 5<sup>th</sup> highest of the matters being investigated from a list of 12.
- Proceedings are actually commenced by the ABCC in only a small proportion of any of the matters being investigated.
- There are other contravention matters which are investigated and no proceedings commenced, such as unlawful picketing in 2018-19.

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ABCC – Annual Report 2019–20

In the reporting period, the ABCC investigated 486 alleged contraventions of Commonwealth workplace laws.

Table 10 shows these by type of contravention for the past two reporting periods.

**Table 10: Types of contraventions investigated**

Type of contravention investigated	2018–19*	2019–20
Coercion	88	69
Criminal	1	1
Discrimination	4	5
Freedom of association	59	58
Misrepresentation of workplace rights	28	22
Other	11	4
Right of entry	196	154
Sham contracting	36	26
Strike pay	9	2
Unlawful industrial action	72	33
Unlawful picketing	9	6
Wages and entitlements	113	106
<b>Total</b>	<b>626</b>	<b>486</b>

\* The reported figures contained in the 2018–19 Annual Report have been adjusted following recategorisation of contraventions.

### 3. Mr Barklamb provided the following testimony, with respect to workers engaging in food delivery or rideshare work through gig platforms such as Uber and Uber Eats:

**“A person who hurts themselves during the course of a voluntary activity to engage through a platform should enjoy the protections that a person in the community**

would enjoy seeking to make money in any other sphere of private life.”

Mr Barklamb also subsequently stated:

“We believe they should have access to income support and compensation appropriate to the rest of the community engaging in private activity.”

- a. Is the ACCI’s contention that “voluntary activity” through a gig platform is more voluntary than more traditional forms of work?
  - i. If yes, how?
  - ii. If no, then what is your contention on this point?
- b. Is the ACCI’s contention that “voluntary activity” through a platform is not work?
  - i. If yes, how?
  - ii. If no, then what is your contention on this point?
- c. What comparison is the ACCI drawing between “voluntary activity” through a gig platform, and other “private activity”?

*To assist the Senator, this was no less and no more than a reference to Compulsory Third Party Insurance (CTP), however titled in each state and territory. Motorists pay a compulsory levy when registering a vehicle, explained thus in Victoria “The TAC charge will cover the owner and driver for any liability (including large court payouts) if your vehicle causes the death or injury of another person.”*

*Thus, and we apologise if our oral evidence was not sufficiently clear, someone who is hurt on the road when undertaking platform work should enjoy the same protections and support from the community as any other member of the community enjoys, which is primarily provided by the CTP / TAC compulsory insurance model into which they have paid when registering their vehicle.*

*A delivery driver however they may be working should have the same access to no fault injury / accident payments as any other member of the community, including children, pensioners and the self-employed. By way of example, and without reference to any state’s particular CTP arrangements, a delivery driver or rider hurt on the roads should enjoy the same protections as a small business person driving to their bank, or someone crossing the road to look at buying a business, or someone commuting to study – our community has an important general safety net for road injuries which ACCI is saying should apply to the circumstances queried (as we understand it would currently).*

*Our references to voluntary activity may have inadvertently mislead. It is more accurate to say that under these compulsory insurance schemes, unless specifically excluded or addressed in legislation, the purpose for which driving was undertaken is not relevant.*

4. Could the ACCI confirm whether the following are among your members:
  - a. Uber
  - b. Uber Eats
  - c. Ola
  - d. Deliveroo
  - e. Menulog

- f. **Mable**
- g. **Didi**
- h. **Hungry Panda**
- i. **Amazon**
- j. **Any other gig platform operating in food delivery, rideshare, disability services, aged care or any other industry, and if yes, which companies?**

*ACCI's members are organisations and associations representing businesses and employers. Some organisations take part in ACCI's Business Leaders' Council, but are not members of ACCI. This includes from the list provided, Uber, Ola and Amazon.*

*In providing this information, we urge that considerable caution be exercised by Parliament in asking industrial organisations to name their members.*

*In some countries the state having confirmation of membership of a union or employer body creates very serious human rights, security and freedom of association risks. We recall this simply to point out that caution needs be exercised in asking industrial organisations that appear before any Committee to name their members.*

*We invite the Committee to consider a scenario in which a trade union official were asked to confirm whether an individual Australian was or was not a member of the union.*

5. **The submission of the Australian Medical Association to this Inquiry made the following statements regarding the health impacts of insecure work.**

**"Job insecurity is a significant stressor that is associated with a range of negative health outcomes."**

**"Job insecurity has a range of well-evidenced effects on individual health, including:**

**Stress and anxiety. An increased likelihood of psychological distress and psychiatric morbidity. A higher risk of coronary heart disease. Higher incidences of high cholesterol and hypertension. Feeling unable to report injuries or accidents suffered in the workplace."**

**"Another risk of insecure work that was exposed by the COVID-19 pandemic is the impact of leave entitlements on workers' ability to comply with public health directions."**

**"Similarly, workers who are stressed about losing income may be more likely to provide inaccurate information to contact tracers."**

**"Rates of insecure work are higher among people who already experience social and economic disadvantage, including women, young people, Aboriginal and Torres Strait Island peoples, migrants, and people with a disability. This means disadvantage is both a predictor of insecure work, and is exacerbated by insecure work"**

**"Job insecurity further exacerbates existing levels of social and economic disadvantage, and efforts to improve job security can lead to improvements in health equity."**

**Could ACCI confirm whether you agree with or contest these views of the medical experts?**

*Neither Ms Lawrence nor Mr Barklamb are medically qualified nor licensed to practice medicine. As such ACCI does not seek to provide evidence on medical matters.*

*However we do recall that there is no accepted definition of “insecure work”, which could be statistically correlated with any health data, and which could legitimately give rise to any empirical or evidence based conclusion.*

*It is therefore for the AMA to satisfy the Committee of the grounds upon which it advances such contentions, and the evidence upon which they rely.*

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*Finally, we want to take the opportunity to emphasise to the Committee the single greatest job security challenge for Australia in 2021, that should be the highest priority of all who represent us, and for this Committee and its recommendations.*

*Pandemic, lockdowns and restrictions are causing millions of Australians to be acutely concerned about the security of their employment, many for the first time, and this applies equally to those working full time, part time and casually. Full time, part time and casual jobs are equally insecure in any business with the doors closed or trade reduced, and the longer businesses remain closed or restricted the less secure jobs become.*

*The overwhelming lesson of 2020 and 2021 should be that there is no job security without enterprise security. This is the case particularly for small businesses, and in sectors directly locked down, without tourists, or unable to substitute working from home. The single most important priority to improve job security across our community should be to do everything we can to reopen, get back to work, provide certainty and predictability to the greatest extent possible and support businesses staying in business and keeping people in work.*

*If the Committee genuinely wants to tackle job insecurity its recommendations should focus on getting Australia open and back to work.*

*One of the worst things policymakers could do at this time would be to narrow avenues for Australians to work, complicate or add extra costs to restarting and re-employment or compromise recovery through reducing options for flexibility and adaptability when many businesses will clearly face a prolonged period of uncertainty and unpredictability, even after we reopen.*

*We emphasise in particular that effective access to casual work will never be more important for young Australians at greatest risk of sustained damage to their careers and earnings arising from the impact of the pandemic on their labour market entry. We urge the Committee to not recommend any measures or changes of policy which would have the effect of seeing fewer young Australians having opportunities to work, gain experience, gain referees etc.*

