



28 May 2021

State Insurance Regulatory Authority
New South Wales

Consultation on personal injury insurance arrangements for food delivery riders

Uber welcomes the opportunity to provide feedback on SIRA's consultation paper on personal injury insurance arrangements for food delivery riders in the gig economy.

We support the policy intent behind this consultation. The tragic incidents toward the end of 2020 across the food delivery sector highlighted the need to promote the safety of vulnerable road users, including those delivering on bikes and motorcycles. In 2018, Uber's CEO set out our view that "everyone should have the ability to protect themselves and their loved ones when they're injured at work, get sick, or when it's time to retire". That is why we launched our partner protection scheme in Australia, which provides injury protection to drivers and delivery people while they are earning with the Uber app. Protections like these should apply across the industry, regardless of which platform a person chooses to use.

Accordingly, Uber supports Option Two. Introducing a requirement for intermediaries like Uber to provide insurance to workers is the best way of ensuring fair protections that are designed to reflect the flexible way of working that drivers and delivery people tell us they want and avoids the imposition of rigid and complex legislative schemes designed for the traditional employment model. In addition, Uber also supports continued education across the sector and would like to work with the NSW Government on raising awareness of injury protection schemes across the industry.

Effective, simple and right for platform work: the case for industry provision

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

users and the community. Uber supports efforts by governments aimed at finding modern solutions to ensure security and protection for all categories of workers.

In Australia, we believe that maintaining the status quo, with increased education and awareness, is not sufficient to achieve an appropriate level of protection (although we believe further education is an important complement to minimum standards). While the proposed options three, four and five would increase protections for platform workers, they all involve the establishment of new bespoke insurance schemes with the attendant cost and administrative burden. Option six is even more complex and disruptive, involving food delivery people being deemed workers for the purposes of workers compensation legislation and imposing employer-type obligations on platforms. A reform as significant as this could risk undermining the flexibility and non-exclusivity that Uber partners value.

The online food delivery sector contributed \$2.6 billion to the Australian economy before the COVID-19 pandemic, and 70% of this revenue was new to the restaurant economy.¹ More recently, consumer spending data has found that while spending on in-venue dining has largely returned to pre-pandemic levels, Australians are spending 210% on delivered food than before the pandemic. Platforms like Uber are critical to the economic recovery of the hospitality sector. Likewise, they create economic opportunities for tens of thousands of NSW residents.²

In circumstances where there is a demonstrable, working alternative in place—major platforms already provide injury protection insurance at a platform level—there is no clear case for introducing new complexity and red tape, either through a bespoke scheme or making the significant changes to the State’s workers compensation that would be required to accommodate work in the on-demand economy.³ If implemented, these changes would likely result in increased costs for consumers, translating to reduced demand for the thousands of restaurants who rely on online food delivery platforms and reduce the work available for delivery people.

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

Uber’s accident insurance arrangements, described below, ensure we can maintain both the freedom and flexibility our partners value, while also delivering greater security and protections at work. Our experience to date indicates that Uber’s policy is achieving these objectives.

¹ Accenture “Making Delivery Work for Everyone” March 2021

² Ibid

³ We note that Queensland considered reforms to its Workers Compensation scheme in 2019, and the significant complexities were identified through the submission process. That proposal has not been progressed.

Ensuring all gig economy work is covered

Building on the NSW Government's Joint Taskforce on Food Delivery Rider Safety, this consultation rightly considers ensuring appropriate insurance protections are in place for a sector which comprises a significant number of vulnerable road users.⁴ The policy rationale for ensuring insurance protections applies to people using online food delivery platforms nevertheless applies to all platform work. For example, Uber's partner protection also applies to all rideshare drivers in Australia when earning with the Uber app, but no other major rideshare platform provides insurance protection.

Models for industry provision of insurance

Compulsory industry provision of personal injury insurance has been adopted in France, where the 2016 Labour law (the "El Khomri law") created the concept of "platforms' social responsibility" in the French labour code. The legislation created an obligation for all platforms to provide occupational accident insurance to drivers and delivery people; the platform either reimburses partners' private insurance (for work accidents occurring on the app) or provides insurance with the same level of guarantees as a relevant equivalent public scheme (article L7342-2 of the French Labour Code).

Similarly in California, platform companies are required to provide both motor vehicle insurance and occupational accident insurance.

We believe there is significant potential to tailor a private insurance solution to the particular conditions in New South Wales, meeting the expectations of platform workers and the broader community.

Our partner support and protection policy through Chubb Insurance

In 2018, Uber launched a partner support and protection package for more than 80,000 Uber partners across Australia. This insurance cover is provided to Uber partners at no additional cost and is designed to provide meaningful customised benefits to Uber partners who are injured on-trip when providing services using the Uber apps.

Some of the benefits [include](#):

1. Loss of income is compensated by a daily fixed sum if a partner is certified to be medically unfit to provide the services using the Uber apps, subject to a maximum of 30 days.
2. Lump sum payments are available for injuries that are more commonly experienced by partners using the Uber apps, i.e. broken bones where a cyclist hits an obstruction.

⁴ As part of that process, the NSW Centre for Road Safety identified 55 food delivery rider (bicycle and motorcycle) casualties in 2019 and 2020, accounting for 119% of all motorcycle and pedal cycle rider casualties in that period

3. Cash payments are also available where partners experience inconvenience due to hospitalisation so as to alleviate any immediate financial needs.
4. Death benefits.
5. Disability payments are available for specific permanent impairments.

Key to the successful operation of the cover is the straightforward yet effective guidance provided to Uber partners about eligibility for claims, which recognises the flexible nature of app based work. The policy is industry leading, with other online food delivery booking entities moving to introduce similar policies.

Next steps

Thank you for the opportunity to comment on the initial consultation. We would welcome the opportunity to engage in more detail and discuss our experience providing insurance as the options are narrowed.