

Senate Select Committee on Job Security

Additional Questions on Notice

1. Mr Denman said at the hearing with respect to the pay for Uber Eats workers:

“We've taken a look at the last six weeks, which includes a period of time where Sydney and Melbourne were in lockdown and then, obviously, a period where both cities were out of lockdown, to try to get a reasonable comparison, and I can confirm that for the delivery business, across all hours and in all cities and towns in Australia, the average earnings per hour, before costs, has been \$29.”

To clarify this data:

- a. What was the sample size that yielded this figure?**
- b. What was the methodology that yielded this figure?**
- c. Does it encompass all workers and all deliveries made in that six-week Window?**
- d. What are the exact dates of the six-week period?**
- e. Does this cover all vehicles (car, motorcycle and bicycle)?**
- f. Does this figure include time spent waiting and logged into the app between deliveries?**

Response: In the 6 week period from September 20, 2021 to October 31, 2021, the average delivery worker earned \$29.02 per online hour before costs across Australia. This is the average across driver-weeks of earnings (including promotions, excluding tips) per online hour.

This figure encompasses all delivery people in the specified period across Australia (except Rides drivers who cross-dispatched onto Eats) and across all hours of the day. It includes all transportation types (car, motorbike and bicycle). It also encompasses all ‘online time’, which includes “time spent waiting and logged into the app”. During this time when a delivery person is online but not engaged, they are free to choose what they do and whether they accept trips.

2. The Accenture report titled ‘Making Delivery Work for Everyone’, provided to the Committee at Uber’s earlier appearance at the inquiry, put the average rate of pay at \$23.45 an hour before costs, in Sydney and during mealtimes.

Mr Denman said at the November hearing that: “When we released that report, we used peak times because we believe that is consistent with when the best earning periods on the delivery platform are.”

The new figure of \$29 an hour before costs covers “all hours”, yet is a 24% increase on the Accenture rate which covered only “the best earning periods”.

To clarify:

a. How do you reconcile these conflicting figures?

b. Have there been any promotions, incentives, or increases to rates since the Accenture report data was collected, that were in effect during the six- week window, and if yes, please provide details.

c. Are there external factors which may have created a temporary increase to pay within the six week window, such as lockdowns and border restrictions, or does Uber anticipate this rate of pay will be consistent going forwards?

Response: We do not view these figures as conflicting, as they represent average earnings for different periods of time. As previously stated, we attribute the increase in earnings in part to increased demand for food delivery during the pandemic. Sydney and Melbourne were in a lockdown for part but not all of the time period, while other cities were not.

We've also expanded to more types of merchants over 2021 which would also enable more trips across more times of day and thus earning opportunities for earners.

3. A 12 November article in The Australian titled ‘Uber drivers stay on road after sexual misconduct claims: NSW government audit’ said:

“The audit found that of a sample of 765 drivers assessed, 79 had completed their Uber training in less than 10 minutes. A further 118 had completed their training in less than 20 minutes.”

Is 10 minutes an adequate time in which to become a compliant and safe Uber driver? And if not, why is the training inadequate then?

Response: Uber is the only rideshare provider to require drivers across Australia signing up to the platform to undertake educative modules on areas such as fatigue, safe driving, and discrimination. Uber's mandatory courses contain six key modules consisting of video tutorials and a competency test, to ensure that driver-partners are fully aware of their responsibilities and expectations that apply to driver-partners operating on Uber's platform. The time in which it takes to complete the training will vary between driver-partners, and the median time is 28 minutes.

4. That same article said:

“One part of the commissioner’s audit detailed publicly covered concerns about driver fatigue. “Despite systems that Uber has in place, the audit found that over a two-week sample period, 37 per cent of drivers had more than 12 hours of continuous driving time with some cases of up to 17 hours of continuous driving,” the commission said in August.” “In fact, the audit found 11,283 of the shifts sampled had exceeded 12 hours. Of those, 218 were between 15 and 17 hours, while another 701 shifts ran for between 14 and 15 hours.”

Please advise:

- a. Does Uber believe it is safe to be driving shifts of up to 17 hours?**
- b. If 37% of drivers in a two-week sample are driving shifts of more than 12 continuous hours, is it likely those drivers depend upon Uber as a sole or at least primary source of income?**
- c. If 37% of drivers in a two-week sample are working a 12+ hour shift, is it likely that earnings for that 37% are more important than flexibility?**

Response: As a regulated business we are often audited by our ridesharing regulators and we welcome any opportunity to improve safety. On the NSW Audit, we are working openly and collaboratively with the Point to Point Transport Commission. While many of the findings and recommendations are sensible, and in line with work already completed or underway, there are others which we consider will require further discussion with the NSW Point to Point Transport Commission. For example, the driver fatigue finding refers to ‘continuous driving time’, when it actually includes the cumulative time a driver may be online, offline and then online again throughout the day.

5. That same article said:

“In October 2019, Uber told the commission it had not reported 211 events since 2017 but had introduced a new system to ensure the issue was resolved. In March this year, however, Uber said it had found a further 524 instances of notifiable occurrence that had not been reported.”

Please advise:

- a. In addition to the 735 unreported notifiable incidents referred to in the article, how many additional unreported notifiable occurrences have there been at Uber in NSW?**
- b. Other than the 735 unreported notifiable incidents in NSW, has Uber investigated whether there have been any unreported notifiable incidents in other States in Territories since 2017?**
- c. If yes, how many and where?**

Response: We often do look backs and have internal processes in place to double and triple

check our work. Where we have undertaken these internal reviews in other jurisdictions, we have notified and submitted them to the relevant regulators. We think all point to point providers should be encouraged to do this.

6. An article published in the Sydney Morning Herald on 17 November 2021 titled ‘Every day, two sexual assault or misconduct complaints hit Uber’ states:

“In one case an Uber driver described a drunk male passenger who could barely walk when he entered their car and then started touching them with his legs. He sat back after the driver said, “please don’t touch” but when the trip ended he got into the front seat of the car and refused to get out until the driver took down his phone number and promised to later return to his house. The driver said they had complained to keep other drivers safe, but the company merely required the passenger to read its rules. “Hello, I have not done anything wrong,” the man replied. “I read terms and condition please active [sic] my account.” He was then allowed back onto Uber.”

Please advise:

a. What is the established process Uber follows when serious complaints such as these are made by drivers about passengers?

b. Does Uber undertake its own investigation of the complaint, or does it accept at face value a denial by the accused passenger, provided they say they have read Uber’s rules?

Response: For all sexual assault or serious sexual misconduct incidents we remove access to the account of the person in question while our specialist team investigates. If we have information that a rider or driver-partner has perpetrated a sexual assault we permanently deactivate them from the platform based on that report. We also assist in police investigations and routinely support law enforcement to help keep bad actors out of the rideshare industry.

More information on how Uber approaches serious safety reports can be found at <https://www.uber.com/en-AU/newsroom/serioussafetyreports/>.

7. Since Uber’s earlier appearance before the Committee, the Committee has been informed that Uber paid \$400,000 to Amita Gupta to settle her unfair dismissal Case. Ms Gupta only stood to win approximately \$15,000 if her case was successful – so why did Uber pay Ms Gupta a settlement approximately 26 times that amount?

Response: This matter was resolved by mutual agreement and is confidential. We welcome the resolution of this case and look forward to continuing our efforts to improve the quality of independent work in Australia.

Both of the Fair Work Commission's rulings in this case confirmed that the delivery-partner using the Uber Eats platform was not an employee, with the Full Bench of the Fair Work Commission finding that characteristics of the Uber Eats business pointed 'decisively away' from a finding of employment.

These were also consistent with previous rulings from the Fair Work Commission and Fair Work Ombudsman that drivers using the Uber app are independent contractors.

It also reflects what 87 percent of delivery partners tell us - that they value the freedom and flexibility the Uber app provides.

8. Since Uber's earlier appearance before the Committee, a Deliveroo rider named Diego Franco was ruled by the Fair Work Commission to be an employee of Deliveroo rather than an independent contractor. Excluding the Gupta case, which Uber settled for \$400,000, is Uber aware of any precedent set by the Commission or Australian courts that food delivery workers are contractors, not employees?

Response: Australian courts and tribunals, including the Fair Work Commission, have consistently found that drivers and delivery people using the Uber App are not employees of Uber. Indeed the Full Bench of the Fair Work Commission found that characteristics of the Uber Eats business pointed 'decisively away' from a finding of employment.

9. What material differences are there between Deliveroo and Uber's business models that would suggest the precedent in the Franco case?

Response: We cannot comment on the business model of a competitor.

More broadly, we are aware other platforms may have set shifts or blocks of work. However, that is not the case on the Uber Eats or Uber rides platform - there are no rosters, no blocks of work, no allocated zones of work. Even when online, delivery people and driver partners are free to reject any trip offered to them.. Our model offers genuine flexibility, and it is that genuine flexibility that driver-partners and delivery people consistently tell us that they value most.