

**TRANSCRIPT OF PROCEEDINGS**

**PRODUCTIVITY COMMISSION**

**PUBLIC HEARINGS**

**5-YEAR PRODUCTIVITY REVIEW**

**MONDAY, 7 NOVEMBER 2022**

**PRODUCTIVITY COMMISSION, L8, 2MQ, 697 COLLINS STREET,  
MELBOURNE**

**BEFORE:**

**COMMISSIONER ALEX ROBSON**

**COMMISSIONER LISA GROPP**

**COMMISSIONER MICHAEL BRENNAN**

**COMMISSIONER CATHERINE de FONTENAY**

## **PARTICIPANTS**

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**COMMISSIONER ROBSON:** Good morning, everyone, welcome to the public hearings following the release of our interim reports for the Productivity Commission's five yearly inquiry into Australia's productivity performance and productivity improving reforms. My name is Alex Robson, I am the Deputy Chair of the productivity commission, I am one of the Commissioners on this inquiry. My fellow commissioners, Lisa Gropp, who's with me today, and Michael Brennan, the Chair. Before we begin today's proceedings, I would just like to remind you of the Commission's mission, which is to provide independent research and advice to the Australian government on economic, social, and environmental issues affecting Australians.

And I would also like to begin by acknowledging the traditional custodians of the land on which we meet today, the Wurundjeri people of the Kulin Nation, and I would also like to pay my respects to Elders past and present. So, we'll just do a bit of an introduction, and then we'll get underway. So, the purpose of this public hearing is to receive comments and feedback on the interim reports, and to inform the production of our final report. We will then be working towards completing a final report having considered all the evidence presented at the hearings, and in submissions, as well as other informal discussions. The final report will be submitted to the Australian Government in February 2023.

This public hearing will be held across today and tomorrow. We like to conduct the hearings in a reasonably informal manner, but I do remind participants that a full transcript is being taken. For this reason, comments from the floor can't be taken, but at the end of the day's proceedings I will provide an opportunity for anyone who wishes to do so, to make a brief presentation. The transcript taken today will be made available to participants and will be available from the Commission's website following the hearings. Submissions are also available on the website. Participants are not required to take an oath, but are required, under the Productivity Commission Act to be truthful in their remarks.

Participants are welcome to comment on the issues raised in other submissions. I also ask participants to ensure their remarks are not defamatory of other parties. This public hearing is being conducted in person and by video conference. All participants who are registered to be here at this meeting have confirmed their understanding that they may be visible or audible online. If anyone has any queries about this or does not wish to be visible or audible online, please approach one of our enquiry team members today, or feel free to leave the hearing now. For any media representatives attending today some general rules apply. We ask that no video recordings are taken for the purposes of broadcast.

One of our staff at the back of the room can further explain these rules. Participants should be aware that any media representatives present may be using Twitter and other internet mechanisms to convey information online in real time, including participant's remarks. For those in the Melbourne office, in the unlikely event of an emergency requiring the evacuation of this building, the evacuation tone, whoop, whoop, whoop, will sound, please follow warden instructions to exit the building via the fire stairs and make your way to the assembly point located at the grass parallel to the tram line at the Wurundjeri Way. Participants are invited to make some opening remarks of around 10 minutes, keeping the opening remarks brief will allow us the opportunity to discuss issues in participant's submissions in greater detail. I would now like to welcome representatives from the Transport Workers' Union, please state your name and organisation for the record and we can get underway.

**MR BOUTROS:** Good morning, commissioners, my name is Jack Boutros, I am a strategic campaigner for the Transport Workers' Union of Australia, that's the union which represents workers across the road transport and aviation sectors. We have 70,000 members across the

country today, and we also represent members and transport workers in the emerging transport sector of the gig economy. Commissioners, I think I'm also joined today by Ashley Moreland, I haven't seen him pop up in the chat just yet, but I am assuming he will join hopefully soon. When he does, I might just give him a brief introduction. Now, he is a long-serving food delivery and rideshare worker with years of experience in the gig economy.

We'd like to, obviously, take the time just to thank you for inviting us here today and discussing what is an incredibly important topic in the IR review that's been produced by the Commission, specifically looking at the need for gig economy regulation. I, just in an opening statement, would like to briefly focus, I think, on that specific question of how to regulate the gig economy. I would like to outline just some of the challenges we see in the emerging sector, but also what we think can be done to ensure a safe, a sustainable, and above all a fair transport industry for both the businesses and workers. Commissioners, I don't think anything articulates some of the costs of failing to regulate the gig economy like a few names.

Those names, Commissioners, are the Bijoy Paul, Dede Fredy, Chow Khai Shien, Xiaojun Chen, Julian Trameaux, Ik Wong, and Burak Doğan. These are but some of the workers who have been killed while working in the gig economy in recent years. They, at a given point in time, Commissioners, laid on the side of the road, soaked in blood, delivery bags torn to bits, phone and food scattered along the side of the curb, never to see their communities again, never to hold their loved ones again, and never to work another day in their lives. These workers were killed, and countless others are being maimed and injured because our industrial relations systems fails to recognise them as workers.

They were provided no access to safe standards or work rights which would have otherwise prevented the deadly work pressures which they were placed under at work. And there has always been, Commissioners, in our industry, a deadly correlation between pay, contractual terms and conditions, access to protection, and deadly pressures that workers have to work under. Just to explain that briefly, Commissioners, when a worker in the road transport industry, be it on an app or otherwise, is paid a pittance of what they need to survive, the outcome of that is unsustainable work hours, and fatigue, obviously, becomes a really worrying threat in that scenario.

We find across the road transport industry gig workers and non-gig workers are pushing themselves to limits, 50, 60, 70-hour weeks just to earn a living and cover their costs. When you don't have protections like unfair dismissal protections, or unfair contract determination protections, the constant threat of having your livelihood stripped away by an algorithm permeates your entire experience at work. And the effect of that, of having that scythe hanging over your head is constant pressure to speed, to rush, to take all kinds of risks on the road. And we see, particularly in unregulated aspects of our industry, Commissioners, where workers and businesses alike aren't provided safe and sustainable standards, all kinds of deadly trends emerge.

We see workers and businesses forego maintenances on vehicles, they overload, they speed, they work fatigued, the use of stimulants increases, and the costs of these deadly trends are not just the lives of our workers, we share those roads with public road users too, and they are too often caught up in those fatal and tragic incidents. The degree of pressure, particularly in the gig economy, Commissioners, is born out in some recent surveys we've done. Those surveys of both the rideshare and food delivering industry found that in rideshare the average rideshare driver earns, after costs, an average of \$12 per hour, and in the food delivery sector it was an average of just \$10 per hour.

Now, at the same time rideshare drivers reported being involved in - a third of rideshare drivers reported being involved in a serious car accident, and a third of food delivery workers reported being seriously hurt or injured while at work. And to put that into perspective, Commissioners, when we were surveying these workers, they had been working at the time for an average tenure of two years. So, in a period of two years, on average, people in the food delivery sector were saying they were being seriously hurt or injured at work. 71 per cent of food delivery workers who responded to that survey said that they feared for being killed every time they started work.

Now, of course, these challenges are not just limited to the gig transport sector, or gig transport workers, the expansion of the gig economy has placed broader pressure on the transport industry, which was already under incredible strain. Our industry, Commissioners, has long been subjected to a race to the bottom in standards. That has traditionally been caused by contracting pressures that have originated from the top of transport supply chains. But the emergence of a gig economy has exacerbated this pressure, placing additional strain on standards today.

And I must ask, Commissioners, in a sector which already boasts the highest rates of - one of the highest rates of insolvencies in the country, and one of the highest rates of worker fatalities, how much more pressure can the thousands of transport businesses, and the 600,000 Australians employed in the industry endure? Now, the emergence of these gig economy platforms, Commissioners, has provided some benefits to consumers and workers. We at the Transport Workers' Union recognise that. It has provided, for example, lower barriers of entry to work, made certain kinds of work more accessible, and it has provided some efficiencies in the allocation and the completion of transport tasks.

However, flexibility does not equal productivity, Commissioners. And the failure to ensure safe and sustainable standards that underpins the industry has, in some respects, provided transport markets with a perverted flexibility to be unproductive. And a brief example of that, commissioners, is the terrible, terrible labour utilisation rates in rideshare, food delivery, and parcel delivery because workers generally remunerated on a piecemeal basis, we find that workers are often left hours waiting for an order, even just on a peak period, otherwise out there ready to work, food delivery bag in hand, or in their car waiting for the next job, and just simply not being utilised effectively.

We also find that the costs of those pressures that stem from the lack of regulation in the industry, and the safety crisis which has ensued are huge. In a 2016 ANU report the cost of heavy vehicle crashes alone in a single year was \$4.74 billion, that's just heavy vehicles, that's not including vans, couriers, light vehicles, bicycle couriers, all those in the gig transport sector today. Commissioners, I will say that we are relatively optimistic here at the Transport Worker's Union, because I think we're very well placed to address some of these challenges through IR policy reform.

There is a strong and growing consensus across the road transport industry about both the need for change, and how this change should be realised. In August, a delegation of stakeholders across the industry met with the Minister for Industrial Relations, the Honourable Tony Burke, to put forward a vision for what this regulatory change should look like. The delegation obviously including us, Commissioners, but it included major transportation clients, Coles and Woolworths, both who collectively, through their supply chains, control a third of truck movement through the country.

The major representative for employers in our country, the Australian Road Transport Industrial Organisation. And major transportation companies, which included Global Express, LinkBox, ACFS, StarTrack, FBT Transwest, and finally, it also included some of the major gig economy transport operators, Uber and DoorDash. The delegation jointly recognised both the pressures

placed on supply chains following the emergence of the gig economy, and following the lack of accountability on transport clients, and the connection, the really deadly connection this has with safety outcomes in our industry.

And to that end the delegation put to the government and to the minister through that meeting that the government must act to provide a dedicated independent road transport body which can set a safe and sustainable standards across the industry, both for businesses and for workers, regardless of their employment status, to ensure that these standards can effectively be enforced through a robust system of dispute resolution that can also ensure compliance. And most importantly, Commissioners, that these standards were actually, where possible, created and led by industry itself. Government is crucially important in establishing that body, and providing that body the ability to break deadlock, and independently determine standards where needed.

But otherwise, you know, such a framework should really facilitate and encourage industry to determine fit for purpose standards across specific sectors of the road transport industry. But also, for industry not to act if there are no problems in specific sectors, not to introduce burdens and standards where there might not be a need for that intervention to take place. So, I will stop there, Commissioners, once again, I would like to thank you for inviting us both here today, I think I have seen Ash join during my opening statement, which it's good to see you there, Ash. And I hope our evidence really does assist your deliberations today.

**COMMISSIONER ROBSON:** Thanks Jack, that was very helpful. I might just pick up on a couple of points, if I may, and ask you to expand and clarify. So, is the TWU, you're not seeking to apply the employer-employee relationship to these gig economies, you're really seeking a separate regulatory solution in the transport sector, is that a fair summary of what you're saying?

**MR BOUTROS:** Yes, if I could elaborate a little bit on that.

**COMMISSIONER ROBSON:** Yes.

**MR BOUTROS:** We've always seen, in our industry, a high rate of self-employed owner drivers. Our actual union has been founded by those owner drivers, and we've continued to represent them. In fact, we technically, not that we often make this clear, but technically we're the biggest small business association in the country, we have 14,000 owner drivers who we represent day in day out. And what those workers in those arrangements really value is their, you know, self-employed status. They value degrees of flexibility and autonomy which comes with their work.

But they also value the need to have certain standards and protections, which stem from the fact that they're incredibly dependent on a select few principle contractors for all their work. They don't have the ability to negotiate and determine standards, and obviously, that has really catastrophic implications for both their safety and their working conditions. So, we do take a nuanced approach to this, commissioners. We best describe work as being really carried out on a spectrum of dependency. You have people, regardless of the labels, who, you know, are genuinely entirely autonomous and run their own businesses.

You know, you think of an example like an electrician who's earning \$300,000 to \$400,000 a year, runs their own operations, and it would be really, I think, really silly to suddenly suggest that those workers, or those businesses really needed some kind of standards imposed. There may be some, but that's definitely not what the intention of what we're advocating for is. It's really to determine what is the extent of dependency that a worker works under, and what are the appropriate rights and entitlements that need to be put in place to protect that arrangement. I will

say though, commissioners, that you can't deal with the question of employment or independent contractor status in the gig economy as a whole.

There is a myriad of different sectors that it encompasses. There is a number of different relationships of work contained within it, and they have varying degrees of control and dependency. And in some certain arrangements there are sham contracting arrangements, there are places where there are workers who are treated like employees, and who really, you know, work on shifts controlled, have - see one or two clients, and are dependent entirely on a single company for all their work. But then there are other places in the gig economy where there is genuine flexibility, but still exists a need for standards which underpin that work.

**COMMISSIONER ROBSON:** And so, in terms of the boundaries of the regulatory solution you're providing, so, you mentioned, you know, the self-employed person with the small business. So, you're saying it wouldn't apply to them, but it would be, in terms of the boundary, it would be that, you know, that the person who's working on a platform - or how would you find that boundary?

**MR BOUTROS:** So, in our industry we really think that any body needs to have really broad scope and an ability to really enquire into specific arrangements. I don't think you can create a definition that says platform is in, or platform is out, or you know, whatever other means of which a body might seek or a legislation might seek to define it. It really has to be a case by case basis. We are dealing with a myriad of different work relationships, be that, you know, governed through an independent contractor arrangement, or an employment arrangement. So, there has to be a nuanced tailored approach. And the best way, we think, for that to actually be achieved is to have a body with the standing capacity to enquire into specific arrangement.

**COMMISSIONER ROBSON:** And then the same body would deal, I think you said, with dispute resolution as well?

**MR BOUTROS:** Yes, absolutely, particularly where there are standards enforced. You know, having those standards with out the ability to actually have them enforced is really pointless in some respects. So, there has to be, you know, more powers to ensure that. Where there is a standard, for example, say a food delivery worker, that they can actually be realised, where, you know, a given company might not be enforcing those standards or complying with them.

**COMMISSIONER GROPP:** Thanks, Jack. And that would apply, those standards would apply to employees as well, is that right, is it, across the board, or would it only be for the gig and the self-employed contractor?

**MR BOUTROS:** Yes, so, in our industry, we and a delegation, which met with Minister Tony Burke just a few months ago, are really advocating for a specialised division of the Fair Work Commission that can simultaneously adjust awards for employees and set standards for non-employees. And the reason for that is what we've always seen is that there is often work within sectors that is completed both - identical work that's completed both by contractors and employees. So, a commission and a body, and an industry, really, needs to be able to set standards almost in unison.

What can happen if you're only pushing up one side of the work spectrum is that it creates a perverse incentive for markets to actually shift to another pattern of engagement. Not because it's more productive, or it's necessarily more efficient, but just because you've kind of distorted the market by lifting up the costs of engagement on one side without doing so in an equally commensurate manner on the other.

**COMMISSIONER GROPP:** And do you see the model that you're sort of proposing to have wider - not, you know, the actual model could have wider application to other parts of the gig economy, a specialist bespoke regulator, if you like?

**MR BOUTROS:** Yes, look, I definitely think it could. I think that's where the government seems to have really taken this at the moment. And look, it is exciting because this has, to a certain extent, been tried and tested in the road transport industry for decades. We've obviously had state-based systems which have had the capacity to set standards in this way for different groups of transport workers. But I definitely think there is no reason why where there are similar dependent arrangements in other industries and where there is a need that, you know, stakeholders in those industries couldn't come together, through an independent body, to establish standards.

**COMMISSIONER GROPP:** Thanks. And in setting those standards, what sort of processes would you see being put in place? I mean, you said that it would take into account the views of the different parties, et cetera. But, you know, how would that happen, have you got that far in having way different views? I mean, there'll be diverse views, I imagine.

**MR BOUTROS:** Yes. Well, I could tell you how it happens, Commissioners, in New South Wales, where through Chapter 6 of the Industrial Relations Act the industry, which obviously includes the union, has the capacity to set standards. What generally happens is most standards are set through what's called consent applications. We come together with major transport operators and employer representatives and negotiate what we think is needed across specific sectors in the road transport industry. Of course, what is crucially important to that happening, both on our side, and on the employer's side, is that where there is disagreement that there is an independent body that has the power to break deadlock. That really binds us in negotiations, and really compels us to, you know, make compromises, and I think ends up in a really balanced position when we're making determinations about standards.

**COMMISSIONER ROBSON:** And do those standards in New South Wales, Jack, do they include things like the things you mentioned, like pay and hours, or is it purely just safety, or what do they do?

**MR BOUTROS:** No, they definitely do. I mean, it's - the actual framework was created over three decades ago, so there are some limitations in how it applies to the modern road transport sector. And there are definitely some reforms that are needed to that system, but it is quite broad. It covers just about anything it needs to cover. So, any kind of standard could be set as a minimal contractual standard, you know, across a given sector. But generally, where standards are created - it's based on a principle of cost recovery.

So, there will be a kind of agreement on what average costs across a specific sector for a category of contractor would look like, and then there are some calculations added on top of that over what labour time should be remunerated at, and they create schedules of minimum rates and conditions. Of course, all that is backed in by a broad system of dispute resolution, and there is also the ability to create other standards, which you know, speak to consultation rights, protections on good will, and different minima which are then enshrined in contracts across a given sector.

**COMMISSIONER ROBSON:** And what about the - has the TWU done any work, or do you have any views on insurance and the, you know, the use of insurance in the industry, and coverage, and whether that's an issue, and how that could be improved if (no audible response).

**MR BOUTROS:** Yes, well, look, we've been really rocked, particularly in the gig economy, by a number of instances where people have been really severely injured and tragically killed, and have not been provided any insurance whatsoever. We most definitely see that there is a need to ensure some basic protections universally. And given road transport is such a dangerous industry, the need to provide workers compensation insurance throughout that industry, I think, is an absolute must.

**COMMISSIONER GROPP:** And that would be paid for by who, the platforms, or?

**MR BOUTROS:** Yes, well, look, in the New South Wales system, at the moment, the most common occurrence is that it's actually passed on in the form of - it's factored into the rates, and then the owner drivers go out and take out their own workers compensation insurance. I don't think that's an ideal or effective approach. I think - there has been a number of conversations about how an industry system could be more effectively structured, and paid for. But I do think it most definitely has to be paid for by the industry in some shape or another. The system in New South Wales means that whilst the industry is paying for it, what often might happen is that a worker might not otherwise take out the workers compensation insurance.

**COMMISSIONER GROPP:** Can I just ask a general question, in terms of we've looked overseas for different models, and there's a movement, a creation of a third class of worker, as they call it, have you looked at those models, and if what you're proposing does it exist in any similar form overseas?

**MR BOUTROS:** Yes, look, there have been some really interesting innovative attempts to create standards in different jurisdictions. I think New York was mentioned in the Productivity Commission's paper, which I think is a very innovative and intelligent way to approach an earning standard, and has had some really interesting outcomes in that market, lifting productivity, labour utilisation rates, reducing wait times as well. There is real risk around the third category of worker, and we, just to be absolutely clear, do not support that approach.

What we find is the key failing of our industrial relation system has been that it's been contingent on drawing an arbitrary line and saying you're either on this side of the employment spectrum or you're on this side, you get all the protections, or you get none. That isn't solved by then creating more lines across the spectrum, and that's what a third category of worker effectively does. It would also have, potentially, perverse outcomes in that it provides an incentive for companies and business who might otherwise be engaging people as employees at the moment to suddenly rearrange work just to shift them into a third wave classification or definition just for the purpose of evading a standard or two.

**COMMISSIONER GROPP:** Thanks.

**COMMISSIONER ROBSON:** I think that we've covered it.

**COMMISSIONER GROPP:** Do you have anything else you wanted to raise with us?

**MR BOUTROS:** Well, I've seen - I think Ashley has since joined, and I wonder if he wants to, yes, share a bit about his experience.

**COMMISSIONER GROPP:** Absolutely.

**MR MORELAND:** Hi there everyone, pleased to be here, thanks for that invitation. Right, so, just to give you a bit of context, I've been in the gig economy for about five years now. I got into it when I was taking up full time study again as a mature age student, and it's been quite a surprising experience, you know, coming from 12 years of pay as you go employment beforehand, banking insurance industry work, and it's been a bit of a shock. I mean, to describe

it in a more general sense, I find it peculiar that in a modern developed economy, you know, practices like these companies engage in can be allowed to continue without regulation.

Just to give you a bit of insight, for example, with the food delivery work, it's true that you can work whenever you want, and that would seem to fulfil the flexibility criteria that the platforms tend to espouse, but in actual practice, if you actually try and work for multiple platforms simultaneously, you're going to get booted off very quickly. I recall doing it, even a couple of years ago, for example, and within a day I got a warning, and I wasn't even particularly slow doing the deliveries. I had had a couple of years' experience, I was wise in the way I was planning how I was going to deliver from one, pick up from the other restaurant so it wouldn't incur delays, and did it as quickly as reasonably possible.

Not always in maybe keeping with traffic laws, by the way, because of the pressures, and it just - I got a warning within a day or two. So, I guess, from a flexibility perspective, there really isn't any. It's a bit of a superficial veneer that the platforms paint, that you're meant to - well, allegedly work within. More recently I've been working with the rideshare - in the rideshare industry, which as you know, is probably an equally large sector within the gig economy, and it's got its own basket of issues. But they're equally as depriving of rights, I guess, from a worker's perspective.

For example, as an independent contractor, which we're all classified as, no matter whether you're food delivery or rideshare, we're meant to have the ability, when we're offered a job, to see all the details of that job so we can make an informed decision as to whether that's something we should reasonably do. And with Uber, for example, you're given all of about 15 seconds, the job only shows the estimated amount of money, and maybe a few other details, if you're lucky, as to what you're going to get if you accept it. And you've got to decide that very quickly as to whether you're going to do it.

And again, similar to the food delivery industry, if you think you're going to work on multiple platforms, it's a bit easier than the food delivery, but it's still not really a reasonable proposition because you're going to end up slow picking up a passenger, awkward scenarios where you're cancelling in the middle of dropping one or the other. It's just - it's untenable. So, from my experience there's very little flexibility. More concerning still though is I actually find that there's horrid sort of practices being engaged in by the management of these companies.

For example, with Uber, just in the past week, I had a passenger who was quite unstable. I nearly wanted the windows down so that we weren't going to be exchanging each other's, potentially germ laden air in the cabin of my small car, and you know, I said politely, in the absence of a mask are you all right with the windows down? And then he proceeded to launch - or turn it into an argument about me forcing him to wear a mask, which I wasn't doing at all. Now, he was obviously quite unstable, I made a very reasonable request, it is his right not to wear a mask, but it's not his right to force me to breathe his air, if you know what I mean, and remember, it is my work environment at the end of the day in this vehicle.

So, at the end of the trip it was very awkward. To be honest, I was waiting for a thump in the head, or something along those lines, because that is actually not too uncommon in our industry. And I lodged a safety concern at the end of dropping this passenger off, and within an hour of doing so, I actually got an account at risk warning, which on enquiry, I learnt means that basically if I have one more complaint, which obviously was this customer's retaliatory counter-complaint, by the way, to me raising a safety concern, that I'd be permanently deactivated. So, not only do we not have these rights in terms of, you know, anyone to appeal to when we're unfairly treated, because this is so obviously a punitive response to me raising a safety concern,

it's just - I just struggle to see how this is even allowed to occur in a developed economy, you know?

**COMMISSIONER GROPP:** And you're still involved in the sector, you're still doing the work?

**MR MORELAND:** Yes, well actually, just this week, after quite a hiatus from the food delivery, I went back to it, because to be honest, I am so concerned about continuing to do any more rideshare work lest I get deactivated that I am trying to make ends meet doing the food delivery, which by the way, is paid abysmally, and you really are, you know, again, no rights, and no true flexibility.

**COMMISSIONER GROPP:** At the moment we've got, you know, strong employment, for the moment at least, but you'd think that there would be, in terms of sort of giving you warnings, et cetera, after that, I mean, you'd think they'd be trying to keep people for the moment, but you're not seeing anything of that reflected in the relationship?

**MR MORELAND:** Sorry, you were breaking up just a tiny bit.

**COMMISSIONER GROPP:** You're not seeing - with the tight labour market, you'd think that the platforms would be keen to keep their workers at the moment, but you're not seeing that reflected in how they treat workers, is that right?

**MR MORELAND:** Definitely. I mean, I hear what you're saying, and that would make sense, especially in the context of the pandemic, because for example for the food delivery sector, I remember doing that during the pandemic and was actually relieved to find that there was a lot more work to be done. But I guess the consideration here is, I don't know, I think there's - when we established work groups for the first time with Deliveroo for example, we learnt that there was many, many thousands of workers employed, and by the way, there's very little checks or requirements put in place to become a worker on these platforms. I mean, yes, they do criminal checks, for example, and all these sort of things, but there's not much testing in the way of abilities or knowledge of road safety rules and all this kind of thing. You're literally just - you need to apply and just wait a couple of weeks and you're on.

**COMMISSIONER GROPP:** Not even training - - -

**MR MORELAND:** And I actually think that - say again, sorry?

**COMMISSIONER GROPP:** No training as such.

**MR MORELAND:** Very little training. It's like a fledgling industry that's got no real regulation in this respect. It's starting to creep in. SafeWork, for example, are starting to intervene a bit more and put in regulations like, for example, high vis for the food delivery guys on two wheeled vehicles, which is a big improvement, granted. But yes, it's just it's a bit of a wild west it really feels like, and yes. So, for example, we were just talking before about, you know, you were expecting this industry to be short of workers. Honestly, the way they treat the workers, it must be anything but.

And I think that, for example, with the government opening the doors to the wider world from what was it, December last year, the way it works, I'm told by people in the know in this industry, is that a lot of migrant workers will come to Australia, their end goal is to really be doing the rideshare. They arrive here, and because they can't - the rule for doing rideshare work is that you must have an Australian license for one year minimum. They end up doing the food delivery for the first year, which they don't need that - they don't have such a strenuous

requirement, so they can actually do that on our roads, and then they are allowed to get the Australian license and then immediately get on the Uber or other rideshare platforms.

And that is, by and large, the path that is trodden. So, for example, a lot of the guys in the forums for this kind of rideshare work at the moment, they're actually talking about how draconian the platforms are suddenly becoming. And to give you the inside view of it, it seems to be that they can foresee that all this wave of workers that came from December onwards who are suddenly about to get their Australian licenses are going to give a glut of drivers to this market which is so easy to get into, with very little restrictions, that, you know, they can treat existing drivers however they want.

**COMMISSIONER ROBSON:** So, Ashley, would it be fair to say - I mean, you - I think you said you've worked in a number of different platforms, would it be fair to say from your perspective that, you know, on the worker's side, you know, when we see sort of innovation in competition on the - you know, for consumers, but on the worker's side you don't see much innovation and competition to try to, you know, provide better conditions for workers on that side of the platform? And has it remained stagnant, or is it going backwards, or can you summarise that?

**MR MORELAND:** I would say overall it's going backwards, which is absolutely remarkable, given the revelation such as the Uber Files scandal, for example, from a few months ago, where it was understood that this platform actually purposely made a plan to exploit its workers to get the most benefit for the company, and the earnings. Yes, I would say, in my experience, it's definitely on its - getting worse. Particularly since - well, let's face it, I mean economic circumstances do influence the way the platforms are in terms of their leniency towards workers and that sort of thing.

So, for example, as I was explaining with the pandemic you did see these platforms act a lot more courteously, I guess, or reasonably with workers like myself who had been subjected to fabricated complaints of various kinds, be it the food delivery or the rideshare work. But now, of course, with market conditions moving more in favour of the platforms, given the glut of international workers, it really has got worse in a very short space of time.

**COMMISSIONER ROBSON:** Look, thanks very much, I think, unless you've got anything else to add, I think you've been very informative.

**COMMISSIONER GROPP:** Yes. Thank you both very much.

**COMMISSIONER ROBSON:** Yes.

**MR BOUTROS:** Okay, thanks. Thanks for your time.

**MR MORELAND:** Thank you.

**COMMISSIONER ROBSON:** Yes, so the next person we would like to hear from is, I think it's Peter, is it, Peter Scutt.

**MR SCUTT:** Yes.

**COMMISSIONER ROBSON:** From Mable, are you on the line, Peter?

**MR SCUTT:** I am on the line, can you hear me?

**COMMISSIONER ROBSON:** Yes.

**COMMISSIONER GROPP:** We can hear you, but we can't see you.

**COMMISSIONER ROBSON:** We can hear you; we can't see you.

**MR SCUTT:** I can't seem to turn on my video, I'm not sure whether it's - whether you're controlling that at your end.

**COMMISSIONER ROBSON:** Yes, I don't know. Anyway, we can get underway and see how you go if that's okay?

**MR SCUTT:** Yes, it's just not responding when I try and turn on the video, my apologies for that.

**COMMISSIONER ROBSON:** Why don't we make a start, and we'll see - we'll get the IT people here to see if they can - I don't think that it's from our end, but let's make a start if we could.

**MR SCUTT:** I am happy to do that.

**COMMISSIONER ROBSON:** Yes. Did you have an opening statement?

**MR SCUTT:** Yes, thank you, Deputy Chair. Dear Commissioners, thank you for the opportunity to testify here today, as Mable has already made a submission to your inquiry, I don't intend to speak at length. Instead, I might provide some context to our submission. Mable is a simple to use online marketplace that enables small businesses to enter the care economy, particularly in response to reforms in home care and disability support, and offers a complementary alternative to traditional aged care at home and disability support models. There are many entrenched challenges in the care economy.

Firstly, meeting consumers' demand for choice control over who supports them at home and in the community, how, when, and what they pay, recognising that people who need support have unique needs and preferences and live in communities around Australia. Secondly, ensuring more of the government funding ends up in direct care hours, rather than overheads. Thirdly, overcoming chronic workforce shortages and the need for a more diverse workforce to meet the inclusion goals of NDIS participants and the preferences of older Australians. Fourthly, and lastly, solving support challenges in thin markets such as regional, rural, culturally, and personations communities where there's a lack of choice offered in those services.

The solutions to these challenges are not obvious, the aged care minister is championing the need for innovation, and the NDIS minister is seeking a more effective and efficient National Disability Insurance Scheme. Innovations like Mable, founded on consumer choice control and leveraging digital technology, data, and community connection are responding to these challenges and offering solutions. Enhancing connection, safeguarding quality outcomes and efficiency. Our approach includes a multilayered approach to safeguarding and pathways to learning skills.

Mable gives older Australians and people with disability more choice, control, and flexibility to shape the care and support they receive in their own home and community, while attracting a motivated and complementary workforce. Since inception in 2014, Mable has facilitated more than 11 million hours of care and has more than 11,000 approved and active independent support workers across the country. The goal of our submission was to provide some helpful background on Mable's perspectives on defining digital platforms, understanding the unique and nuanced challenges in the care economy, and the potential value-add role of digitally enabled solutions.

Also, information on current contractual rates on the Mable platform, insurance provision on the platform, and some of the complexity involved in dispute resolution in the care economy. Thank you again, and I welcome your questions.

**COMMISSIONER ROBSON:** Thanks Peter. I think your submission talks about access to state-based workers compensation schemes, maybe could you outline and elaborate a bit on that. I mean, is it Mable's view that you think the platform, or platform worker should directly pay premium into these schemes, or how would that work, exactly?

**MR SCUTT:** Yes, I guess our comment there is that obviously - I guess this is in the context, also, that what's unique about the sector we operate in is that sole traders and small businesses could be operating, leveraging a platform or not leveraging a platform. So, those that choose to leverage a platform are essentially leveraging technology in the operation of their business, but they are equally able to operate off a platform, which is often not true of rideshare and food delivery where it's hard to actually be involved in these sectors, other than via the platform.

But I guess as a general principle, we think sole traders, whether they operate independent of, or leveraging a platform in their business should - we're supportive of them having access to state-based worker's compensation schemes. So, Mable is a platform when people operate via our platform, we have arranged on behalf of the people providing services by the platform professional indemnity, public liability, and personal accident cover, but we think extending insurance cover to workers compensation is a positive for all sole traders.

**COMMISSIONER ROBSON:** And so, your proposal is that you would pay that, or the worker would pay that, or how would that work?

**MR SCUTT:** I don't think we have a proposal in relation to exactly that, how the premiums would be paid. But essentially, again, the small businesses on our platform are operating independent businesses, and if they have access to workers comp scheme, we would work out how best to arrange the payment for those premiums.

**COMMISSIONER ROBSON:** And then more generally, I mean, I think you've said that there's no link between employment models and quality of care, do you want to expand upon that point a bit, because it does - you know, quality of care and safety, because it does go to the number of many issues in the sector.

**MR SCUTT:** Yes, I think that, you know, we were saying that because I think, you know, there's no evidence that sort of says that, you know, quality of care is better by an employed workforce or versus, you know, somebody that works independently. In fact, I think that's true of - you know, people that operate as sole traders in many sectors of the Australian economy, in fact, people often take comfort from the fact that they're dealing with somebody that runs their own small business. And by the nature of running your own business, you tend to be caring about your business and your client, because that's the foundation of having an independent business.

But you know, I think there's two issues, quality and safeguarding, and they're related but quite different. So, in terms of safeguarding, we operate a multilayered approach to safeguarding, everything from, you know, worker screening. So, if you're offering services via the platform, police checks, reference checks, working with children checks, qualification checks, all the screening you'd expect before somebody is able to offer a service in a sector like this. Another important safeguarding is people with a disability would say it's choice and control over who supports me that keeps me safe. We're involved in a safeguarding of good life conference the other day that was talking about the role of registration and safeguarding.

And overwhelmingly, people with a disability would say it's my choice and control that keeps me safe, and I have often been dependent on, you know, registered providers that haven't necessarily led to safe experiences in the past. So, that's another part of safeguarding, I think, being able to collect feedback from consumers through multiple channels, which is what technology allows. So, feedback, whether it's raving reviews, whether it's complaints, whether it's reporting incidents and being able to respond quickly to those is another aspect of safeguarding.

So, there's many aspects to safeguarding. But I think when it comes to quality, it's really quality of life that's important, and that's linked to the quality of the service, the cost of those services, how responsive they are to an individual's needs and preferences. And I think models like this, which is connecting people with people in communities everywhere around what's important to people in terms of getting the support they need to live an inclusive life is leading to quality outcomes, and we see that through all of the data feedback we have at Mable. And if people aren't feeling like they're getting a quality service on Mable, they can discontinue that service. They can find alternatives, they can rate and review that experience, they can lodge complaints, report incidents. And so I think it's a very comprehensive approach to safeguarding quality.

**COMMISSIONER GROPP:** Thanks, Peter. On the safeguarding issue you talk about, yeah, I mean, reviews and perhaps transparency. Is that pioneering in the sector or do other institutions do that as well?

**MR SCUTT:** So I think the, for example, in aged care I think there is some work being done by the Department of Health to introduce ratings and reviews in residential aged care. I think that's something that is seen as a big positive in terms of consumers being informed about their choices. So that's being introduced. I think we've had the ability for people to give feedback on their experience on Mable since inception, and I think it's positive in the sense that it celebrates great care and great outcomes. It also creates a layer of accountability. But I think those ratings and reviews being transparent on profiles really helps inform consumer choice.

**COMMISSIONER GROPP:** I notice - I think it's curated. Is that right?

**MR SCUTT:** It's essentially - the ratings and reviews - the ratings are not curated but the reviews are just reviewed to make sure there's nothing defamatory in any of those reviews.

**COMMISSIONER GROPP:** But you - but they're all put up - they're not sort of - whether it's positive or negative. Is that right?

**MR SCUTT:** The ratings are all put up. So if you get a one or two - - -

**COMMISSIONER GROPP:** So it's like a factory would, yes.

**MR SCUTT:** Yeah. So they're put up and the reviews just go through a moderation to make sure there's nothing in there that might be considered defamatory. But our view is the more information that is transparent to consumers, the better are they able to make decisions about what's the right support for them. And I think what's unique about the sector we operate in is people with a disability and people that are older that depend on care and support in their daily lives, inviting people into their life to do very intimate and personal things for them either at home or in the community, the choice over who is critically important and consumers have emphasised that time and time again.

So, I think a platform like Mable is really about connecting people with people. People that need support with small businesses that offer support and that ability to choose who supports you and

build a tailored team of support around your unique needs and preferences, and also meeting the needs and preferences of the support providers is, I think, really critical for quality outcomes.

**COMMISSIONER ROBSON:** And do you sort of monitor that degree of responsiveness on the consumer side? What's your feeling like if, you know, somebody does get a bad review or just a complaint or, you know, it's not working. You know, does it work, in that sense, providing more information in your experience?

**MR SCUTT:** I think, generally speaking, you know, the more important the consumer is, I think the more effective they're able to make choices about what's right for them, and that's not just about ratings and reviews, but if you look at, you know, the discussion in – a consumer discussion in the NDIS, you know, building the capacity of consumers to make more informed and better decisions in their life is part of what they hope the scheme does over time.

So ratings and reviews is definitely one component of that. But, you know, I think there's also this element of who's right for one person may be different to who's right for another, and so, you know, we're not sitting here as Mable trying to judge quality. We're letting the people that engage – people of our platform judge that quality and experience and help inform others.

**COMMISSIONER GROPP:** Does it inform you also perhaps about training and selection?

**MR SCUTT:** It doesn't inform us – it informs us about the ability to offer, you know, pathways to training and skills. So, you know, we have two key pathways that we enable independent support providers to access. One is the learning hub, which is really about professional development and the other is working with RTOs and TAFEs around accredited training. And we've been quite local in our support for training in the care economy moving towards micro credentials - flexible online learning and microcredentials. Recognising that the people that need to be trained live in communities around Australia. They're not always in regional centres or towns, they're in small communities and remote communities and outer suburbs and inner suburbs. So having more flexible ways to acquiring skills and accredited training, I think, is important.

But when we look at the learning hub from a professional development, you know, we're focussed on giving people access to lots of foundational understandings about what the NDIS is, the code of conduct, maybe about working safely. It could be about active support, which is about doing things with people, not for people, and then they can upskill in areas like, you know, autism or dementia.

But giving people an understanding of the different training options on the learning hub and how they might build their skills and knowledge is something we're very keen to do, and in fact, also very keen to enable training to be person-centred which is another big objective, I think, of people with a disability say, "I want to communicate the training that's really important to me for the people I engage because I'm a unique individual with unique needs." But definitely where there are complaints, I think the ability to potentially direct people to further training and learning that might help them improve their practice I think is another important thing that can be enabled by a digital platform.

**COMMISSIONER GROPP:** Okay. So people, if they go to the hub they can find an online course or something like that or perhaps be redirected to an RTO.

**MR SCUTT:** Yes. So the learning hub has more than 140 courses from subject matter experts. So, you know, if it's about learning about dementia – it could be Dementia Australia, La Trobe University, OPAN has courses on there to do with, you know, recognising abuse and neglect of older people. So there's a variety of training there that people can take advantage of and build

their knowledge and skills in the area of business that they're focussed on. But similarly, we also have pages on our website that direct people to accredited training opportunities.

So, recently with TAFE New South Wales, we offered the opportunity for people on the platform to enrol in a Cert III that's fully subsidised. So one of the great things about Mable, I think, is you're bringing people into the sector that can offer entry level services, like help with shopping, meal preparation, food delivery, et cetera. But if they're liking that work, they can then invest in professional development training via the hub, but then they can go and get a full qualification. And if, you know, particularly with Cert IIIs in individual support, only about 36 per cent of those Cert III's are completed. So a great opportunity is – that's sector wide data - The great opportunity is to invest in people that are already working in the sector that want to upskill and broaden their offering.

**COMMISSIONER ROBSON:** And workers pay for their own training. Is that how it works on the learning hub?

**MR SCUTT:** Well, the learning hub is offered without additional charge to support providers who are approved on the platform. So they get free access to the learning hub. And with accredited training opportunities, typically that's an area where there is interest from federal and state governments to make that training available at subsidised rates or in some cases, fully subsidised. And so what we try and do is let people know what the accredited training opportunities are in their state or area and then they take advantage of those opportunities. But they're definitely, you know, again what you see with small business is a real willingness to invest in yourself to improve your business and the service you offer.

And so we've had some amazing letters from – one letter that comes to mind is a letter from an RTO just saying they were involved in training a number of workers that work via the Mable platform, and they just said how self-directed, engaged, motivated they were to learn and a very different experience to what they've had in the past, training in the sector for a long period of time.

**COMMISSIONER GROPP:** Do you have any sense of how many of your workers do engage in either using the hub or doing, you know, further VET training?

**MR SCUTT:** I can take that on notice and come back with some better insights. But we certainly, for example, at TAFE New South Wales, opportunity – enrolment was closed in that very quickly. In other words, all of those opportunities were taken up within a few days. But I'll come back to, I think, there was something like 50 or 60 spots available, and I think that was closed in a couple of days. And then in the learning hub, you know, there's been, you know, there's widespread uptake of courses on that learning hub. But that includes things like, you know, people can access the NDIS work orientation module on that learning hub, for example, which is all about understanding the code of conduct and what the NDIS is all about.

**COMMISSIONER ROBSON:** And take us through, Peter, your experience with worker retention and tenure, and in terms of the labour market tightness. What's your experience been with that recently, and you know, what's it like across your sector. I mean, do people work, you know, two platforms at once, whether they pick and stick and for how long, in your - - -

**MR SCUTT:** So this is in the context of a sector that has chronic workforce shortages – have been well documented. And I think are going to be even more challenged by the growing demand of an aging population and also as the NDIS rollout continues and people start to utilise their plans more fully. So one of the ways, you know, I think about how we start the scheme is definitely to – again, you know, in the context of the workforce needs to be available in

communities everywhere. A bit diverse in terms of that workforce because people have unique preferences and the nature of care is changing under the NDIS.

So one of the things that we think about is that the long tail of participation in this sector will be really critical. Like, it won't be a sector we can actually only staff through people that want to work full time in the sector, for example. I think, you know, by its nature they're community based services and often people that want to work flexibly in this sector are working around other life commitments.

So we're talking about a long tail of students, retirees, people with a disability, people that are under-employed, people that have an interest or a life experience they want to share with somebody with a disability in their community. So we think that long tail of participation – people working five hours a week, 10 hours a week, 15 hours a week, three hours a week will be critical to having a functioning NDIS and a functioning care at home sector.

In terms of on Mable, you know, we have people that are operating very few hours a week and we have people that, you know, run a business. Whether they've got multiple clients and are operating 40 hours a week. And I think what's also unique about the sector we operate in is, you know, wage-based employment has been the norm in this sector.

So again, unlike the traditional platforms in rideshare and food delivery where there's very few options to offer that service outside of a platform, in our sector, wage-based employment is an option, being a small business, working independent of platforms is an option, leveraging a platform is an option. And so what you see in Mable is, I think the data that we have shared is about 45 per cent of people operate outside of Mable as well as on Mable, and about 14 per cent of those – that 45 per cent operate via another platform, with the remainder, you know, having clients outside of platforms or working casually in the sector is my understanding.

So one of the things that I think's going to be critically important is, you know, lots of diverse models to be able to respond to consumer choice and control, but lots of diverse models to be able to respond to the diverse workforce we need to bring into the sector to address the chronic shortages that exist in communities everywhere.

**COMMISSIONER GROPP:** Peter, where do your workers sort of come from? What would they be doing otherwise? You mentioned students and you mentioned people sort of semi-retired or who would otherwise perhaps be doing volunteer work. I'm interested.

**MR SCUTT:** Yes. I think it's a great question, because one of the – you know, so we're talking about these entrenched challenges and the care economy, right. One of the challenges that's been posed for the last 10 years is where is the care workforce going to come from? And usually the answer is, you know, often immigration. And that's obviously not been a window that's been opened, at least recently, that is reopening. But I think immigration certainly can play a role particularly, I think, in things like residential aged care, where there's often a wide variety of people needing all sorts of support in a given day that's often clinical in nature and having people highly trained in that environment I think can make sense.

When you get to home care and disability support, often there's – people are seeking real connection and local community understanding and social connection and language connection and cultural connection. So it's very personal. But I think one of these we say in response to where the workforce is going to come from. It's going to come out of the latent capacity in communities everywhere. We think this is much more a community based solution. So Mable's about connecting many communities and enabling people in those communities to support other people in their community. And there's this latent capacity of people in communities that will

support people in the community if it's on their terms and if they can do it around other life commitments.

So a good example of this workforce and what they're doing today is the town of Bell. So Bell is a town of 500 people west of Toowoomba. Really small regional town. No home care providers in the town, lots of older people at risk of having no support and having to leave town to go into another community to get residential aged care. And a person in that town reached out to Mable to say, "We've got all of these older people in town with no support, how do we bring the community together to enable a solution within the community?" And so Mable helped that town come together and now there's 39 people with home care packages. They never had them previously. Supported by 19 local residents in that town who are now earning income and have jobs and bringing income into that town.

And so a lot of them were living in those communities but largely underemployed. And so they were either handymen, you know, or people that had other caring responsibilities in the town, and now they're able to make their services available to other people in the town on their terms and earn income. And it's actually created a workforce solution that didn't exist in that town previously.

**COMMISSIONER GROPP:** Thank you.

**COMMISSIONER ROBSON:** In terms of disputes and complaints, Peter, take us through, if you could, the processes – both maybe on the consumer side and on the worker sides. So how does Mable deal with those? And in particular, you know, something like a dispute regarding pay, does that just happen between the worker and client or does Mable get involved in them?

**MR SCUTT:** When you say a dispute involving pay, what do you mean, exactly? (Indistinct.)

**COMMISSIONER ROBSON:** Well, so if the, you know, if the worker has worked a certain number of hours and they feel like, you know, there's some dispute about whether they're, you know, getting compensated in the right way. You know, first of all, does that happen, and second of all, you know, how do those sorts of things get resolved?

**MR SCUTT:** Yes. So again, you know, in the context of understanding that Mable's a horizontal platform in the sense that the parties connect via the platform and they agree the terms – they agree the services, the terms, the rates, you know, of each engagement. So unlike, again, vertical style platforms like food delivery and rideshare, we're not determining the service, we're not determining the rates. So these are people themselves coming together and deciding the terms. And so on the profiles of the sole traders offering services, small business offering services, they have indicative rates.

So the consumer will see those indicative rates when they're searching for people in their community or when they're posting jobs and people are responding, they've got those indicative rates, they'll then have a discussion around the actual services required and whether it's a good fit for both parties and the times of those services and if they decide that they've got an agreement, including on the rate for that particular engagement, they'll document that via the platform together and then when services are delivered, the support provider will capture that in a service log with service notes, that will go through to the consumer for acceptance.

So that is largely sort of real time being captured because the support provider – the quicker they submit their, you know, service log, the quicker they will get paid because we collect payment on their behalf. And so when you capture that information real time and it's going across to the consumer for acceptance, you're pretty quickly picking up whether there's a dispute over the rate or whether somebody turned up from 10 to 12 today or not. And so you sort of create a whole

transparency around that and a real timeliness to it that I think minimises the possibility for any dispute or misunderstanding.

But where it does occur, you know, again, because the parties are entering into that agreement directly, they have a generally great capacity to sort it out directly, including the consumer being empowered to discontinue service, right. If they felt they were being misled around a rate or that the service was being charged for ours that they, you know, weren't there for example, they can discontinue that service, they can rate and review that experience, they can lodge complaints via the platform, and where necessary, we'll sort of, help the party resolve the complaint but we'll also – or the dispute – but we'll also look at, you know, where's the avenue for continuous improvement around how the platform can operate to help the parties entering into, you know, effective agreements going forward.

**COMMISSIONER ROBSON:** And has Mable ever had to kick people off the platform, either workers or consumers?

**MR SCUTT:** Yes. I think that what we do do is, you know, we operate in sectors where there's really quite stringent codes of conduct. Mable has a code of conduct, there's an NDIS code of conduct that's soon to be introduced, an aged care code of conduct for people working in the sector and, you know, there are people in the sector that can be more at risk of, you know, abuse and neglect, for example.

So where there is a breach of a code of conduct, you know, we would tend to probably suspend somebody from the platform or err on the side of suspending them while we actually investigate the circumstances. And if we thought there was a material breach of a code or persistent breaches of a code, you know, then we would take the step to remove them from the platform. I think if we took that step, we would generally be advising the – for example, in the NDIS, the Quality and Safeguards Commission so they could decide whether to separately investigate and remove them from the sector. The idea is that where people that shouldn't be in the sector, are in the sector, we identified early and potentially they're removed from the platform and then, potentially, removed from the sector. So, yes, we've taken those steps.

**COMMISSIONER GROPP:** One last question from me, relating - you started off about worker's compensation. Can I just ask what the risks - the main risks - are to workers, and just what the prevalence of incidents is? Do you keep those figures? And how do you then deal with it? Is that a concern of yours?

**MR SCUTT:** Yes, so I'm certainly happy to take the - take it on notice, around the actual prevalence, to look at what data we can provide there. I think, you know, the risk is, you know, essentially, for the worker themselves, some form of injury. And, you know, we don't see a lot of that on the platform. I think we've always felt that we will see less incidents of that nature, because often the sector is operated where people working in the sector have felt undervalued and underloved and underpaid, and I think that's an environment where you can often have greater risk of injury, but I think when people are being empowered to work on their terms, and feeling valued, and setting their own rates, I think, you know, that they're - and you're a small business - I think there's a level of taking personal responsibility for yourself and your services, and I think that reflects in the fact that, you know, we don't see a lot of injuries. But there's certainly a personal accident policy that responds to cases where people do have that injury.

**COMMISSIONER GROPP:** I guess it - - -

**MR SCUTT:** And we do - - -

**COMMISSIONER GROPP:** - - - comes under training, as well, doesn't it, in terms of - would this be about lifting people, or moving things, or - - -

**MR SCUTT:** That's right. So, where things like - that's right. There's - if you want to offer hoist and transfer via a platform, it's under a category called personal care. Personal care, you need a Cert III or a Cert IV, broadly, to offer services, but high-risk services, like hoist and transfer or lifting, we look for experience in that area. Similar with medication assistance, we look for that module of training, and there would certainly be plenty of information and training around working safely in the sector. The other thing we've - on the learning hub. The other thing we've also done is provided access to a wellness hub, so people can also access, you know, counselling, and an online service that actually, sort of, supports them in their own, you know, health in working in the sector.

**COMMISSIONER ROBSON:** Thanks very much, Peter. Is there anything else you wanted to add?

**MR SCUTT:** No, I think - I've been very grateful for the opportunity to contribute to the inquiry, and, you know, certainly be happy if you wanted to reach out for any further clarification or information, and I'm happy to follow up on those things on notice, as well.

**COMMISSIONER ROBSON:** Okay. Well, thank you very much.

**COMMISSIONER GROPP:** Thank you.

**COMMISSIONER ROBSON:** So I think we're (indistinct) done. We're a bit early. We'll take a break for morning tea, and we will resume proceedings at 10.45.

**MR SCUTT:** Thank you.

**COMMISSIONER GROPP:** Thank you.

**SHORT ADJOURNMENT**

**[10.13 am]**

**RESUMED**

**[10.39 am]**

**COMMISSIONER ROBSON:** So we'll get started. I'll turn that off for a second. We might need IT in here to fix that up. Anyway, we'll get started. I'd like to call Jordan O'Reilly. Jordan, welcome. And if you could just state your name and organisation for the record, and then if you've got an opening statement, we'd love to hear it.

**MR O'REILLY:** Sure. So my name's Jordan O'Reilly, I'm the co-CEO and co-founder of an organisation called Hireup. And Katherine, do you want to do an introduction?

**MS THOMPSON:** Sure. My name's Katherine Thompson. I'm the national lead for government affairs for Hireup.

**MR O'REILLY:** So thank you very much for inviting us to contribute to this important productivity inquiry. I'd like to start with some opening remarks to frame our experience and our views in relation to this inquiry. In these opening remarks, I will first tell you a little bit about our work and our unique perspective, especially in relation to the social care sector and to the emerging platform economy. Second, I will briefly reflect on my support for this productivity inquiry and offer my, sort of, humble reflections on where the emphasis might be placed as a result.

So first, our work. As I said, I'm the co-founder and the co-CEO of an organisation called Hireup, which is an online platform that gives Australians with disability the power to find, hire and manage their very own support workers. Growing up I had a younger brother whose name was Shane and he lived with cerebral palsy, and he relied on disability support workers every day to help him live the most independent life possible. Managing support workers was part of our family routine, but the traditional system seemed broken.

Getting random workers turning up at the front door each day to provide support often felt like a lottery. Sometimes the workers who were sent by a local agency were a good fit, but more often than not, they weren't. Hireup was borne out of that experience. As Australia's first online disability support network, Hireup is built to put people in control.

We've grown rapidly since launching in 2015 and now serve 10,000 people with disabilities and their families on an annual basis. We have thousands more active monthly employees providing millions of hours of support every year and we create huge and positive social impact. The most unique thing about Hireup, however, is – and the thing that sets us apart from almost all other gig economy platforms in Australia, including the nine other platforms operating in the disability and aged care sector, is that we directly employ every single one of our support workers under casual and permanent contracts.

We follow the well-established industry award. We pay our workers their hourly wages, we pay their taxes, we pay them super, we provide insurance as well as a range of protections and entitlements that they deserve. We function in exactly the same way as any traditional employer in Australia despite the fact we have a modern platform powered business model.

In short, we're proving that you can absolutely combine the best of modern platform technology with a responsible labour model for workers without compromising on the things that people want. Cool technology, flexibility, efficiency and empowerment.

Our very existence in Australia is problematic for the vanguard of the current gig economy who are trying to protect the status quo for their own economic benefit, and who will tell you that their businesses simply will not work in an environment where they have to treat workers as employees. They say that it will threaten productivity. We say that's not right, and the platforms – especially those working in the Australian care economy should be more closely scrutinised on this point. So with all of that in mind, I hope you can see that our work with Hireup has put us in an interesting and quite unique position sitting at the intersection of the rapidly growing NDIS and as well as the platform, sort of, economy.

In terms of the disability sector and the NDIS, you may be interested to know that the NDIS has previously been described as the greatest nation building project on earth. We're currently investing \$30 billion a year to support people with disabilities and their families to live an ordinary life. The NDIS is a fundamental pillar of the Australian economy and will only increase in significance as we invest more into that scheme. I'm sure you've seen the recent budget estimates showing a 14 per cent increase in costs each year which is really quite remarkable.

As for the changing service landscape, the productivity commission itself reported in 2008-2009, that services were delivered by 2200 agencies, through around 11,500 service outlets. Fast forward to today: recent NDIS reports show that there are now over 130,000 individual service providers, many of whom are sole traders. That's a sixtyfold increase in just 12 years. And platforms in our sector who treat their workers as contractors have somewhere between twenty to forty thousand workers alone. There was nothing like that level of contracting pre-NDIS.

In terms of the more traditional workforce, the Department of Social Service estimates there are 270,000 workers in the disability sector, across 20 occupations, and that the sector will require another 80,000 people to fill workforce shortages over the coming years. In terms of the workforce makeup, despite the wide range of occupations, DSS show that 89 per cent of workers fall into the home care and community care support worker category, meaning the less skilled end of the spectrum, compared to, say, allied health practitioners, for example. It's also a highly feminised industry, with roughly 75 per cent of workers identifying as female.

And lastly, when it comes to safety, you may be surprised to learn that, according to the latest Safe Work Australia report, employees in the health care and social assistance industry made the highest number of serious claims of any industry, well ahead of workers in the construction, manufacturing and transport industries.

In summary, ours is a rapidly growing industry, of national importance. The sector has already exploded in terms of workforce and provider growth, with very little by way of meaningful oversight and regulation. The vast majority of workers in this space do home care and community work, where they're paid by the hour and their work is directed by either the person, the client, or the platform or business who engaged them. It's a highly feminised industry, with high injury rates, and it's an industry where workers are meant to have very clear entitlements, rights and protections owed to them under longstanding and well-established industry awards.

Of course, there are sole traders and entrepreneurs and aspiring small businesses in our sector, and those people need to be celebrated, and they need to be recognised and protected. But to say that the average home care worker or community care worker is an entrepreneur or a small business is quite frankly absurd. In most cases, these are workers who were attracted by the allure of "charging your own rates" and "becoming your own boss". In other cases, these are simply people working via an ABN because they were asked to by their client.

Everyone working in the disability sector deserves rights and entitlements and protections, no matter their employment status or how they're engaged, including via modern platforms who claim their workers are somehow different and are not deserving of any of it.

Speaking of the platform perspective, we all understand the gig economy is growing rapidly. Some reports estimate that the gig economy has tripled since 2015, and now account for around 250,000 workers in the Australian economy. We know there are nine platforms operating gig-style business models in the disability sector - in the disability and aged care sector. And, in the words of the recent Victorian inquiry into the on-demand economy:

*Platforms' entry into the care sector has created new and important choices for recipients, enabling them to curate services to better suit their needs; and for care workers, offering flexible work opportunities. Some platforms offer care services under non-employment arrangements, while others employ their on-demand workers. There are legitimate concerns about the impact of platforms on this sector, particularly in relation to health and safety and insurance, unpaid work, and the long-term training needs of the workforce. Platforms using non-employment modes of engagement can provide services or workers at a lower cost than those complying with work laws, creating an uneven playing field, and impacting on the sustainability of employment-based workforces. It is in the public interest that work arrangements are lawful, sustainable and fair.*

And we agree with all of that.

To summarise, we are deeply concerned about the unfair, unlawful and unethical work practices emerging across the disability sector, especially those driven by modern technology platforms.

We think gig economy practices, especially those characterised by the engagement of independent contractors, will have negative implications for workers, consumers, competition, and the overall economy, in the long run.

Our request is simple. We want to see sensible reform and regulation of gig economy platforms, especially in sectors as important as the disability and the aged care services.

So, finally, to emphasise our support for this inquiry, we were pleased to see the scope of this inquiry, and to read the ideas outlined in the report number 6, A More Productive Labour Market. As a major employer, of 10,000 or so workers, we see every day how better award and better bargaining conditions, as well as better regulation of the gig economy, would benefit workers, consumers, competing businesses, and the economy overall. We're extremely pleased to see that the benefits of platform organisations have been recognised, and the important contribution they can make to increase productivity, especially around better matching, flexibility, and competition. And we really welcome the opportunity to demonstrate Hireup as a shining example of innovation in action.

But I want to make one final point very clear. Any productivity gains achieved by leveraging unregulated technology platforms, who operate outside well-established industrial regulations frameworks, and that reduce the rights, entitlements, and conditions of working people by treating them as independent contractors or small businesses, will be no gain in the long run. In this very report, you've noted:

*While the efficiency-enhancing aspects of platform-based business models could be at risk under certain regulatory approaches, it is important to consider where legitimate need for regulation remains. If platform-based business models were only viable because they avoid legitimate regulation, or because they are able to lower costs by increasing risks to public safety, then arguably they would not be a source of genuine, properly measured, productivity gains.*

I believe that we're at a critical juncture in the development of the platform economy here in Australia, and that we must act now to ensure that the industrial relations system, including award and bargaining systems, are well set up to support productivity in the modern economy, and do not act as an incentive for new tech-enabled businesses to operate on the outside. And I believe that sensible regulation should be applied to all platform businesses, working across the economy, to ensure that practices are lawful, sustainable and fair, and do not create a race to the bottom under the illusion of increased productivity. Thank you very much.

**COMMISSIONER ROBSON:** Thanks, Jordan. I might just ask you a few questions around - so when did you start your business?

**MR O'REILLY:** So we started, officially, in January 2015.

**COMMISSIONER ROBSON:** Okay. And so - and you've been paying the award since then, or is it - or are you - is there scope for workers to go above the award, or how does that work?

**MR O'REILLY:** Yes, effectively, we've been following the SCHCADS Award since day one. It's fair to say that was a - it's a complicated document, as awards can be, and it's taken a whole bunch of time to really get it right, but we think that we're proving, over the last seven years - we've been following the award since day one, and we think that we're showing that it can absolutely be done, despite the challenges.

**COMMISSIONER ROBSON:** Yes, so take us through the calculus. When you were starting the business, you know, you would have had the choice between engaging independent

contractors and going - and the model you've chosen. I'm just interested in, you know, how that thinking evolved, and why you chose that particular business model, and then whether you - you know - and whether you think it now gives you a competitive advantage, or - you know, what's the - because, you know, we're interested in, you know, the overall system, but, you know, if there's instances where it can work, we're interested in how that actually happens. Yes.

**MR O'REILLY:** The first sort of honest reflection is, it's quite astonishing to me that we were able to choose.

**COMMISSIONER ROBSON:** Yes.

**MR O'REILLY:** Like, if we had made a different decision, we'd now be sitting here with 10,000 - well, presumably, if it had sort of worked in the same way - we could be sitting here with 10,000 contractors, and the huge implications that has for those people. So it was quite remarkable that we were able to just decide that. But, I guess, that's the situation.

We were encouraged very firmly, in the early days, to set our business up as a contractor marketplace. A lot of older and wiser people said to us, "This is the way of the future, and by doing that, you will take an arm's-length distance from the liability when things go wrong. You won't have to pay superannuation, and work all of that out. You won't have to pay tax. You won't even have to run payroll. Much more efficient and effective to run this as a contractor-based marketplace," and in fact, we were told that it just wouldn't work if we tried to set it up as an employment-based marketplace.

Despite the fact there was no real precedent for us to look at, we decided it was a sort of - the best I can - the best way I can describe it is a values-based decision, where we just sort of said, it didn't feel right. I should have mentioned in my opening comments, as well, I was a support worker for many years, while studying occupational therapy at university, and I wanted to provide support; I didn't want to, sort of, start a small business. That wasn't what I was doing. And so it just didn't feel right to set workers up as contractors simply because it would have been a more expedient business decision, and so we just decided to try with an employment arrangement.

What we've proven, in the seven years since, is that that's no impediment to productivity. We are one of the largest platform-based disability service providers in Australia. And so, I'm pleased that we've proven that it can be done. It's definitely not the most, you know, you can see where there's real complexity with the award and with responsibilities as an employer, but we're absolutely proving that it can be done.

**COMMISSIONER GROPP:** I was going to ask you about that because what are the additional costs of complying with awards, et cetera, and things. It took you seven years to figure it out or something, which is not a great advertisement for the award system. How does it constrain you? What are the additional costs that it imposes on you in terms of working out how much you have to pay people, because the awards are very complex and what categories people fall into. Can you take us through how you've dealt with that?

**MR O'REILLY:** Yes.

**COMMISSIONER GROPP:** What those costs are?

**MR O'REILLY:** I'm sorry if I misspoke there, I mean we've been going for seven years. Not all of that time - sorry, not all of that time's been spent just on the award.

**COMMISSIONER GROPP:** How long did it take you to figure it out?

**MR O'REILLY:** Well, I also don't want to characterise it as a cost, because I believe that the awards and the award system is important in principle.

**COMMISSIONER GROPP:** Sure. But I mean, compliance costs. I mean there might be an unnecessary, you know, there's unnecessary complexity that adds unnecessary cost.

**MR O'REILLY:** Well there's just a lot of complexity in terms of – and one of the challenges, one of the reasons that we're here and that I'm sharing the thoughts that I am is that we're – by complying with – not, sort of, 600 pages or something, that could be wrong, but you know it's a big document and there's complexity from working conditions through to pay rates. Complexity around sort of pay rates and pay tables and all sorts of stuff that has created a level of complexity that we've had to work through. But I think the principle of sticking to the award is a really important thing, and there's ways that we can see how you would improve it and improve productivity as a result. I think that would be a great thing across the disability sector, but it was important for us not to avoid it.

**COMMISSIONER GROPP:** Do the award classifications constrain how the people you employ and how you use them? I mean, is it – or do you have to, you know, this person can't do that particular task at that pay rate but they can do it at that pay rate. How does that effect the services you offer?

**MR O'REILLY:** Can you repeat the question?

**COMMISSIONER GROPP:** Well, it's just often there's a, you know, a person has a sort of, you know, what they can do.

**COMMISSIONER ROBSON:** The boundaries.

**COMMISSIONER GROPP:** The boundaries of what they can do for that pay rate. If they do that task, they have to get a different pay rate which makes it very complex to administer and it might effect services if they go to a home or something that they, you know, how long did they do that particular task? How long did they do that task and at different pay rates. How do you work with that?

**MR O'REILLY:** That level of, sort of, complexity has not been our experience with the award. There is a – under the SCHCADS Award there's a stream for, sort of, disability. One is home care - - -

**COMMISSIONER GROPP:** It's fairly broad.

**MR O'REILLY:** It's fairly broad. And we've been able to work within that. There's absolutely ways that we can improve the award and simplify it. It would create massive productivity gains across the whole sector. We work in coalition with hundreds of traditional service providers, all who are struggling with some of the complexity, all who are inadvertently getting things wrong. We can see if you were to simplify and, you know, work through a process where you keep alive the important rights and entitlements and conditions that are there but simplify things for businesses and workers, you'd get massive productivity gains there.

One of the points that I was going to make a moment ago is that where we see the real challenge is where there are either amendments or changes to the awards or there's, sort of, complexity that we must insist on, on behalf of workers – so I'll give you an example. There was a recent ruling that changed the minimum engagement times to two hours. Now, we work in a system of the NDIS where funding is provided on an hourly basis, and some individuals rightly say, "I don't want someone to support me for two hours."

**COMMISSIONER GROPP:** It means you have to pay them for two.

**MR O'REILLY:** You have to pay them for two. And individuals and their families will say, "Well, the NDIS isn't going to double my funding overnight." And so I'm going to have to, you know, we've had a significant number of people who have said, "I'm going to have to go offline. I'm going to ask my worker who was previously gainfully employed and rightfully employed and I'm going to ask them to get an ABN so they can continue to do the one hour shift for me."

So it's in those moments where we see the challenges of complying with an award and the challenges of two speed system where you'll have other platforms who will say, "You can, you know, full choice and control, you can do whatever you want." And so it creates a slippery slope in some cases. Not all cases, of course, but in some cases. And that's the stuff that we see. And that's where we sort of really scratch our heads and say, "How can we have the same workers on our platform and another platform where, you know, some have to follow these conditions, whereas on other platforms you don't."

**COMMISSIONER ROBSON:** And in your experience, what's the incidence of that in your business so where you have people who are employees. I mean, do you allow them then to work on another platform in terms of the employer-employee relationship and then if you do, you know, can you measure it and how do you cope with that and what's the - - -

**MR O'REILLY:** We take a fairly open approach to the employees on our platform. We don't try to restrain any sort of external trade off the platform, be it working with traditional organisations or with other platforms or, you know, by themselves. And we know for some workers it's the right thing to be working for multiple employers. And so we don't sort of try to restrain that, we don't monitor that. We want to be very supportive of people's individual choices, but where workers are increasingly engaged as independent contractors in the disability sector to work outside the industrial relations system, we've clearly got a two speed system and a problem as the on-demand inquiry in Victoria noted. You know, there is – this stuff has to be lawful, sustainable, and fair. And we risk creating all sorts of weird, uneven playing fields and undermining the sort of economic realities of the sector if we don't change.

**COMMISSIONER GROPP:** You'd be concerned with the further restriction of casual work (indistinct) surely. I mean you talked about the minimum of two hours, and I think there was one stage you were talking about three hours. But that would severely impact your business model, would it?

**MR O'REILLY:** My view is that it's important we weigh up the considerations of workers rights and entitlements and conditions and that the sector, you know, does and should continue to go through consultation around what's right for workers, what's right for, you know, in our case, service users on the NDIS. I think it's a really important process that we go through, but we can't have an industrial relation system that's getting tighter for one cohort in the market – in this case employers – with the ability just to decide to disregard those. I mean, that's going to create a real bizarre, uneven playing field. Make it harder to employ workers in the disability sector if you can legitimately contract tens of thousands of workers without following any of those rules and entitlements. So that's the challenge that we've had.

**COMMISSIONER ROBSON:** And do you get, you know, in your recruitment, do you – are the people you see coming to work for you – are they from the gig economy or are they just coming in fresh or from other areas? What's the crossover between the two in your experience? Does it sort of, you know, disaffected gig workers who say, "I'm sick of this, I want to now be an employee," or are they thinking about other things when they - - -

**MR O'REILLY:** The problem with the gig economy and with treating workers as independent contractors is it's fine when it's fine, it's only when things go wrong that we really hear about it. So I was talking a moment ago about what, you know, the profile about workers, but it's only when workers have catastrophic injuries and realise that they weren't covered by worker's compensation. It's only when workers are told by platforms where they're told that they're insured, and when something goes wrong they're told that they have to pay an excess to access – the insurance excess to access that insurance. It's only when things go badly. And in our case, you see a lot of embarrassment and a lot of shame and a lot of, sort of, withdrawal when things go wrong. But it's on that side of things where we see the challenges of the gig economy where workers just assume that they're protected and are entitled to rights and entitlements that they don't otherwise have.

We see it, again, with workers who don't really understand what the tax – you know, PAYG tax is all about or, you know, in their case small business tax who don't put their tax aside in a lump with a huge tax bill. Or when a disgruntled worker turns around to a participant on the NDIS and say, "You owe me for two or three years back payment of the superannuation. You should have been paying my super." These are the cases that aren't very well exposed. They haven't been investigated, and we see the challenges of this sector. And it's going well. It's excellent, you know.

And in our case, in our sector, people pay very high wages. That could change. You know, if the NDIS, you know, decided that they're going to reduce the amount that individual workers can claim. It can change if the supply/demand, you know, it's a huge supply constrained market right now. All of this is, you know, that we're assuming is taken for granted now, is the challenges on the gig economy side of things, and we see that impact.

In terms of our worker profile, these are home care and community support workers largely speaking. They're, for example, the archetypal work on our platform might be a third-year occupational therapy student, as indeed I was. It's, you know, working towards an OT degree, but is working, providing support work via a platform like ours. So that's - we don't really, sort of - we don't recognise, sort of, gig - disgruntled gig workers, or anything like that. These are people that are providing support in communities all across Australia.

**COMMISSIONER ROBSON:** And so your service: you engage someone as an employee, and then you match them with the consumer, and so that if they're not matched, they - you still pay them for not working? Or how does that work? And what's your, sort of, incidence of casual and permanent?

**MR O'REILLY:** Yes, so it's predominantly casual - an employment model.

**COMMISSIONER ROBSON:** Yes.

**MR O'REILLY:** We certainly started as a casual employment model; I think we leveraged that. You know, that's a - it's excellent that we have that in Australia. You know, I, for example, was a casual disability support worker through uni, as I said. If I was made to work permanently, I just couldn't have done that. So we started with a casual employment model.

One of the changes to the award system that - as part of the process was the conversion to permanency after a year, which we really welcomed that; it made us think harder about, what about people on our platform who wanted to work permanently? And we're proud to say that we've come up with a model for permanency, where we do engage workers, and pay them a - a permanent rate, and there's been some wonderful stories off the back of that, where people have

said, "I've been able to get a home loan," or a car loan, or whatever it might be. And it's wonderful that Hireup can offer that. We want to do more and more of that, going forward.

In terms of the casual model, people are engaged by the participants, and we pay them an hourly wage as a result.

**COMMISSIONER ROBSON:** So, in terms of your preferred model, you would just like to see the entire industry, basically, sort of - you know, in terms of a regulatory model - it would be similar to what you're doing, and everyone would just be regulated according to the award and an employer-employee kind of relationship; is that what you're after?

**MR O'REILLY:** I think the first thing that we're saying is that you can absolutely have modern technology and a secure employment model. The dominant narrative is that those things are mutually exclusive, and I just believe that's not right; I think that can absolutely be done.

I think, in the case where people are engaged, in our case, by the hour, you know, in - where we're clearly not part of the gig economy, depending on how you define it, is that the average relationship on our platform lasts many months. We got people that have been working the same relationship, week on week, with the same participant, directed by that participant in terms of their duties, paid by the hour, week to week, for many years - many years long. The fact - the idea that these workers are then not paid their superannuation - and we know, when people aren't made to pay compulsory superannuation, people, you know, won't pay that.

We think that there are rights and entitlements and protections that should be owed to the workers, however - you know - however we set that up, but we think that that's very important, and we think it's important that workers are owed those rights and entitlements and protections no matter how they're engaged. Would you add anything to that, Katherine?

**MS THOMPSON:** I think - as we've heard from some of the previous witnesses, and I think that we would agree, the barrier to entry could be quite low. So, as long as you've got these low barriers to entry to enter into a sector, where it's extremely easy, particularly within the NDIS, to come on as a sole trader/independent contractor, the second that industrial instruments get too complicated, people just abandon them. There's not a huge amount of incentive, from the individual level, to make things better, because it's so easy just to go around them, which - why wouldn't you, frankly?

So, I think, to answer your question, I think that the best way to increase productivity and get better outcomes for the sector as a whole is if everybody is, sort of, in the tent, and we're all working towards better outcomes, rather than, when things get a little bit too tricky, or when these two hour minimum shifts come in, you just walk out, and you go off-book, which is perfectly legitimate within the NDIS in its current form. There's very little incentive for everyone to stay in and make things better, when it's so easy just to leave.

**COMMISSIONER GROPP:** Would you - I mean, if people coming into the industry to supply services had better information about, say, super and tax, and to be more - you would - would you relax a bit more, that people were making choices, informed choices? Is that - however does that information - lack of information for people at the moment? About their insurance situation, for example.

**MR O'REILLY:** Yes, in short, I think that would be fantastic. I think that would be a great step forward, better information for people, because we do, as I said, see a lot of people who just, you know, well, either didn't have the information or didn't engage with the information, and then only, you know, find themselves - - -

**COMMISSIONER GROPP:** So do the platforms supply information, or was it often opaque?

**MR O'REILLY:** I won't speak on behalf of the other platforms in terms of what information is provided. But, look, this is why we're so passionate about this. I've had a number of phone calls with people who are friends of mine with disability, who have called and said, "My NDIS" - you know, words to the effect of, a situation to the effect of - "My NDIS plan has been cut by 25 per cent. I can't do with 25 per cent less support. I'm going to ask my worker or team of workers to get an ABN, and work offline, so I don't have to pay payroll tax that you apply, I don't have to pay the workers comp premiums. I can do it cheaper offline."

And so, when you say, would we be more relaxed about that? I think it's a - that would be a great - a step in the right direction, for sure, but there's clearly practices emerging across the sector, based on the sort of economic reality of what's going on, where people, as Katherine said, are opting out of things that we've previously agreed are important: things like worker's compensation premiums.

**COMMISSIONER GROPP:** And you're saying that the cheap - the relative prices of the two models is really because things are not being paid at all, like superannuation or workers comp, et cetera, not that there are actual cost difference - like, not just because of the cost of complying with the award system, and - versus the cost of doing it outside of that system. So it is just because things aren't getting paid; is that what you're saying?

**MR O'REILLY:** That's - that's it (indistinct).

**MS THOMPSON:** Yes, I mean, there's certainly a cost involved in making sure you're doing everything correctly, and, you know, you've got legal teams, and trust and safety teams. And we've got teams of people dedicated to return to work, for example, which is something that we wouldn't have to do if we were a contracting platform; it wouldn't be our responsibility to make sure injured workers got back on the job. It would be - you know. So there are certainly costs that Hireup have that we wouldn't need to have if we didn't employ. But, sort of like Jordan said earlier, we don't really see those as costs in a negative way: things that we're very happy to pay, because we think that it's the right thing, and it's better for the sector and the longevity of our scheme.

There's a sort of another part of the NDIS, which is in the registration space, which is the opt-in regulation. Hireup is registered; we opt in. Only 10 per cent of providers do, so 90 per cent choose not to be regulated by the Quality and Safeguards Commissioner. That's another sort of added expense that is nominally factored in when the NDIS set their prices.

So, I guess, to answer your question, there definitely are additional costs to being an employer that you wouldn't have if you didn't, but I think that they make us a better provider.

**MR O'REILLY:** And the challenge, of course, is where you pass through complex rules - be those NDIS regulations or award regulations - when you pass complex rules and costs through to participants, things like five per cent worker's compensation - when you pass those through, and others don't have to, you obviously create an unequal playing field. And the amount of wasted time and lost productivity in a sector dealing with those dynamics is huge, from our perspective.

So I don't - as I said in these comments, there are absolutely small businesses and entrepreneurs and, you know, aspiring businesspeople in the sector; we really - we shouldn't be making it harder for people to work in that way. But, as you can see, from our perspective, we see a lot of workers who are engaged, because it's just easier or it's cheaper. Where we try to pass through - where we have to pass through costs or complex rules, you know, it's hard for consumers to

understand that in the moment, and it creates this uneven playing field that makes it very hard to do business.

**COMMISSIONER GROPP:** Are you the only provider doing this, complying with the - well, with the employee-employer relationship, and therefore within the Fair Work system, or are there others like you?

**MR O'REILLY:** As far as I - well, as far as I know, we're in a segment, platform providers, and we focus on the disability sector only, but a lot of platform providers focus on aged care and disability. As far as I understand, there are about 10 what we'd call post-NDIS platform providers. As far as I'm aware, we're the only one that employs support workers and combines that with the platform technology. So that's my understanding.

One of the things that has been, again, particularly alarming to see, because I work very close with the community and out on the ground: the amount of traditional providers, new emerging providers who aren't technology-enabled - they're just like a traditional agency - who are contracting their workers. And I say to them, "Well, why did you decide to contract your workers?" And they say, "Because that's what the platforms are doing." The platforms, especially those that are big and have massive scale, are proving that you can just treat workers as contractors, so we're seeing more traditional providers - I am, at least, on my travels, anecdotally - seeing more people just deciding to treat workers as contractors.

So this sort of goes to the central point. We don't - I don't necessarily have a one size fits all solution, I don't think that would be appropriate for the disability sector. I can hope you see the challenges that we're trying to articulate.

**COMMISSIONER ROBSON:** And in terms of award simplification, can you take us through - can you elaborate on that a bit, you've spoken a bit about it, but what would you like to see in terms of award simplification which adds - is there anything specific that you could take us through, or?

**MR O'REILLY:** That is an enormous question.

**COMMISSIONER ROBSON:** Okay, fair enough.

**MR O'REILLY:** No, no, it's a great question, and it's a big question. I think there are - of course there are ways that we could improve and simplify the award. I think the lost productivity, if we had some big calculator that could calculate the lost productivity across the sector, trying to work out the award, it would be substantial. It acts as a barrier to people becoming an employer, and so, there are definitely ways that we can do that. But as Catherine said, the thing that we would just love to see across the disability and aged care sector is that we're all in the same tent pulling in the same direction.

We're all at the same table working out how do we get the balance right between, you know, employee rights, and entitlements and protections for a system, a \$30 billion system, combined with the wonderful elements of the NDIS, which is about choice and control. Like, that's a complex discussion. I think the key thing that we would like to see is that just everyone was in the same tent, and there wasn't this sort of open question of well, why, you know, why would a new provider take on the complexities of the award and then being a responsible employer if they don't have to?

**COMMISSIONER GROPP:** Yes, but I guess that goes, well, if you could solve that, maybe you would have fewer people taking up the other model. As you say, it sort of encourages that. In terms of your own experience, I mean, how much - I mean, you have to employ people to

figure all these things - these rules and regulations out, how many people do you have to devote to working on that? That you perhaps wouldn't have to if you had the other model?

**MR O'REILLY:** Dozens. Like, dozens of people across compliance, and pay roll, and our insurance teams, our return to work teams, our - you know, the duties that are put upon us, I think rightly so, as a major employer, large employer, in terms of WHS, you know, and return to work people, like this is dozens and dozens of people that we have to manage the complexities of employing a large number of people. And that cost, and that complexity just doesn't disappear because you decided to treat workers as contractors. That cost and complexity is just distributed.

And often, it's distributed out to participants, and so, as I said before, it's all well and good when you're earning a higher hourly rate, but if you have a catastrophic injury, and you need months of rehabilitation that you have to fund yourself, or you need a lot of return to work support, there's an entire industry around return to work, because it's a very complicated thing. And all of a sudden, an individual contractor is - takes that upon themselves, often you understand why employers are set up the way that they are.

**COMMISSIONER ROBSON:** And is that complexity in red tape, sort of, you know, constant, in your experience, or is it getting worse, or improving, or what's the dynamic of it over the last seven years?

**MS THOMPSON:** I think one of the ways to think about the NDIS and the award in particular is the award, the SCHCADS Award predates the NDIS. So, prior to the NDIS we had - it's not like we didn't have disability support systems, we did, we absolutely did. We had providers, we had all of that. The NDIS really changed the way the disability support is funded, and the way it actually works in Australia, and because the award predated that, the two just butt up against each other sometimes. So, they weren't designed in collaboration, so the award may change, and the NDIS has to respond to that, and then the NDIS might change, and then so it's no longer consistent with the award.

There're just a few little inconsistencies throughout, and that adds a huge amount of red tape for us. So, I think even that alignment, making that alignment stronger between the system that we're all funded by, and that we work within, that we're regulated by, and the industrial relations system that we have to work within, as long as the two are not made in conjunction with each other, it's always going to be difficult. So, I think that is one of the biggest challenges. And because higher up is almost exclusively NDIS funded participants, I don't know if that same problem exists outside of the NDIS, but within it, it's certainly a massive barrier.

**COMMISSIONER GROPP:** Some of the evidence that we've put into our interim report, and it was in our other report into aged care employment models about some of the gig workers receiving higher hourly rates of pay, perhaps on the award. Have you got any comments on that, or do you think that that's not - or that it's not sufficient additional compensation for perhaps these other superannuation and other protections, is that your view?

**MR O'REILLY:** Sorry, could you repeat the question, I just - - -

**COMMISSIONER GROPP:** We've seen evidence, and look we haven't got complete evidence here, but that some of the platforms, their hourly rates of pay are quite high, you know, and they're higher than the awards. But what you're suggesting is that perhaps that gap, that premium, still isn't adequate to compensate for perhaps superannuation, and insurance protections that you would be required to pay, is that right?

**MR O'REILLY:** Yes. I mean, the challenge that I have with - or the questions that come up in my mind when I read that sort of evidence is, number one, I think from what I've read, a lot of

that evidence is supplied by the platforms themselves. And so, that doesn't account for people that are, you know, not working with platforms that are on offer, and all those sorts of things. It's also the average rates of pay. So, some people are earning substantially lower, and quite substantially lower. We find people that are earning the lowest amounts will be the ones that start on the platform and then get taken off the platform, to my comment about the sort of where that evidence comes from.

And it's only true that those in the aged care and the disability space, it's only true that those rates are higher because the NDIS sets a very high hourly rate, but that could change very quickly. Stranger things have happened in the disability sector where those rates could be compressed, and then all of a sudden, in other words, the workers in this space are completely beholden to what the NDIS decides to do with pricing. And you can imagine a scenario in which that, you know, there's a squeeze on pricing, in which case workers are then exposed to, you know, being able to earn lower rates. And that doesn't then take into any - you know, it's only true that people's direct hourly rate is higher.

But as I said, if you have an injury, and we see dozens of people who have profound injuries, who are working as contractors, who then have to pay for all of their rehabilitation and work through the return-to-work system. So, I think we'd basically say a lot more investigation needs to be done and to consider the, you know, a broader picture than just the information that the platforms might say about what the average hourly wages are. And so, the last point I would make, if you take the five per cent worker's comp premium, and you take five per cent payroll tax, I understand no one wants to pay payroll tax, I understand that NDIS participants might not see that as an efficient use of the funding, but if you've got a workforce of thousands and thousands and thousands of people and you're avoiding the payroll tax, if you apply those sorts of costs, the margin between an employer and an independent contractor starts to vanish very quickly.

**COMMISSIONER GROPP:** Just one last question. I mean, you said that you'd like to see to be playing the same - abide by the same rules, really. But in the immediate term, what sort of steps would you like to see taken to - would it be, you know, workers compensation, or - applying the same rules across the whole sector probably might be something that's a bit more of a - not necessarily happening any time soon, perhaps, or whether it should, but what immediate steps would you want to see?

**MR O'REILLY:** Do you want to?

**MS THOMPSON:** Yes, I can kick it off, anyway. I think that we need to really look at our definitions and what we mean by the terms we used in this space, and you know, independent contractor and employee, those terms, legally, are more than 10 years old, and they don't account for the platform, and the role of the platform, and the control exerted by the platform. So, I think really looking at the question of is a worker a small business just because they have an ABN, and really looking at that sort of digital sham contracting within the disability and aged care sector, and probably within others as well, but we'll speak for our own.

So, I think really looking at what is going on in there, how much control do these workers have between the control exerted by the platform around who can get on, and who gets kicked off, and what happens in between. And the control exerted by the participant on the NDIS around how the work is conducted, and the time, and the pay rate, and that kind of thing. How much control does that worker actually have at the end of the day, and is that worker a genuine sole trader, small business, or is that worker really an employee when it all comes down to it? So, I think really looking at those terms, and the definitions of those terms in the context of today, as opposed to the context of the pre-platform space.

**COMMISSIONER ROBSON:** Okay.

**MR O'REILLY:** One of the reasons that we're here, and I try to communicate this as clearly as I possibly can to friends, and you know, people across the sector is that there's an enormous pressure exerted on our business, an enormous time spent just on this question alone, which is the classification of our workers. And I don't have the solution, I don't think there's going to be a one size fits all or a fast solution, but we do need this question looked at. Because if we're thinking about productivity, I think for businesses like ours, and many, many others across the sector, and when I say others I mean employers, I mean other contracted work, this open question that causes a lot of lost time and inefficiency.

If you don't have to follow a whole bunch of complicated rules, and others are actively choosing not to, and I think more and more people over the coming half decade, decade, are going to head in that direction. And so, I think now is the time for real scrutiny on this issue, and we would appreciate that because it would help us answer this complicated question that we're sort of wrestling within terms of, you know, how we set up and conduct the business. But my personal view is that workers in this space, there's very, very clear entitlements, and rights, and protections that people are owed.

Not everyone understands that before they engage in the work, but it's really important that those are protected, and elevated. I think all of us in terms of the platforms, or traditional businesses in this sector have a responsibility to be part of this conversation to make sure that we can agree on the rights, entitlements, and protections of workers who are doing this really important work are owed.

**COMMISSIONER ROBSON:** Thanks very much for your time.

**MR O'REILLY:** Thank you very much.

**SHORT ADJOURNMENT**

**[11.31 am]**

**RESUMED**

**[11.41 am]**

**COMMISSIONER GROPP:** Okay, we'll start Simon, if that's okay with you?

**MR SMITH:** Yes, great.

**COMMISSIONER GROPP:** So, can we just ask you to introduce yourself, and then give any opening remarks, about up to 10 minutes or so.

**MR SMITH:** Sure, I would be very happy to do that.

**COMMISSIONER GROPP:** Thank you.

**MR SMITH:** So, my name is Simon Smith, I am the group advocate for PEXA, I've been with PEXA for about two years, and I sort of present the PEXA story as a case study with a deep background in regulation and in the public sector. Most luckily, I was a regulator. I was the secretary to the Department of Industry in New South Wales, working for Mike Baird, and started out as an environmental regulator. I even had the job director of regulatory innovation, and I've done probably over a thousand benefit cost assessments on red tape reduction, and so forth.

So, I sort of thought that this PEXA story would be really very interesting and useful for the commission, because it's an example about how our orthodox regulatory frameworks are struggling to adapt when technology makes a big change possibly within a particular sector. So, before PEXA, as I think you probably know, the process of transacting property, and moving funds to purchase property, and updating records of ownership, was performed using paper. So, you probably remember the - if you've been involved, you know, all the lawyers coming together with all their documents, and cheques, and meeting in a room and handing over the documents to each other.

You know, I give you my documents, you give me your cheque. Often finding that somebody's name was misspelt, and the process falling over, and it had to be redone. So, about a decade ago New South Wales and Victoria started experimenting with the electronic lodgement of documents to update the register, but I think at the time the banks said this is ridiculous, we don't want a different system in every State, what we need is a single national platform to make this work. And so, in a remarkable agreement, done through the COAG process, four state governments, three or four state governments invested in a private company which was formed for the purpose, and the banks also invested into setting up the company.

And then together - so the banks put the capital in, and the states put the operation in, and together that company invented simultaneous financial settlement and document lodgement, which no other country has, to our knowledge. And over the last 10 years the PEXA company has with over 10,000 firms, you know, within the property transaction businesses, so there'd be lawyers, conveyancers, and financial institutions, and set up a platform now that delivers in a very significant way to benefit Australia. Sort of I think what used to cost \$500 million now costs half of that, which has resulted in very significant economic savings, but it is also much quicker, and safer, and more secure.

And so, on the basis of all of that work, PEXA has now opened up in the UK, and because they have got a terrible system with - you know, it can take months, or even longer, or years, to be able to actually settle on purchasing of a property, this has been a big problem, and so we've had very strong support from the Bank of England and the UK land registry to get ourselves setup in the UK to offer an equivalent service, which we have now done. So, it's a terrific Australian success story of government working with the private sector to introduce technological productivity enhancement. So, by way of background, what I thought would be relevant were some points that I've observed about how some of the regulators have struggled in digital productivity business.

So, we've put some of those in our submission. So, for example, there's been - you know, it's been thought useful to introduce competition into our sector, but the skills of the regulators then involved, I mean, they are land registry administrators, they are not competition regulators, and they've sort of just jumped to the idea, well, competition means - well, you know, they think of airlines, or telephone companies and say, look, we've got one, we want another one just like it.

So, that would be good, that would introduce competition and lower prices, et cetera, but having two the same is not really as useful as having a more innovative approach to enable integration and evolution of business models so that you can have, you know, continuous productivity improvement, but it's kind of gone down the path of saying, we've got one, so we want two, two will be better than one because it's competition, and so, that's what we want to do. But it's kind of like no one has really asked the hard question, well, what is the problem you're trying to solve, is the market big enough to need two of these things, what are the other opportunities?

So, for example, there could be continuous evolution of how property transactions as a whole are completed. So, at the moment we have exchange of information of funds between the

conventional participants. But there's no sort of law of nature that says it has to be done that way. In other countries it's done a different way, in different states it's done in a different way. And so, Queensland, I think the real estate agent prepares the contract of sale, but that doesn't happen in other states. So, the point is the regulators have struggled with applying orthodox models into an existing model.

Or similarly, when in pursuing the competition reform, the regulators just decided, well, the new competitor should just be provided services to access the incumbent's customers for free. And so, when we pointed out that would mean that our business model would become unsustainable, they said, yes, well, actually we don't really have expertise in that. So, we're probably wrong, we better get that referred off to an economic regulator to give us some advice about what those things are, so now IPART in New South Wales is going through a process to review those fees.

Or another example is on - you know, obviously, there's a lot of valuable and useful data that is assembled in the process of executing property transactions. We've had requests from Commonwealth Government, both from the ACCC and from the Treasury, I think it was, who, you know, they obviously wanted data to be able to examine whether or not property refinances had been conducted in a timely way, or whether there's - you know, they're deliberately slowed down in order to retard refinancing. So, we said sure, we're happy to give you the data, but our own state regulators said, no, no, you can't give that information to the ACCC because it wasn't obtained for that purpose.

Or we've had a request during COVID to provide information on internal migration so as to help the Commonwealth Government, you know, better plan services and support, because there were fairly big changes in migration internally when more people were moving to regional areas and away from the city. So, what we're saying is that, you know, they're good people, our regulators, and they're looking at the laws in front of them, but they really don't have much guidance and when being asked about issues beyond expertise.

So, I guess our purpose of our submission is to say that really there's a fair bit of work that needs to be done to upskill a lot of the small regulators, you know, the local governments, the boutique state regulatory agencies, and even the larger regulatory agencies about how to be effective as a regulator in industries that are in digital transformation. How to avoid the trap of just, you know, if you think about that classic example in New South Wales, When Uber was on the horizon, the government just said, no, no, we like taxis, taxis are all - that's the way we do things around here, we're not having it.

So, I had some eyesight to - there were a couple of start ups in New South Wales that were about to - which were offering a service which I now know is exactly the same as Uber but they got brushed off and say we're not having that kind of new entrant reform in New South Wales. And it just took until the big gorilla from overseas, Uber, came in, and just started doing it in - you know, ignoring the laws, accepting the penalties, and whatever, they just did it, and the customers liked it so much that the government was then forced to retract.

But wouldn't it have been better if there was a more forward-looking regulatory approach that enabled new technologies and new models to come into place? So, just to wrap up my opening submission, I guess our suggestions are there's some specific infrastructure that's needed for better digital transformation in Australia. So, that goes to making it easier for people to prove who they are. Because at the moment, for example in property, you have to prove who you are to your conveyancer, to your lender, potentially to the real estate agent, you can do that over and over.

Reforms to make electronic signatures more accessible and simpler for people to use, because it's what they expect. In our own case, some reform about the use of data. But systematically, I think if you could look into, and perhaps recommend some principles that said if you are a specialist regulator, you shouldn't attempt to reinvent the wheel where there are already laws and skilled regulator who'd look after things. So, with that argument to say we're not doing enough on privacy in the proposed thing that we intend to do, we say, well, we're using the same methods that are used to protect personal health information in your jurisdiction.

They say, no, no, we want our own privacy we will invent just for your industry. And I think that's insane. Like, there are people who do privacy, we should just have a common approach to it, you know, recognising different levels of protection are needed. And I've listed another - a whole suite of things, like protection of IP, or approach to consumer protections and so forth, where it would be really good if specialist regulators could be directed to just apply the model. Get them to tuck under the wing of these specialists who are setup to look after those things.

And then, finally, I really do, as an experienced regulator, believe that there's not many places to go if you're a regulator looking for support and guidance on how to be an effective regulator in a digitally transforming world. Most of the laws that they administer are predigital, and they kind of have to make up as they go. So, some kind of arrangements of principles, and training, and education, even a branch just of people to phone up if they're stuck, because PEXA's only a fairly small company, but we are listed on the stock exchange, though we do have some experienced people who can mount our arguments, but there would be lots of firms who are inventing stuff who just have no ability to take these things up with the regulator and get satisfaction, you know, in a modern approach put in place, and so, opportunities go missing. So, I just think there's this kind of upskilling thing that they need to bring the regulators into the modern era. So, I would be happy to answer any questions, and thank you for attention. Sorry, I can't hear you. I think you might be on mute; I can't hear you.

**COMMISSIONER ROBSON:** Can you hear me now? Can you hear me now, Simon?

**MR SMITH:** Yes, I can.

**COMMISSIONER ROBSON:** Okay, that's good. Sorry about that, thank you. I've just got a couple of questions about PEXA, you know, isolated to that experience. But then also some more general questions around data and digital, which I think you alluded to. And one question around PEXA is, you know, you said it was a private company right from the start setup between the states and the commonwealth under the COAG process, I mean, how important was that to the subsequent development, or was that just sort of incidental? What was the role of, you know, setting up a private company versus doing it in some other way, in your experience.

**MR SMITH:** Yes, so, just to confirm ,the Commonwealth was not a party to the deal

**COMMISSIONER ROBSON:** Okay.

**MR SMITH:** Just the three/four State governments.

**COMMISSIONER ROBSON:** Okay.

**MR SMITH:** It was absolutely critical because the banks had been trying to digitise the process but couldn't do it on their own. Registries has been trying to digitise the process and were going to end up with multiple systems, and they, to be honest, didn't really have the resources and capability to do it. And it also required a lot of simultaneous co-operation from regulators to accommodate the digital ways of working, which wouldn't have happened, I don't think, without the state governments being on the inside. So, I think in that - because, you know, property

transactions, it's a very traditional activity. And you know, we had to have 10 years of getting people to come onboard, and to participate in the process, and I think just getting the key stakeholders involved through ownership was a matter critical - the states did sell out their interests and made a handsome profit, which was good for them, but you know, then it was sold to private equity, and then it was, last year, it was listed on the stock exchange.

**COMMISSIONER ROBSON:** And then is your sort of technology, to what extent is it being impacted by, you know, distributive ledger, and blockchain technologies, or is it a totally separate, you know, thing, or what's the relationship between what you're doing and those which are basically, you know, some kind of recordkeeping devices and tracing through property rights along, you know, a chain of transactions? Is that similar to what you do, is it something completely separate and do you see a, you know, a thread or an opportunity there, or how do you think about that?

**MR SMITH:** It's a potential opportunity, and there are some blockchain firms getting involved in property. But at the moment the state governments are the custodian of the record of ownership, and under state law, under Torrens Title, the states guarantee who owns the property. You know, they take responsibility for that. So, at the moment the disruption would need to be permitted by the state governments to abandon their central role of guaranteeing title in favour of a blockchain record, and we're just not seeing any signs of that.

**COMMISSIONER ROBSON:** Yes. And do you think there are other opportunities for, you know, ownership of other, you know, big consumer items, like cars, or you know, other sort of paper-based registry schemes, you know, licensing, birth certificates, these kinds of things. Is that - or is the - you know, the real property sector, that's where the real gains were?

**MR SMITH:** I think it was probably the largest area of administrative deadweight.

**COMMISSIONER ROBSON:** Yes.

**MR SMITH:** Which is why it picks it up, I think.

**COMMISSIONER ROBSON:** Yes, okay.

**MR SMITH:** I mean, there are some other examples. Like, there's other registries of, you know, such as equipment that could be modernised, for sure. But I think sort of the deeper thing, the deeper question is about, probably, states would wait and see what's going on with distributive ledger technology before taking the step of relinquishing the field.

**COMMISSIONER ROBSON:** Yes. And then one last question from me, and then I'll hand over to Lisa, is just, you know, obviously in the current environment on security of data, how are you dealing with that, and what's your take on, you know, from your perspective, on the situation there?

**MR SMITH:** Well, our take is that it's just a vital part of our business every day. You know, we all see the, you know, the examples of the loss of data, and what PEXA does, you know, it's a vast amount of money that PEXA directs between buyers and sellers through the RBA, and with the financial institution. So, obviously, it's just - like, our board asks about it every meeting. You know, like what are we doing on at the core of our business, that's just a constant focus for - - -

**COMMISSIONER ROBSON:** Yes.

**MR SMITH:** And you know, that's our number one job, is to keep it safe, and that's what we've been able to do, and we've provided a demonstrably safer system. But for example, you know, where there has been fraud in property transactions in the past, and where there's been cyber incidents between the ultimate property - like between the vendor, and their own lawyer. So, for example there was an example in Western Australia where a criminal got in between and (no audible response) - - -

**COMMISSIONER ROBSON:** We just lost him. Can you hear us?

**COMMISSIONER GROPP:** We've lost him, I think.

**COMMISSIONER ROBSON:** Yes.

**COMMISSIONER GROPP:** He's back again. Are you there? I think we've lost him.

**COMMISSIONER ROBSON:** Can anyone else hear us, is it at our end, or at Simon's end?

**UNIDENTIFIED SPEAKER 1:** Yes, we can still hear you.

**COMMISSIONER ROBSON:** Okay. All right, we'll just wait. Sorry about this, everybody.

**COMMISSIONER GROPP:** He's left the call, he might dial back in.

**COMMISSIONER ROBSON:** Yes, I think he's logged off and then will log back on.

**COMMISSIONER GROPP:** Shelby, could you see if he's coming back in? He might not know it's him, he might think it's us.

**MR SMITH:** Hello, can you hear me?

**COMMISSIONER ROBSON:** Yes, got you now. You were just talking about security of technology. Go ahead.

**MR SMITH:** Yes. So, I think there's just no doubt cyber will forever be an issue, and we have to just get better at managing the risks of it.

**COMMISSIONER GROPP:** Yes, I was going to broad it out a bit, Simon, because I think there's obviously other areas where paper based exchange of data and information is rife, including in the health sector, and I guess is there any lessons more broadly for those other sectors where it plays different issues, obviously, but you know, what are the - you are talking about principles, but more broadly do you have any lessons that might be relevant? Have we lost him again?

**MR SMITH:** Sorry, can you hear me now.

**COMMISSIONER ROBSON:** Yes.

**COMMISSIONER GROPP:** Yes. I think his connection is really bad, we might have to - hello?

**MR SMITH:** Hi, yes, I can hear you.

**COMMISSIONER GROPP:** Okay.

**MR SMITH:** Yes. I suppose the strength of the PEXA example is that all of the key stakeholders were part of it, and it was done together.

**COMMISSIONER GROPP:** Yes.

**MR SMITH:** And it just could not have happened in Australia, or in the property sector without it.

**COMMISSIONER GROPP:** Yes, I was going to raise that, because having them all aligned is critical, presumably.

**MR SMITH:** Yes, that's right. And we get just, you know, like having all those different state governments with slightly different legislation and approach. They would never have come on board, really, without - I mean, I recall that at the time I was working in Department of Premier and Cabinet, and with the general council of Premier and Cabinet, became the board director, representing the New South Wales government on the board of the company, and I think that it was always the fact that the - you know, that it was a significant asset, or prospective asset for the state meant that it had the full support from the Premier. And it was only on that basis that the land registries were all fully engaged in the process.

**COMMISSIONER GROPP:** Yes.

**MR SMITH:** And there's just so much red tape and anachronistic, or at least archaic regulation that was involved at the time, it just required a lot of horsepower to reshape the model.

**COMMISSIONER GROPP:** Yes. So, we have sort of occupational barriers, et cetera, and, I mean, a certain interest protecting things, it makes the job much harder, presumably.

**MR SMITH:** And I also think that - I mean the company, in the form it was established, was extremely entrepreneurial.

**COMMISSIONER GROPP:** Yes.

**MR SMITH:** It was like a start-up, it was a small company, very minimal, it wasn't having to work through, you know, the usual inter-government committees and so forth, and that was also - it seemed to combine the best of the agility of the private sector with the buy in and engagement of the states.

**COMMISSIONER GROPP:** Okay.

**COMMISSIONER ROBSON:** Is there anything else you wanted to add, Simon? That's been really informative.

**MR SMITH:** No, but just a very sincere plea to consider this idea of some guidance for the regulators on digital support. You know, I remember in times past I'd been involved in education programs for regulators, you know, where experienced people are brought together and they - you know, such as yourselves, or others, to provide, at least, some principles, so that poor little companies or poor little regulators who don't know quite what to do, at least some principles to look to on how to do all of these things. You know, to sort of define the areas where there already are specialists, and they shouldn't be duplicated, or you know, where to go to get help, et cetera.

**COMMISSIONER ROBSON:** I mean, I guess the other issue too in this area is it is a very competitive space internationally, and to the extent that, you know, we have regulations or approaches here that are inconsistent with, you know, the rest of the world, that's an important consideration as well. And you mentioned the UK in your particular example, but that would be - you know, the cost of getting these things wrong in an international context could be quite high.

**MR SMITH:** Yes, well, you'd just get left behind.

**COMMISSIONER ROBSON:** Yes.

**MR SMITH:** I mean, it's just such a - I just think that PEXA is a good example of how you don't have to have a big multinational company to be coming in and impose its way of doing things on your country. You know that it is possible, but the regulators have to be nimble and openminded, and able to adapt the frameworks to take the benefit of the systems as they are.

**COMMISSIONER ROBSON:** Okay. Thanks very much, Simon.

**MR SMITH:** All right, thanks for your time.

**COMMISSIONER GROPP:** Thank you.

**COMMISSIONER ROBSON:** All right. So, we've got Luke. Luke are you online, I think I saw his face popup at some point.

**MR COLEMAN:** I am indeed, yes, I am here, I just put myself on mute while you were finishing up with the previous guest there.

**COMMISSIONER ROBSON:** How are you, Luke?

**MR COLEMAN:** Very well, thank you, thanks for making the time to have me on.

**COMMISSIONER ROBSON:** Yes. So, welcome, and if you could just state your name and where you're from, formally, and then if you want to make an opening statement, go ahead, and then we'll follow up with some questions.

**MR COLEMAN:** Perfect. Well, thank you, my name is Luke Coleman, I am the head of government and corporate affairs at Vocus. Vocus is the fourth largest telco in Australia, and the operator of Australia's second largest fibre network. So, our submission to the review is focused on recommendation and information request 3.1, investing in regional digital infrastructure. And in my previous life, before joining Vocus almost four years ago, I was an advisor in the office to the former communications minister when the last review of the USO was conducted back in 2016 and 2017, around the time that the regional broadband scheme was being legislated and put in place.

And so, universal services and regional telecoms delivery has been a bit of a passion piece of mine for a number of years. So, to provide a brief overview of Vocus's submission to the enquiry, we are highlighting that today, and I think this is something that the productivity commission has already recognised in your own paper, that today we have numerous overlapping pieces of either taxes, or levies, or direct government subsidies for at least five different regional communications funding programs, which are all broadly trying to solve the same problem.

In total, those programs are costing more than a billion dollars a year going towards regional communications, but what we wind up with is a patchwork of technologies that are used for varying purposes. Some delivering fixed line voice, others delivering mobile, others delivering broadband. And they've come about that way because historically there has never been one technology which has been able to tick every box. So, it's the case today that we have the standard telephone service, being a plain old, fixed line telephone service that is provided by Telstra, and funded under what's now known as the universal service guarantee, what used to be called the universal service obligation.

Which is about \$250 million a year, 100 million of which is taxpayer funding, the remainder of which is funded through the telecommunications industry levy, and that guarantees that anyone living in regional Australia can have a fixed line telephone. Secondly, that same premise that's getting a subsidised fixed line telephone can also get a broadband service through nbn, which in

a regional area would be delivered over nbn's fixed wireless or satellite networks. Now, those loss-making fixed wireless and satellite networks were also funded by the taxpayer in the initial rollout of the nbn, and on an ongoing basis are also cross subsidised by industry through the regional broadband scheme levy.

Now, third, that same premise in regional Australia that's got a fixed line through the USG, it's got a broadband service delivered by the nbn. It might also have a mobile voice and broadband service available to it, which has been funded through the mobile blackspot program, another federal taxpayer subsidised program. That same premise again might also have a fixed wireless voice and broadband service provided by a third-party operator, which has been funded through the regional connectivity program, another federal government taxpayer subsidised program for rolling out communications infrastructure.

And finally, that same premise that has those four different types of communications technology available to it might also have access to an ADSL service which is provided over Telstra's copper network, which as I mentioned earlier, is subsidised through the universal service guarantee, and Telstra has an obligation, something called the copper continuity obligation, to keep that old copper network alive, even in places where the nbn is available, even in places where there's mobile coverage, voice and broadband, and where the regional connectivity program might have also delivered alternative fixed wireless services.

So, you can look at any of those individual programs in isolation and they would make sense, because what is delivered over Telstra's copper network to be a plain old telephone service can't be delivered over nbn satellite network, because it's not built to provide voice services. And the mobile blackspot program, well, that's there to expand mobile coverage, but for some premises in regional Australia, they still might not have access to mobile coverage, so they still depend on the copper lines. So, in isolation all of these programs make sense, because to date there has never been one technology which can solve all of those regional communications problems.

And what Vocus is trying to highlight in our submission to the productivity commission's enquiry is that we are on the cusp of one service which can tick all of those boxes, and it is a new technology, it is now live in Australia through one operator, and over the next two or three years, I think it's safe to say there'll be at least four operators, and that technology is called LEO satellites, which stands for low earth orbit satellites. The reason that LEO satellites are such a ground-breaking technology and are capable of resolving these various overlapping programs is that LEO satellites dip about 300 kilometres above the earth service.

Now, contrast that with traditional satellites, what we called GEO satellites, for GEO satellites it's 36,000 kilometres above the earth's surface. And so, to make a phone call using a traditional GEO satellite takes about 600 milliseconds for that signal to bounce from the earth all the way up to that satellite and back down again so that you can make that call. 600 milliseconds is far too long, what we call latency in the telecommunications industry, to have a normal phone conversation. The lag is simply too long between you are speaking and you hearing what the person on the other end of the call has to say.

LEO satellites solve that, because they're only 300 kilometres above the earth, the laws of physics mean that that signal, to bounce up and down to a LEO satellite, only takes 20 milliseconds, or 40 milliseconds to get up and back again. So, even on a bad day, if that signal was going slow than it normally would and it took 60 milliseconds or even 80 milliseconds, now, that is still well within the bounds of what would be a normal voice service phone call. And so, not only is it for voice though, of course, LEO satellites have been built to deliver very high-speed broadband. The service which has already launched in Australia, which is built by a company called Starlink, a division of SpaceX.

Starlink is offering broadband services that are between 50 and 150 megabits per second, and speed tests that have been conducted online through companies like Ookla, which provides a speed testing service, is showing an average speed which is pretty close to 150 megabits per second. Now, compare that to nbn satellites, which are only about seven years old, even less than seven years that they've been in operation, they will provide an average speed of up to 25 megabits per second. And at peak time, in the evening, when lots of people are streaming television shows, those speeds will be slower, and services will be rationed.

The satellite technology has just moved so quickly over the past decade that a LEO satellite today can just provide dramatically faster broadband speeds and voice services in a way that nbn satellites aren't capable of. And that's not to say that nbn satellites aren't very, very good. If you're living in a regional area, it's a much better service than what would have ever been previously available to you, but the technology has advanced very quickly, and what's now available through LEO satellites is infinitely faster than you would have experienced over nbn satellites.

So, our recommendations that we've made in our submission just recognise this fact that we've got this new technology that can solve all of these problems in regional Australia, and that there is a far more economically rational way of funding regional telecommunication services. We no longer need the overlapping universal service guarantee, regional broadband scheme, regional connectivity program, mobile blackspot program, copper continuity obligation.

If you've got LEO satellites that could be subsidised to end users in regional Australia, all that end user requires is a dish, which retails for just under \$1000, and then there's a monthly service which is about \$130 a month, which could be subsidised, almost like a voucher program that individuals now have a choice. So, they might choose, if there was a subsidised voucher style program, that they might want to just use a mobile broadband service, because they're in an area that has 4G or 5G coverage. The subsidy could go towards that, if that's what the user chooses. They might choose to stick with their nbn satellite service, or many of them will probably make the decision to choose a LEO service, if they had that choice.

Currently, those users are locked into one of these services which are centrally funded through the government, and made available, but for the first time in history, because of the advent of LEO satellites, you've got competition and choice for the overwhelming majority of premises in Australia. If the coverage claims of the mobile operators are accurate, Telstra has mobile coverage throughout 99.6 per cent of premises in Australia. So, that would mean that only, you know, 0.4 of a per cent of premises would need to get a voice service that could be delivered by a LEO service rather than on a fixed-line copper service.

So, because we've got that competition and choice, no longer a need for a centralised or centrally funded program, let users choose the most appropriate service for them. So, I have been talking your ears off now for the last 10 minutes or more, so why don't I leave my introductory remarks there and welcome any questions you might have.

**COMMISSIONER ROBSON:** Thanks Luke. No, that was really interesting. Just take us through the - I mean, you sort of advocated for a voucher kind of scheme, it sounds like, where the, you know, the consumer can choose whatever bundle they want under that voucher. I mean, why would a LEO - take us through the economics of why LEOs need a subsidy at all. Is it the costs are higher to serve regional areas, or I mean you mentioned a dish, I mean, presumably everybody has to get the dish. So, what's the economic case then, you know, in particular for regional areas needing a subsidy in the first place?

**MR COLEMAN:** Sure.

**COMMISSIONER ROBSON:** For the LEO technology in particular.

**MR COLEMAN:** Yes. So, the price of a LEO service is universal. You could get it in one of the major cities, it is going to cost you the same to buy a dish, and the same monthly cost to get a LEO service, as in the most remote location in Australia. So, it's an even cost no matter where in the country you are. Going to your question about why it should require a subsidy. Well, it doesn't currently get a subsidy. It's a completely commercial service, it's out there competing in the market, but it's competing on an unequal playing field, because it's competing against a subsidised home phone service, which is subsidised through the universal guarantee. It's competing against a subsidised NBN satellite service which has been delivered, first of all, on taxpayer funding to establish that service, but is subsidised on an ongoing basis through the regional broadband scheme which is a levy on all of NBN's competitors that goes towards the cost of NBN providing the satellite service as a loss-making service.

It's competing against the services on mobile that have been subsidised through the mobile blackspot program, and it's competing against fixed wireless services that have been subsidised through the regional connectivity program. And so what I'm really advocating for here is that all of those disparate programs that are currently pouring in either taxpayer funding or funding via their competitors through levies should simply be available to consumers. That amount of funding doesn't need to be set for those other technologies.

If a consumer wants to make the choice to go for a LEO satellite service, then they should simply be able to have that choice rather than having everything centrally funded through other government-run programs. You might find that if the government made a decision, okay, we're going to stop subsidising USO, regional broadband scheme, mobile blackspot program, regional connectivity program; instead, we will establish a contestable amount of funding, however much that might be, a few hundred million dollars a year, but it's currently contributed towards these other programs so that a consumer might say, well, I actually don't need a fixed line telephone service; I would much rather get my designated subsidy amount, which could be a set amount per month per user.

You know, completely hypothetically, let's say that amount is \$50 per month, but a user might say, well, I'd prefer to spend that to go towards my LEO satellite service that I choose to purchase, and I'll simply pay the gap. I'll pay the additional 70 or \$80 a month to get that service. Another user might say, well, I'll take my \$50 hypothetical subsidy per month and I'll put that towards a mobile broadband service because I've got the availability of mobile broadband where I live. I think it's not just about subsidising LEO services specifically; it's about making the USO contestable because for the first time the technology has made contestability an option.

**COMMISSIONER ROBSON:** And what's the coverage like at the moment and how do you see it evolving, you know, over a timespan where, you know, it would be, sort of, potentially more widespread to be able to, you know, do the kind of thing that you're talking about, you know, broadly across regional Australia?

**MR COLEMAN:** Sure. Yes. So, the way LEO satellites are being deployed around the globe - and it's important to remember how the technology works. Because they're so close to the Earth's surface, LEOs are currently spinning around the world very, very quickly, so they're providing coverage to different parts of the world as they move around the Earth's orbit. So they're being deployed from the south up towards the equator, and so currently the coverage is there over all of the southern parts of Australia, most of the east coast of Australia as far as Cairns, but there's not yet coverage to all of the Northern Territory and all of the northern parts of Western Australia.

As that coverage continues to be rolled out over the next year or two, we will have 100 per cent coverage of the Australian population. And as the other operators come online, so presently Starlink is the only commercially available service, but there are at least three other providers hot on their heels to provide LEO services. You'll have 100 per cent population coverage through as many as four different LEO providers. Now, the technology is as dependent on the satellites in the sky as it is on the infrastructure on the ground.

So the reason that Vocus is advocating for LEO satellites - we don't fly satellites; we don't own any satellites; but we provide the ground infrastructure for LEO satellite operators. So that means the satellite dishes that connect the satellites back into the broader internet on the ground are connected via Vocus' fibre, and we will also build the physical infrastructure to operate those what they call ground stations on the Earth's surface. So, to answer your question, 100 per cent coverage of the Australian population within the next 12 to 24 months, and competitive coverage over the next two or three years as the other operations come online.

**COMMISSIONER ROBSON:** So, in terms of then the cost to regional and remote areas, I mean, it's the ground station and infrastructure where you might expect there to be a higher cost relative to urban areas; is that right or - - -

**MR COLEMAN:** No. Well, from a consumer's perspective, no, because a consumer will pay the same price for their own satellite dish.

**COMMISSIONER ROBSON:** Yes, yes.

**MR COLEMAN:** You know, the cost of physically building that infrastructure, yes, will - may be marginally higher in a regional area because of the cost of getting workers out there to build the infrastructure, of transporting the infrastructure out there, but from an end user's perspective the cost is the same regardless of which area they're in.

**COMMISSIONER ROBSON:** And then in terms of, you know, congestion on this type of technology and latency and quality that you mentioned, how does that compare with other technologies?

**MR COLEMAN:** So, the current commercial offerings that are in market - and again, it's one operator that's available in market now - they offer an unlimited service for around \$130 a month. It is not rationed at any time of the day like an NBN service is; however, it is important to acknowledge that it is the very early days of that service being available, and so as more users come online, yes, networks will fill up, and so I can't predict what might happen in future with the kind of throughputs you can see, but it will remain the case that the speeds available on LEO satellites will be dramatically better than what is available on traditional satellites.

And in my cases in regional areas on terrestrial fixed-line and fixed-wireless technologies, the service is marketed as providing between 50 and 150 megabits per second. Speed tests online have shown many users getting speeds even faster than that, as fast as 300 megabits per second which is faster than most fixed-line NBN connections. But yes, as the network becomes more congested and has more users on it, we can expect those speeds to be within that normal range of 50 to 150 megabits per second. But the latency issue doesn't necessarily change. Those satellites will always be the same distance above the Earth's surface, and so we'll still have that 20 millisecond latency that makes a voice call or a video call like we're on now perfectly acceptable and I would say indistinguishable from a terrestrial technology.

**COMMISSIONER ROBSON:** And so you mentioned Starlink. I mean, how are they being commercial in this space in the absence of what you're talking about? What are they just sort of cherry picking or how are they - you know, how are they entering the market or do you think

there would be more market penetration if they had this sort of extension of the USG that you're talking about?

**MR COLEMAN:** So, at the moment it's a completely commercial product. So if you are an end user, you would go online and you would purchase a dish for just under \$1000 that you set up manually at home. It takes a couple of minutes, that it automatically - once you physically put the dish either on the ground or on your rooftop it automatically configures and connects in a matter of minutes, and then you're paying that 130 or so dollars per month to use the service. So, having a USO style subsidy available, I think, would increase usage because it's - services like Starlink are fighting with one hand tied behind their back because they're the only non-subsidised service in regional Australia competing against a bunch of other services that are subsidised and, arguably, technically, in theory, are to what a Starlink makes available both in terms of speed and latency.

And so yes, I would say that there's a strong argument that if it was on an equal playing field in terms of receiving a government subsidy for those services, that you would expect penetration to be higher because consumers wouldn't be contributing 100 per cent of the cost of both buying the dish and the monthly price of that service as consumers are receiving a subsidised service through all of those other alternative technologies.

**COMMISSIONER GROPP:** Thanks. Can I just ask, just going back to an earlier question of Alex's about (indistinct) they provide commercially, but - because the USGs, et cetera, are compensating for the additional costs of providing those services in remote areas, and you're saying that with Starlink or - you know, that there's not really an additional cost; it's just same cost wherever you provide it. So, in terms of - talking about 130 bucks a month and \$1000 for the dish, how does that compare to the retail prices of the other services at the moment?

**MR COLEMAN:** Sure. So, an NBN satellite service, which will give you up to 25 megabits per second speeds and isn't capable of providing voice, you'll see in the market from sort of \$55 and upwards, depending on how much data you want to download monthly. So these do have a quota attached to them of how much monthly data you can get and at what times of the day you can access it, peak times versus non-peak times. So, the starting point on price, you'd say less than half the cost, but for a vastly different experience. Mobile broadband services - now, similarly, mobile broadband services are also the same price whether you're living in a city or in a country area. It's nationally uniform pricing for mobile services.

So, again, it will depend on how many gig of data you wanted to purchase per month. The thing with voice on mobile, it's effectively provided unlimited free voice calls on mobile. You - overwhelming majority if not all mobile plans now, you simply pay for the amount of data that you have included. So this another reason - putting aside LEO sats for a moment, another reason to reconsider the viability of an ongoing subsidy for the fixed-line voice network USG is that 99.6 per cent of premises in Australia have mobile coverage with voice services that are effectively unlimited for whatever monthly plan you've purchased.

That's going to be dramatically cheaper than the cost of a monthly home phone service, and so why do we continue to subsidise a fixed-line voice service if mobile services are available and are probably cheaper, and they also have the ability to provide mobile data services. Now, the argument that will probably be raised by many people in regional Australia is that the fixed-line voice service is something of a lifeline, that people can be concerned when mobile coverage goes down, if perhaps there's a bush fire and a nearby mobile tower has been affected by a natural disaster, that they could be left offline.

Now, the reality is, of course, fixed-line voice services can be just as easily affected by natural disasters or bushfires. They aren't - there is no silver bullet. There's no service which is not affected during natural disasters, and if anything, a mobile service is far more effective because the first thing you're going to do in a natural disaster like a bushfire is grab the mobile, jump in the car, and evacuate. Having a working mobile service as long as coverage is available is infinitely superior to sitting at home and using a fixed-line voice service.

So, sorry, I know I've gone slightly off track from your question there about, kind of, the different prices, but I think part of reforming the overlapping regional funding programs that we have available here is a recognition that what might've been useful in the past and is seen by many people in regional Australia is a lifeline in reality isn't the perfect service that many people might think it is, and now we're at a point where we've got competition; we've got contestability; we've got availability; we've got coverage. The time is now right to reconsider these things in a way that wasn't even possible 12 months ago before LEOs services became a commercially viable option.

**COMMISSIONER ROBSON:** And if governments were to tender out, you know, for bids for the kind of services you're talking about, are there any regional areas where you would expect that may be - you know, that service providers wouldn't bid for, to provide that service? You know, barriers in terms of - are there just remote areas where the company is just going to say no way, I'm not going to do that with this technology, or it doesn't work like that? What's your view on that?

**MR COLEMAN:** I know that this is something that the Productivity Commission had raised in its discussion paper about, you know, if you were moving to a contestable USO model, would you do it on a geographic basis, that you would pick a certain geographical region and seek tenders for that region. Now, I think with LEO satellites, that model doesn't make sense anymore because they have national coverage or, I should say they will have national coverage in a short amount of time.

You are able to provide a service anywhere in Australia that you can deploy a satellite dish. So it's no longer facing the issue of building a new tower, whether it's to deliver a fixed wireless broadband service or to deliver a mobile service because the satellites are in the sky providing universal coverage. The only thing that the end user needs is a dish so that they can connect to the satellite. The only area that I can foresee where there is an element of geographic coverage in a satellite service would be in maintaining a service, so that if you were living in an extremely remote location and your dish stopped working - maybe it's damaged by hail or extreme weather - to get a technician out to fix the dish - they might be coming from hundreds of kilometres away.

So there could be an argument that you might have a geographic contract with a service provider for remediation services, but even then, you may well find that it is more economically efficient to simply send that person a new satellite dish to get it up and running rather than having a contract for a defined geographic area. So, the geographic question posed in the Productivity Commission's paper makes sense if you're thinking about terrestrial technologies, but I think LEO satellites again - it breaks the model that we've all been depending on for so many years when it comes to regional service delivery because it's available effectively universally.

**COMMISSIONER ROBSON:** All right. Thanks, Luke. Is there anything else you wanted to add?

**MR COLEMAN:** No, I think I've given it plenty of coverage - forgive the pun - and really grateful for the opportunity to speak and to explore my passion for regional telecom services. Thanks so much for having me.

**COMMISSIONER ROBSON:** Excellent. Thank you very much.

**COMMISSIONER GROPP:** Thanks, Luke.

**COMMISSIONER ROBSON:** So, we will now take a break for lunch and resume at 1.15.

**LUNCHEON ADJOURNMENT**

**[12.25 pm]**

**RESUMED**

**[1.16 pm]**

**COMMISSIONER ROBSON:** Welcome back, and we'll hear from the next speaker in a moment, but I just want to mention again for those of you who are not in the room, at the conclusion of today's scheduled participants, I'll ask if anyone else would like to briefly appear at this hearing, and if you would like to do so, please speak with one of our team. With that being said, I'd now like to call Gary McLaren. Gary, if you could state your name and in what capacity you're appearing, and then also happy to hear from you in terms of an opening presentation.

**MR McLAREN:** Right. Thanks very much. Yes, thanks for the opportunity to talk with you about the inquiry here. So my submission's about the investing regional digital infrastructure part of the interim report. For my introduction, I was the chief technology officer at NBN Co from 2009 to 2014. I'm here in a personal capacity, not representing anyone in the organisation just as an interested public citizen. Given my background with telecommunications in Australia. I've also worked overseas in Hong Kong, as a chief technology officer with a fibre broadband company, and I'm now a consultant for Hardiman Telecommunications who provide advice and due diligence for mergers and acquisitions in Asia, Europe and Africa.

So just a few opening remarks. If I could just go into - I have provided a nine-page submission, so I'll just try and summarise some of my comments briefly, and obviously very much open for question. So, first of all, I'd like to commend the Productivity Commission on highlighting significant problems in telecommunications and the telecommunications industry in Australia, and that is the inefficient nature of funding the necessary ongoing investment in Australia's regional telecommunications infrastructure. Unlike the urban and large regional cities, investment in regional telecommunication is in many cases uneconomic. Returns on investment make it unattractive without some form of government subsidy.

In Australia this is especially the case given low population density, and that's even though regional Australia is a source of much of Australia's economic wealth. But despite this obvious problem, Australian telecommunications policies have always struggled to come up with a sustainable long-term policy for investment in regional telecommunications. Instead, the investment decisions have been hidden by state-owned monopolies. Initially it was the Postmaster General's department, Telecom Australia, and now NBN with minimal transparency and mainly in response to political rather than economic drivers.

In my nine-page formal submission I fully support the Commission's suggestion for market-based mechanisms to deliver a more efficient way for delivering the universal service guarantee; however, in my opinion this doesn't go far enough. To create a competitive market-based

mechanism, it is necessary to have a long-term sustainable funding arrangement in place to ensure that an efficient market can develop for investing in infrastructure and serving regional Australia. My submission highlights that approximately \$1 billion per year of subsidies are currently being ploughed into regional broadband infrastructure.

Approximately half of these subsidies are via industry levies such as the 1990s USO and the more recent regional broadband scheme. The other half is from a range of ad hoc federal and state government grants to schemes such as the Regional Black Spot program for mobiles and the Regional Connectivity program, and other specific initiatives. The regional broadband scheme with funding of – which provides a subsidy of approximately \$600 million per year is particularly narrowly cast in that it is only imposed on high speed broadband providers, such as NBN Co and a small number of its competitors.

In my opinion, the scheme along with other regulatory arrangements were imposed to protect NBN Co from competition and in the hope that a monopoly would result along the lines of the old Telecom Australia monopoly for fixed telephony. A more efficient and effective funding scheme is needed for regional Australia that covers fixed mobile and satellite infrastructure. I have suggested for some time that all of the current funding arrangements should be replaced by a centrally managed fund that promotes efficiency, using competition where possible to ensure Australia's regional broadband services do not fall inalterably behind those of urban services.

What I proposed previously, and I think it needs to be brought to the Commission's attention, is that a levy with approximately 2.5 per cent on all of Australia's telecommunication retail services, given that it's a market of about \$40 billion per annum, would raise the equivalent of \$1 billion per annum that is currently being spent in an ad hoc manner as mentioned earlier. A centralised fund managed by an existing government agency or a new agency would be tasked with obtaining the most efficient and effective outcomes for regional Australia using the proceeds of such a levy. In the days of Telecom Australia, the government relied on engineers and accountants to manage the implicit cross subsidy necessary to fund investment for a universal telephone service.

This was also the plan with the hopeful reincarnation of the supposed fixed broadband monopoly with NBN Co. However, the onward march of technology is threatening the NBN Co fixed monopoly as mobile operators begin to offer equivalent services using 5G. The cherry picking of urban customers by these operators will see NBN Co's internal funding mechanism break down, requiring ever more government funding. As a result, NBN Co should also be funded from this universal retail funding levy, but only to the extent it is the most efficient service provider.

More effective and efficient investment will improve the economic and social growth prospects for many regional areas. Both those that are currently disadvantaged and those that are contributing significantly to our overall economic growth. Furthermore, efficient investment should also have the objective of improving the resiliency of telecommunication networks in regional areas. Given the increasing disasters to be expected from the effects of climate change, this will help communities respond and adapt more quickly to the changing world around them.

It is important the reforms are made as soon as possible, especially given the review of NBN Co's special access undertaking that is now underway. Embedded within the draft SAU is the hidden cross subsidy mentioned earlier. If it is accepted, it will be difficult to undo an arrangement that will become more unsustainable as technologies continue to provide more efficient options to service regional Australia. I would be keen to have a discussion or answer any questions based on my submission and just those remarks. I'm missing - I think they're on mute.

**COMMISSIONER GROPP:** Can you hear that?

**MR McLAREN:** Yes, I can hear that.

**COMMISSIONER GROPP:** You can hear us now.

**COMMISSIONER ROBSON:** Can you hear us now?

**COMMISSIONER GROPP:** Okay. Okay, thanks.

**COMMISSIONER ROBSON:** Okay. Sorry about that. Thanks for that, Gary. In terms of your proposal for funding using an industry level - so, if I understand it correctly, this would replace all of these existing mechanisms, so it wouldn't be in addition to; is that what you're advocating?

**MR McLAREN:** So, obviously we have very much a hodge podge of different mechanisms with the old USO and Regional broadband scheme as industry levies. So that's approximately half of the \$1 billion subsidy that's being put into regional broadband infrastructure, and the rest are direct government grants. So, I think with a retail levy across the whole industry, you would raise the equivalent amount of money and replace the ad hoc arrangements currently being used. And it could be obviously, I think, used more efficiently, so to get a better outcome of more resilient networks, and to provide, you know, a better outcome overall that's better coordinated and managed, with competition for provision being a key part of that.

**COMMISSIONER ROBSON:** And then in terms of that competition, you know, in remote and regional areas, do you think that would be - there would be a sufficient number of players to serve those markets and to bid for that - you know, for the work? You know, in certain areas there might only be one or two or - - -

**MR McLAREN:** I think this has always been seen as the problem, that there won't be sufficient competition. You know, it's part of the problem that caused the downfall 20 years ago when something like it was attempted. I think one of the problems is that without a sustainable future funding mechanism that the industry can see is a sustainable long-term funding mechanism, then you only get existing players with existing infrastructure looking to participate, and it won't encourage new entrants or international entrants like we have with satellite providers, who obviously see this infrastructure as clearly long-term infrastructure. Funding being seen by the industry to be political and short-term in nature, there is not obviously a response from the market anywhere near that could be done if it was seen as a sustainable long-term funding arrangement that was put in place for regional broadband.

**COMMISSIONER ROBSON:** And then in terms of the services and prices you would charge, is the idea then that, you know, those would be set by this body or a different body? How would that work exactly?

**MR McLAREN:** I think, yes, that would need obviously regulation.

**COMMISSIONER ROBSON:** Yes.

**MR McLAREN:** There are clearly - it's very difficult to have competition managing the price level, so it has to be a regulated outcome with benchmarking probably against the equivalent type services in the metropolitan areas to - obviously for equity and fairness reasons, especially on the residential and small business side. And that would then be part of the tendering process for competing companies to obviously provide the networks and the services within that revenue envelope.

**COMMISSIONER ROBSON:** And we heard previously today about low-earth orbit satellites. What's your view on those? Is that a technology you can see evolving in this space to, you know, address some of the issues that you're talking about?

**MR McLAREN:** It clearly has a role. It's clearly already a solution for various people anecdotally. I don't think there's been much research, but the market has already developed in Australia where people are paying a reasonably high premium for better broadband in regional areas. And I think that a clear outcome that could be - could point a way to the future in some of the remotest parts of Australia. But I'd like to also emphasise that it's not just satellite or even a fixed wireless area of NBN Co's footprint that is loss making. NBN Co's fibre and fixed footprint goes to probably 93 per cent of the country, and there's probably a good 15/20 per cent of those premises that are also loss making. It's not just these wireless and satellite technologies. So there are areas in regional towns that are certainly loss making and would not be funded on any economic free market.

**COMMISSIONER GROPP:** Is your levy sort of constructed the same way as the current levy or are you just talking about a bigger quantum? Is that - - -

**MR McLAREN:** No, it's very different.

**COMMISSIONER GROPP:** Okay.

**MR McLAREN:** The current industry levy - so it's charged at - on the wholesale revenues essentially of the operators. That's the USO levy. Now, the regional broadband levy is on retail. It's basically a fixed amount. I would see it as a similar way - I would put it in simple terms to a top-up of the GST on telecommunication services at a retail level. So it could be - could adopt many of the GST mechanisms, but just be constrained to - with what a well-defined carriage service in regulatory terms.

**COMMISSIONER GROPP:** And in terms - - -

**MR McLAREN:** It would cover mobile services, not just fixed line services - - -

**COMMISSIONER GROPP:** Sorry? They - - -

**MR McLAREN:** It would cover mobile.

**COMMISSIONER GROPP:** Cover mobile as well. Okay (indistinct) next question. But also in terms of the quantum, the 1 billion you're talking about - \$1 billion per annum, and you're talking about long term, but would that come down with new technology with potential for, you know, climate change, et cetera. It would still stay at the amount or do you see it coming down over time potentially if technology costs came down?

**MR McLAREN:** It could come down over time. There shouldn't be anything that would prevent that, you know. If the fund, you know, could - if it essentially could act as a funding mechanism with a longer-term horizon, but what is clear is that investment in telecommunication is an ongoing requirement. It has been for a century now already where these networks are not like your water networks, your road networks, your electricity networks. These networks need top-up funding on a scale that is less than 10 years to keep pace with technology. These are not long-term investments that only have capital requirements every 30, 40 years. And that is a fundamental difference in telecommunications that I think the Australian policy makers really have never come to grips with. This is a fast-moving risky capital environment for investment.

**COMMISSIONER ROBSON:** And 2.5 per cent. How much would that cut into margins of certain operators in particular, you know, if there's new entrants into this market? Would it

potentially act as a barrier to entry or is it sufficiently low that it wouldn't do that and if the costs were passed on to consumers, what would that look like, do you think?

**MR McLAREN:** For the investors in networks, they are typically operating with EBITDA margins of 40 to 50 per cent.

**COMMISSIONER ROBSON:** Yes.

**MR McLAREN:** So that's the investors. Obviously there is a layered structure of wholesale and retail on top of it. So some operators that are just operating on a retail margin and are essentially re-sellers of networks, then that would be a significant amount in terms of there may be a margin for them that's less than 15 per cent. But for the investors, which is the key market that I think this should be addressed at, it's not anywhere near as consequential. And remember that we already have half of that \$1 billion subsidy being funded by the industry already. So that cost is already being carried by the industry, but it's just being done in a very inefficient way on a very narrow base which is very much in favour of the mobile operators.

**COMMISSIONER ROBSON:** Okay.

**COMMISSIONER GROPP:** I guess another related question is to do with the cost-reflectiveness for regional businesses, et cetera. If it's permanently cross subsidised by a levy, perhaps those, you know, businesses are effectively being subsidised out in those regions. Do you have any thoughts on that?

**MR McLAREN:** Yes. So, we essentially I think in Australia already have an accepted policy that we do subsidise our regional cousins in the bush. I think that's a well-accepted fact of life, but what we don't have is a very efficient structure for essentially delivering that subsidy. So we are - as I said that \$1 billion is being put into regional telecommunications infrastructure already, every year, but I don't think we'll get anywhere near the efficiency out of it. I think argument being that this levy and a more competitively managed framework for providing those funds to industry will end up with much better outcomes so that the residential and business customers that are paying that levy in the city would see more regional investment and essentially a more effective outcome than what we're getting at the moment.

But I don't think it's news to many people when we hear mainstream media complaints about regional broadband. There's a continuing feature of our public life in this industry, and has been for 20 or 30 years. And so I think the problem is well understood. The investment is lagging. The investment is now only responding to political calls for action and not in a sustainable way because of the fragmented nature of the funding and the non-transparency being hidden behind things like NBN Co and previously Telstra.

**COMMISSIONER GROPP:** Are you proposing a central organisation to run this - the statutory corporation or - - -

**MR McLAREN:** Existing agency or a new one. Obviously that's up to the detail, but yes, it would need to obviously be the main agency that was ensuring the efficient delivery of those funds to the private sector, and to NBN Co.

**COMMISSIONER ROBSON:** And take us through what your view, Gary, would be in terms of the counter-factual if something like this isn't done. What could we expect to see happen over the next decade or so if you could get out your crystal ball and, you know, what do things look like in the absence?

**MR McLAREN:** So what I think you'll find is that the investment in Australia would continue to lag, and maybe even lag more appreciably. There is little to no commercial incentive for NBN

Co to invest in these areas, and there's little to no incentive for other players to enter the market because of the perceived dominance of NBN Co anyway. So, essentially the only response you have to the market need is via the political track, of the ownership of NBN Co as it was for Telecom Australia previously and Telstra. The privatisation of Telstra obviously struggled through this whole question as well, and so it eventually got through. It was mainly this question that was the reason why it got held up for so long.

And again, if there is any future push to privatise NBN Co, this will be the thorn in that privatisation process. This will be the fundamental issue that will either make it work or won't make it work. So I think you'll have, you know, longer to be able to get to more efficient outcomes for NBN Co because of this hidden cost subsidy that's basically the monster under the sheets that no one wants to raise and get out and into the public debate. And so it's better to put it, you know, on a more transparent, more sustainable footing up front and get that working before we think about any future privatisation of NBN Co.

But I think the overall effect for the regional consumer and businesses will just continue lag investment in infrastructure that will provide those services. We have a regional telecommunications inquiry every three years by legislation. If you go back and read them, they all say exactly the same thing. Regional infrastructure investment is lagging. That's been going on for 15 years. If you go back and read the last four reports, nothing is done because the funding mechanism has never been seriously addressed in a non-political way. It's a case of we get the same result forever.

**COMMISSIONER ROBSON:** Okay. Any other questions? Is there anything you wanted to add, Gary? That's been very good.

**MR McLAREN:** No. Always available to help out with any other questions. I had provided previous input into the USO and everything else, so it's a bit of a passion of mine.

**COMMISSIONER ROBSON:** Very good. Well, we appreciate your time and, yes, thanks very much for presenting.

**MR McLAREN:** Okay. Thank you very much.

**COMMISSIONER GROPP:** Thank you.

**COMMISSIONER ROBSON:** Thank you. I don't know if our next speaker is here. So it's Don on the line? He may not be on yet.

**MR NUCH:** I'm not seeing Don's name on the list online at the moment.

**COMMISSIONER ROBSON:** All right. Well, should we take a break until he's scheduled to come in at 1.55. So, we'll take a quick break and then come back then.

**SHORT ADJOURNMENT**

**[1.41 pm]**

**RESUMED**

**[1.52 pm]**

**COMMISSIONER ROBSON:** Can you hear me?

**DR PERLGUT:** This is Don. I can hear you, although I'm not quite certain who's speaking. Hi.

**COMMISSIONER ROBSON:** Okay. Sorry. I'll put my camera on. There we go. So you've got Alex Robson and Lisa Gropp.

**COMMISSIONER GROPP:** Hi Don.

**DR PERLGUT:** Hello. Lovely to see you today. Thank you.

**COMMISSIONER ROBSON:** All right. Thanks, Don. So we'll get started. If you could just say, for the record, your name and the capacity in which you appear, and then we'll hear from you. If you've got an opening statement, that would be good, and then we'll take the conversation from there.

**DR PERLGUT:** That's great. Thank you very much. My name is Don Perlgut, although I should note for the record my legal name is Donald Perlgut. I am the CEO and company secretary of Community Colleges Australia Limited which is a not-for-profit association of not-for-profit organisations that are adult and community education providers. We abbreviate the term, adult and community education, frequently as ACE or ACE, sometimes referred to as community education providers by the National Centre for Vocational Education Research. Is that a sufficient open identifier?

**COMMISSIONER ROBSON:** Yes, that's very good. Thank you.

**DR PERLGUT:** Okay. Shall I continue with an opening statement?

**COMMISSIONER ROBSON:** Go ahead. Thank you.

**DR PERLGUT:** Okay. First of all, I want to acknowledge that I'm coming to you from Indigenous land, the CCA head office. We refer to ourself as the CCA, I should say. Is on the - is in the Sydney CBD and we are on the lands of the Gadigal People of the Eora Nation, and I honour their Elders, past, present and emerging. I want to thank the productivity commission and the commissioners and others very much for giving me the opportunity to talk with you today. I want to talk with you about a number of things which are very close to my heart, as well as to our organisation's advocacy and representation activities.

As I mentioned before, we represent the not-for-profit adult and community education providers around Australia. In broad terms, our providers to roughly 10 per cent of total VET activity. I'll give you just the figures that in 2021 calendar year, there were some 4.3 million students enrolled in national vocational education credited courses which actually was an increase of about 9 per cent on the previous year of those numbers. Some - about 3.2 million were enrolled in - that's about 74 per cent - in private training providers; about 778,000 in TAFE; and there were about 450,000 representing ten and a-half per cent of the total VET activity enrolled in adult and community education or ACE providers.

Just as a - give you a sense, we are small, but we are very significant in certain areas, and I'll give you some details of what those are. I'm going to cover a few different things today or briefly I'll identify them and we can go into those as you wish, in terms of more, but I really want to do this - I want to reinforce the importance of tackling Australian inequality especially because if we tackle inequality in Australia, we will become a more productive country. I also want to make the point that Australia's VET system needs more resources and reform. We are too focused on private profit and not sufficiently focused on social and economic outcomes.

In addition to that, I will make the note that Australia's VET system is one of our greatest equalisers, and also with - we're some 4.3 million participants between, say - I think it's 15 and 64 every year - clearly the most extensive of any of the educational services that we have. My final point is that the not-for-profit ACE sector is an underutilised resource and I will tell you

some of the reasons for that. I need to give you just a bit more background about the ACE sector. We have a history in Australia that goes back to 1833 with the development of the Sydney Mechanics Institute which was established that year.

We have a direct history that goes back to 1913 with the establishment of the WEAs, known as worker education associations. They were setup that year because somebody from the UK wandered around Australia in 1913. He had six or seven months. That's when people had more time for their visits to this country. And at the end of his visit there were WEAs located in Adelaide, Sydney CBD, Wollongong known as WEA Illawarra, and Newcastle known as WEA Hunter. All four of those organisations have existed continuously to this date which is a continuous existence of 109 years which is well more than almost all other, excepting a few Australian universities - all other post-secondary institutions in Australia.

The branding of the ACE sector, the not-for-profit ACE sector, is often confused with TAFE and with private-for-profit providers. I want to make it very clear. There is a very big distinction between the not-for-profit ACE sector and the community education sector. What they do, how they do it, what their mission. We are for-purpose organisations and for-profit VET institutions. These are often glossed over by that or ignored, and it is crucial to understand that. There's a public perception that the ACE providers are involved primarily in things like yoga, painting, whatever.

This was the case till maybe 20 years or so ago. Up until that time, it would say 90 per cent of the business of the activity, it is now only 10 per cent of the business. All up, we are talking about roughly almost 400 ACE providers in Australia, a significant number, maybe of them located in regional and rural areas, and an additional maybe 1500 ACE providers that are not delivering accredited training. As I've mentioned about the students, we're representing over 10 per cent of the students, but the other thing to mention is that our sector has some of the best performance of lifting unemployed people into employment. We start with a much lower base, but we lift to - we have a much greater percentage increase.

And our sector has a very important role in two crucial areas of national workforce and productivity importance, and those are aged care and early childhood learning, both of which have become established high priorities by state governments, especially - I note both New South Wales and Victoria have made extensive comments on that, as well as the Commonwealth Government. The other area is - that's aged care and early childhood learning. In aged care, for instance, 23 per cent of accredited government funded aged care students in New South Wales each year study with a not-for-profit ACE provider.

In Victoria those numbers are 19 per cent. So, to deal with aged care workforce - and we do have a workforce problem totalling, I understand, somewhere between 40 and 45,000 person shortfall of aged care workers. To deal with that, clearly the ACE sector has a very important role to play. Our sector also does a very unusual and high amount of work in regional and rural locations and is often one of the very few deliverers of education in those areas.

Our sector by and large over performs when it comes to reaching people with a disability where we have the highest percentage, much higher than TAFE or the for-profit providers, reaching people - percentage wise, I should say - people who are from Aboriginal or Torres Strait Islander, meaning Indigenous or First Nations background, and people who are age 45 plus. 45 plus, somewhat hilariously now, is now determined to be older workers. I am more than 45. You might be able to tell. Nevertheless, when it comes to the workforce, as you probably know, 45 plus is now termed old.

Our sector does very well in reaching and engaging those, but our sector is particularly well also in engaging what we would call more broadly high-needs learners. Now, I don't want to take too much time, and this will need time for discussion, but I did want to give some background about identifying four key areas that we are very, I would say, expressing a high degree of concern about what's that. I mentioned about our importance, and I mentioned the importance of that as ensuring higher productivity for Australia.

I will make the point that we do not believe - and there is important data that shows this - particularly coming from Dr Don Zoellner who comes from Charles Darwin University in Alice Springs in the Northern Territory, that the marketisation of VET - and he analysed deep numbers going from both New South Wales and Victoria - that marketisation in New South Wales - it's called - sorry - Smart and Skilled which is now up for a new tender this month - has not succeeded in increasing the number of disadvantaged and vulnerable Australian into VET and, in fact, in some ways has discouraged people, especially people in outer regional and in remote areas where there has actually been a decrease in provision. I want to make a special case for foundation skills.

Now, that's a bit of a technical term that I do not like. Doesn't necessarily mean a lot to people, but we're referring to language, literacy, numeracy and digital skills. We need proper funding and true outreach. True outreach because it is not - if you're familiar with the Kevin Costner-starring film where he had the phrase, 'Build it, and assume that they will come.' The film was called Field of Dreams. It is not the case when you're engaging with vulnerable and disadvantaged adult learners. You cannot simply provide it and assume that the learners will show up and say, 'It's online; they'll be there.' It does not happen. It is not the case.

Place-based learning, especially for disadvantaged and lower level and high-needs learners and especially for people that have some disadvantage in terms of literacy and numeracy is - that is absolutely essential. Digital delivery is not the answer, and there's a fair bit of literature on this which we can refer to if we wish. My final point for you is about - there are some barriers for Australia's community or aged sector in achieving its potential to assist Australia in becoming more productive and becoming a more productive economic nation.

The first of these, you may not be surprised, but it is one that the Productivity Commission report or the draft report noted which is the free TAFE proposal has the potential to unbalance the whole VET system if it is not combined with proper guardrails. Now, I would make a point that we are not opposed to the TAFE system. We regard the TAFE system as the anchor institution for Australian VET, very essential that it receive proper funding. Nevertheless, free TAFE at its sort of grossest, if it is just put out that way, may very well mean that people who are inappropriate to study in certain qualifications in TAFE may very well sign up for those and have unsuccessful experiences.

Those include young people, and many disadvantaged people, and there's some very interesting and instructive reports, particularly coming out of the VET FEE-HELP policy disaster which you might recall, and the Productivity Commission would've examined at previous times.

In December of 2016 there was a major report from the Australian National Audit Office, the ANAO, which really analysed how the - because that program - the VET FEE-HELP program was run so badly that it was particularly disastrous for Indigenous Australians and for people from lower incomes.

We also anticipate that if free TAFE is done badly - and I'm not saying that it will be, but we do not yet see that the guardrails and the policy settings are there to ensure that it is done correctly - it has the potential to do some major unbalancing. The two final points I wanted to make was that it is essential to fund outreach and engagement of high-needs low-income and other

vulnerable workers, and it cannot be done on the cheap. This is really a crucial one. And my final point is we strongly believe that community development - in other words, must be acknowledged as part of the post-secondary learning experience.

Learners, in our view, cannot and should not be viewed as individual consumers, but as part of a continuum of local businesses, community organisations, and community networks. And this is reflected in the NCVER definition of what a community education provider is, that it keeps community development at its heart. That is my opening statement. Thank you. Happy to have discussion.

**COMMISSIONER ROBSON:** Thanks, Don. And I'll just add that our chair, Michael Brennan, has joined the discussion. I might just ask you about - you mentioned some work. I think it was Don Zoellner you had mentioned and on marketisation. What exactly do you mean by that and what does that work show, you know, in your opinion? Just expand on that a little bit.

**DR PERLGUT:** I'm going to give you the summary, and I won't try to sort of look at any specific notes when I give this. The summary that he did was that the New South Wales and the Victorian approach to extending government funding to the for-profit providers took place in different timeframes and in different means and mechanisms, and he has a number of academic papers that I can send links on, and he's very happy to share that information, and easy to find.

However, he does point out that both of them effectively arrived at the same place. One thing that they were very successful in doing was to increase the number of providers of government-funded VET, but I'm not so certain that increasing the number of providers is necessarily a good thing, but it was very successful in doing that, but it was not necessarily successful in increasing the number of people from vulnerable and disadvantaged backgrounds. He points especially to, in both New South Wales and Victoria - and this is doing the big analysis, looking at time sequences of learners and where they've lived over time, that especially learners in outer regional areas - in other words, outer regional, you know, would be familiar people in - well, Broken Hill is technically outer regional, Griffith, Hay, Moree probably sits in that. Mildura probably sitting in the outer regional sense. That outer regional have actually had a reduction in the amount of vocational education training available to them and amount of learners.

And there's some really crucial reasons for that. One of those crucial reasons is that when for-profit providers are engaged in education - and it's that effectively they want to make a profit. It is not profitable to go to what we often call 'thin markets' or it is not profitable to go to areas where you have high-needs learners. Therefore, for-profit enterprises will have a tendency to go to learners who do not exhibit high needs, therefore are easy to find, easy to reach, easy to teach and easy to get through.

Whereas the ACE sector and, of course, substantially the TAFE sector, do not have that luxury because it is part of our makeup and our very genesis to do it. The Don Zoellner definitely showed that. Subsequent work, including a report that came out from the NCVR a couple of years ago, showed - and I'm quoting from this from memory - that in areas that had a high percentage of ACE providers - this is regional areas - that, in fact, the delivery of foundation skills, language, literacy, numeracy, was actually done much more effectively than areas that did not have a high percentage.

That's my interpretation of the essence of Dr Don Zoellner's work, but it is very detailed; it is very explicit, and it is very important to consider. The other thing I would say is the amount of effort and the amount of money spent on delivering vocational education and training is often equivalent to the quality. Maybe not always. There certainly can be inefficiency in waste, but as

I said earlier, it is not possible to do things on the cheap, and that when we have instances where people try to cut corners through putting people online that need some face-to-face instruction, not giving people student support, not giving people proper learning engagement, that the outcomes, even though they might somehow 'pass' the qualification, but the actual learning outcomes and employment outcomes are inferior. I hope I've answered that question.

**COMMISSIONER ROBSON:** That's very good, thanks. And do you have any aggregate data or research on the - you mentioned this unmet demand for foundational skills. In terms of the size of the problem, what are we talking about, in your estimation?

**DR PERLGUT:** I'm going to turn around to some of it. Okay, I will refer you to a recent report and a very valuable report released by the Reading Writing Hotline. Reading Writing Hotline is a national service for literacy learners that receives queries and puts them in contact with providers. The Reading Writing Hotline is funded by the Commonwealth Government, and has been funded for some time, and is a successor organisation to the Adult Literacy Information Office, and I would give some - where is it - whatever the right phrase is - that is that back in the early 1990s, when I worked for ABC Television, I worked very closely developing adult literacy television series with the predecessor organisations to the hotline. That's just by way of background.

So I have a long history in this area, but in terms of reaching out and literacy. The hotline released a report, and they surveyed respondents. These were respondents - 382 of them were literacy teachers. They were not necessarily surveying students. There will be, I understand, from the Commonwealth Government invested a significant amount of money to surveying of the literacy needs in the Australian community sometime over the next year or two. Details to be worked out, but nevertheless they surveyed a number of providers, and they found a number of really crucial things.

One of them, of course, is across the board providers were - and there was some really crucial thing about unmet community needs. And I'm just going to give you two or three quotes and then I'll stop because you'll have other stuff but, 'Calls to the hotline often indicate there are many needs in communities not being met by the current language, literacy, numeracy classes. The unmet need most cited by respondents to the survey was the need for individual and tailored literacy assistance.' 64 per cent of the providers said that. The second-most cited unmet need was for, 'Wraparound supports to address barriers and enable participation.' That's what I'm calling outreach. That was 52 per cent. Just over half of them said that.

This was followed by, 'Help them with form filling.' 49 per cent said that. Now, I'm just going to give a parenthetical aside from this point. Form filling during COVID-19 with so many things going online, and also during a time of disasters where people are filling in forms for insurance and everybody else, form filling for people of low literacy has become more fraught than ever. Okay, going back to my point. And two final points that came out of the report was pathways into accredited courses, 47 per cent of the respondents said there were not sufficient. And the other point I'll quote is lack of accredited or non-accredited courses delivered in community settings, right? Not institutional, but community settings. 43 per cent of the respondents said there was a greater need. The report is there. It's available, of course. It's very, very worth going through, and I'm certain that people in the Reading Writing Hotline and their consultants that put it together would be happy to provide more information. I brought out - I noted for myself some of the highlights. Thank you.

**COMMISSIONER de FONTENAY:** Thanks, Don. This is Catherine de Fontenay, Commissioner, Productivity Commission. It was a great pleasure to meet with you and other members of the association earlier this year. I just wanted to ask whether your organisation has a

view on whether it would be a good idea to extend income-contingent loans to VET students. And you mention that yoga and those types of courses are now only representing about 10 per cent of your offering. Part of our recommendation was that those types of courses be excluded from income-contingent loans, and so I'd be interested in your view as to whether there is a clear dividing line between - let's call it the yoga macramé end of the spectrum and then courses that people take for the purpose of gaining employment. Thank you.

**DR PERLGUT:** Catherine, thank you very much. And thank you again for the previous opportunity to provide engagement and discussion for the inquiry. Yes, our organisation has a very strong view about the extension of income-contingent loans. The first thing I will note is replacing the VET FEE-HELP program with VET student loans has by and large been a public policy success.

Now, that's partly because we're dealing with what was probably one of Australia's worst public policy disasters, with billions of dollars badly spent, and an enormous amount of shall we say angst and government - let's call it inefficiency undertaken. VET student loans which I haven't looked at in some detail now for some - maybe a year or so, but nevertheless, in my understanding, is running at roughly maybe a-third or less than a-third of what the total VET FEE-HELP was, and that's probably where it needed to be, and it seems to be running without any perceivable major issues.

However, we have noticed, and there have been a couple of different proposals, one of which came from a recent summary from - recent report to the New South Wales Government, and there was another one which may have come from the Productivity Commission or somewhere elsewhere. And forgive me for not remembering that specific one, but expansion of VET - the VET student loans to - even down to Certificate III level. Community Colleges Australia strongly opposes that, and we have a rationale on that which I'll have to sort of look up to actually get that detail.

But we strongly oppose that on the basis that so many of the people who are due to study at Certificate III level tend to be from relatively - not all, but from relatively low income, and almost all - but again, not quite all - but a very large number coming from low educational backgrounds. We all know that people who are working in the aged care sector with their Certificate III are receiving an average of about 23.50 an hour. I do understand that the tribunal is going to increase that by 15 per cent, which will take them up to \$27 roughly or that per hour. Nevertheless, we are not talking about a large amount of money. I also acknowledge that Australia's HELP system which is, you know, income contingent, is very unlike the American system which just locks in and insists that people start paying, which as we all have - know - those who have followed it - created some significant political problems and some attempts by the current Biden Administration to forgive some of those loans. And it's finding its way through whatever it needs to find its way through.

Nevertheless, we do not believe that these are suitable for people if the Australian Government and state governments are interested in encouraging people to participate, especially at that Certificate III level where we are really talking about entry level for crucial qualifications like aged care, child care and a whole host of others. We believe that they should be directly funded, and perhaps with some small co-payments, there's some big discussions about making things free versus, you know, not totally free. I will leave that to the economists to discuss, but the income-contingent loans can leave people with substantial debts, and particularly for people who are not necessarily going to earn a great deal of money. I do not believe that is a proper public policy.

And the other thing is the people who will be pushed into that may very well find themselves signing up for things which they believe are free. Just what happened in the worst days of the VET FEE-HELP. And you go oh, no, no, no, but people are going to tell them. It's going to be written there. They're going to tick boxes. People will say that, and I'll say yes, they will say all that, and then they say, 'How much do I have to spend?' and then the person says, 'Oh, nothing. It's on the never never.' 'Oh, well, sure, I will sign up.'

Now, we have some openness to discussions about Certificate IV level that we do believe that it might very well be suitable for some Certificate IV qualifications to be done on income-contingent loans. However, we do strongly believe that if that is to proceed, that it should first be done on a pilot basis with careful selection of what those qualifications are, depending on who the client groups will be and what the areas of needs are, and the anticipated capacity of those future learners to pay down the track so that they are not 10, 20 and 30 years later carrying a debt. And you might then say to me, 'Oh, but it's still income contingent', and I say to you I know a large number of people in their late 20s and early 30s who are starting out and are carrying debts of - from university, and they didn't do expensive university courses, but because of inflation now, seven per cent for the 12 months running till the end of September, and the CPI, and then CPI on their loan is added, seven per cent of whatever they were outstanding. Because of all that, they have effectively not paid off any of their loans and are finding it, believe it or not, a drag on their ability to purchase houses and units. This is not something that we need more of in Australia. Thank you.

**COMMISSIONER GROPP:** Thanks. Can I just take you back, though. Because earlier, you said that you didn't favour free TAFE courses either, because people did courses, spent time on things that they didn't get a job in at the end of the day. So what level of payment are you looking at, particularly if you're not in favour of income-contingent loans? So how would you set the payments to - not to encourage, but not discourage, in that case?

**DR PERLGUT:** There's debates on this, okay? That's the first thing. But let me go back to the free TAFE. We are not opposed. We know that free TAFE is happening. I am not Don Quixote, tilting at windmills, ensuring that things - trying to say things that are not going to happen and will stop. No. What we are saying about free TAFE is, it needs to have proper policy settings and guardrails to ensure a number of things. The first of those is that people are not inappropriately recruited into TAFE courses that they should not be in. And I will return, and it may not be the best - the nicest analogy, but I will return to the VET FEE-HELP policy disaster.

VET FEE-HELP was very well-known for recruiting people into courses of study for which they were manifestly unsuited and that they would not complete. If free TAFE is run in a way, without ensuring that vulnerable and disadvantaged and certain learners are not properly supported in their choice of TAFE courses and where they're going, that creates potential problems on the basis that, 'it's all free; it doesn't matter'. Well, actual fact, it does matter. Now, whether or not there is some small co-payment, these are matters for, I think, policy discussion. Community Colleges Australia does not have a formal view on that; I have my own views, you know? I have my personal views, I always think that there is some small co-payment; however, I do acknowledge that Australia has a significant number of people for whom buying, spending an extra \$10 or \$20 or \$50 is a significant expense, um, and, you know, getting access, high-quality to the access and digital exclusion is significant. So I don't want to be the person to say, "Oh, no, nothing should be free in education"; I do not believe that entirely. I think that more research needs to be done in that.

But my key point is, the way that that is rolled out, the way that it is advertised, the way that students are recruited and the way that students are brought in and that they are advised as they are brought in about what the alternatives are, all of these are essential policy settings. I do not yet see at this stage, either on a state or on a Commonwealth level, that those settings have been there. There's been one small change, but I do not believe that it is necessarily going to be significant. The one change is that in the budget announcement, which was whenever it was, a couple of weeks ago, that the announcement included that free TAFE would also be available in exceptional circumstances - and they used that phrase, "exceptional circumstances" - for not-for-profit, First Nations organisations, delivering education and training that might not otherwise be covered by TAFE.

Now, presumably, it might mean other not-for-profits, but it does say "exceptional circumstances", and to the best of my knowledge, all that is going to have to be approved by the state or territory TAFE. At this stage, I do not necessarily anticipate that that small out clause will be utilised. So remember, I am not opposed to free TAFE per se; I am opposed to a willy-nilly, offering it to everybody and all that comes. But my final point on this one is one I did mention before, is I believe that we in Australia have to do something we have not been able to be successful in doing yet: we have to create proper pathways in our VET system to ensure that we have pathways from one to another, and a classic example would be people operating and studying the foundation skills, meaning Certificate levels I and II, and the Certificate level III level, up to TAFE.

We do not have established pathways in New South Wales where I live, nor really in Victoria where we do a great deal of work. We had some reasonable work in South Australia, which has sort of fallen by the by. The best of my knowledge, we do not have that in Australia. We need that as an essential, and I would say increasingly urgent requirement, as we start to add additional funding, especially to TAFE. People are going to be flocking to TAFE, but we need to ensure that people flock to TAFE in the right courses, in the right areas, and in the right ways.

**COMMISSIONER GROPP:** I just want to just follow that up. You talked about "small co-payments". So what sort of amount are you talking about? And say, for your courses, what do people pay up-front?

**DR PERLGUT:** Yes. There's a difference of opinion on this on our sector, and again, Community Colleges Australia does not have a formal view on this. There are some of our members that are very happy to offer things on a totally free basis, especially to people who are the most disadvantage; there are others that would like small co-payments, even a five or \$10, to ensure that that is there. So there's not much more I can say on that. It's not an area that we, as an organisation, have looked into in any great depth and that we are aware of. But I do go back to my point, is that there are a very large number of low-income Australians for whom significant amounts of - even moderate, modest amounts of money, could be seen to be very serious imposts on them.

**COMMISSIONER GROPP:** Would you differentiate across types of courses?

**DR PERLGUT:** I would have to think more about that, in terms of different types of courses. And again, but let me say, different types of courses, I think part of the whole thing is to ensure that when you are rolling out a free system of study, irrespective in TAFE or anywhere else, to ensure that the right people are signing up. So that's why yes, different types of courses. I mean, one of the great things that - you know, TAFE has moved into things like aeronautical engineering and similar things. This is good for TAFE and it's probably very good for the country; however, we do not want people that have low literacy and low numeracy, leaping into that - you know, the Diploma in Aeronautical Engineering without having done the basics.

We're entering a point where we need to be doing lots of re-examination. Now, one of the things that the Reading Writing Hotline report identified was, believe it or not, the high level of disadvantage, the numeracy - okay, the report knows that one in five Australians, 20 per cent of Australians, have some level of low literacy and numeracy; two in five indigenous Australians have low level. And other low literacy and numeracy, numeracy is consistently pointed to by workplaces as one of the greatest areas of challenge and difficulty. It's not one that people on the street necessarily think about, but it is one that we do need to be thinking about, as we become a more technologically advanced, service-level economy. I hope I'm answering your question, I've gone a bit sideways to do that.

**COMMISSIONER de FONTENAY:** Thanks Don. Just one more question. You mentioned that you had concerns about online learning, but a lot of your institutions are in outer regional areas. I'm just curious that you don't see - that you don't find that there is some potential for facilitating learning in those locations if people can access better materials online. Is that not something that you've found in your teaching, that it's been helpful to use online materials as well as face to face?

**DR PERLGUT:** That's a very good question, and the short answer is, absolutely, there is tremendous potential and I would say, at this stage, I can say with quite a high level of confidence that every single one of our member organisations has incorporated elements of digital delivery. I'm not using the word "online", but I'm using "digital delivery", I mean digital interaction in some way, shape, or form. Nevertheless, let's focus especially on the needs of disadvantaged and also some of the low-level qualifications, such as that Certificate III. The idea - and there are providers that do this - that you will do a Certificate III Individual Support (Aged Care), you will do it online, and that with everything online, and that somehow other than trying to shove you off to some sort of work experience, that you are going to get a proper education and training, is simply not true.

I refer back to the Reading Writing Hotline report. The Reading Writing Hotline report - and I'm quoting from this - says, "Provision of language of language, literacy and numeracy programs is best done face to face".

Now, we're talking about that foundational skills level, right? But we're also talking easily 20 per cent of Australians. This is not a teeny tiny number. Then it continues, "The move to digital delivery tended to disproportionately disadvantage literacy and numeracy learners due to limited digital literacy skills, lack of access to secure internet. Print-based resources are preferable for adult language and literacy learners. Lack of access to home computers," meaning the hardware, not just the internet access, and, "Insufficient self-directed learning skills to manage online programs." This has been examined in great detailed and that report examined it in great detail, summarising the 382 respondents. My personal experience is the same. Absolutely. At the low level it is essential.

Now, as you move up the educational and the income ladder, and as we know, the two are inextricably linked, there comes a point that the equation starts to invert. If you are going to be doing a Diploma in Management, sure, do most, if not all of it online. I don't see there's particular challenges and difficulties in doing a lot of that, but when we were down and when we were looking at that Certificate I, II and III which is the overwhelming majority of what ACE providers do, we are talking about online learning to be not an effective means.

Adding bits and pieces such as, you know, doing some course work, you know, doing some testing and grading, sure. So we're not people filling, you know, pencils in boxes and things like that. But by and large, the results, in our experience, is it is inappropriate for low-level and high-needs learners.

**COMMISSIONER BRENNAN:** Don, it's Michael Brennan here. Just a question or two questions that go back to your points about foundation skills and foundation learning. First I just want to test a hypothesis with you and then kind of tease out, if it's true, what one would do about it.

So it seems to me that one of the issues around foundation learning is that there are certain contexts in which people are likely to come into the system for some foundation skills. One might be the adult migrant English program, one might be people who have come into the VET system via TAFE or an RTO to do a Certificate II in something or other and the TAFE or the RTO's decided that they need a bit of foundation skills. And I guess one might be in the employment services market if there's a view that someone's employment prospects – so they're in the labour market. They're on income support. The provider has decided it would be advantageous for them to get some additional literacy and numeracy skills.

But presumably, that's leaving a vast number of people out there who have challenges either in the job market or just fully engaging in society by virtue of low literacy or numeracy. But that's a group that's difficult to touch. You sort of almost need, I think you were kind of replying earlier, an active outreach – active recruitment strategy for you to get out there and try and encourage people into a foundation course which may be of benefit.

So I wanted to test, firstly, is that hypothesis right that you think we've got some existing entry points which are kind of piggybacking on existing policy avenues, but then this vast reservoir of people out there. And if that is true, what's a mechanism by which you can get out there and identify people who would benefit from literacy and numeracy foundation skills and encourage them into a system like community education or something else that could fulfill that?

**DR PERLGUT:** Michael, that's a very good question. I'm going to answer it in probably two to three ways and I'm going to finish in answering your major question. Just in terms of work, workplace delivery is another thing I need to make note, and the hotline report showed – and this is a quote, - “Workplace delivery of language and literacy is low and many people currently working are unable to access language, literacy and digital skills courses outside of work hours.” So we do have a challenge, and a significant number of people who are currently employed are actually having significant challenges with literacy.

But let me address the point about outreach. This is one of my favourite topics, and let me state for the record I was trained as a town and social planner. And when I undertake my work in post-secondary education, I bring two things to it; I bring a community engagement approach, but I also bring a physical approach to the notion that people – that much learning takes place in physical environments. But let me make this point; to do it properly, we need proper leading by the Commonwealth government in association with the states and similar things to ensure that people – and as we are talking about at least a million or more and it's probably two to 4 million Australians that have some significant literacy problems amongst indigenous Australians. As I said before, two out of five.

One way to do it is to do campaigns. I'm a veteran of 1990's International Literacy Year known as ILY. I was the ABC project manager – that's the Australian Broadcasting Corporation project manager for International Literature Year where the ABC worked very closely with a number of providers, with the Commonwealth Department of Social Services, then Education Employment Training and with TAFE New South Wales as well as other advisors to develop and deliver both in radio and television, substantial number of literacy teaching courses and to promote through community service announcements and elsewhere that people could undertake extended learning and they would be referred to the then-Adult Literacy Information – ALIO hotline which has now been taken over by the Reading Writing Hotline.

You may be familiar with the SBS TTV series called Lost for Words. There was two different series. The second series has recently been released, and I know at least – I know one of the key teachers on that series, Jo Medlin, who was the president of the Australian Council for Adult Literacy known as ACAL, and one of the students named Graham from Tamworth Community College who participated in a recent Community Colleges Australia conference and was interviewed by our master of ceremonies.

One of the things which comes out of my experience with the ABC during that period in 1990, International Literacy Year, and subsequently in 1994 when we did a second series with TAFE and where we did major promotions, is people need to pick it up, and so often it is not necessarily reaching the person with the literacy needs but reaching somebody who knows them and it gets referred to them.

For us to achieve the full potential, in my view, in Australia, as I said, we cannot wait for them to come. It's not Kevin Costner building his field – his ball field in the corn fields of Iowa and expecting the 1920s Black Sox walking out of the fields to play baseball with him. What we need to do is genuinely go out. I don't want to extend the metaphor of the corn field, it is not corn fields that we're going out to. But we're going out to in the Australian community in all the various places, some of them are harder than others. Remote Australia – remote indigenous Australia has its own challenges and needs its own strategies, and I understand that the current Commonwealth government is starting to address some of those and that's very good news, but as I said, provision of literacy is insufficient.

I believe that national campaigns utilising social media, printed media, face to face, all sorts of interesting things. At one point there was an egg company that printed on the eggs, "Need reading help? Ring 1800 XXXXXXXX." There's a lot of different ways to do campaigns, and we in Australia are some of the best in the business when it comes to campaigns.

I'm going back to some of the early ones where, you know, where we were trying to prevent people from getting AIDS. Let us apply this to foundational skills, it will be in all of our interests to do so. I hope I've answered that question and I hope you can feel the passion in my voice when I say this.

**COMMISSIONER BRENNAN:** It's palpable, Don.

**DR PERLGUT:** Thank you.

**COMMISSIONER BRENNAN:** Thank you, very much.

**COMMISSIONER GROPP:** I think unless Don wants to add anything, I think we're done.

**DR PERLGUT:** Thank you very much. I believe I've covered all my high points and I thank you very much for your time and your attention and I wish you the best of luck. Community Colleges Australia and I as an individual are happy to answer further questions during your final weeks of consideration. Thank you.

**COMMISSIONER GROPP:** Thanks very much, Don. Okay (indistinct). We have Dr Peter Hendy. Welcome.

**DR HENDY:** Hello.

**COMMISSIONER GROPP:** It's Lisa here. Lisa Gropp.

**DR HENDY:** Can you hear me?

**COMMISSIONER GROPP:** Yes.

**DR HENDY:** Lisa, how are you?

**COMMISSIONER GROPP:** Very well. Don't laugh like that, Peter. I'm joined by our chair, Michael Brennan, and fellow commissioner, Dr Catherine de Fontenay.

**COMMISSIONER BRENNAN:** G'day, Peter.

**COMMISSIONER de FONTENAY:** How do you do.

**DR HENDY:** G'day everybody. That's good.

**COMMISSIONER GROPP:** Can you hear us okay?

**DR HENDY:** I can. So what's the format? What do you want me to do?

**COMMISSIONER GROPP:** Well, I'll just ask you to introduce yourself for the transcript. So your name and your organisation, and then some opening remarks.

**DR HENDY:** Sure, all right. Well, so today I am the CEO of the Independent Higher Education Australia. Independent Higher Education Australia is the representative of the independent or private sector in the higher education space. We have 74 members, of which we have four universities, three university colleges, and 67 other institutes of higher education, and our collective membership covers 75 per cent of the student population that is covered by the independent sector. So we feel that we can speak on behalf of the whole sector, and not just the membership. And our submission to you, regarding the Keys to Prosperity review, is that there are a number of - anomalies in terms of the regulation of the private or independent sector, in higher ed, that keep the sector back from fulfilling its full potential. There are, principally, competitive neutrality issues between the independent and private providers and the public universities here in Australia. Now, we don't want to give a false impression of the sector. The sector is only 10 to a bit more per cent of total higher education. In Australia, the public university system completely dominates and overwhelmingly dominates, but we believe that the private providers do provide for Australia an element of innovation and nimbleness that helps in advancing the sector, and the value-add of the higher education sector to the Australian economy.

We've got another of, as I say, competitive neutrality issues. The biggest one probably relates to how Commonwealth-supported places are funded. We basically still have, in the higher education sector, provider-focused funding rather than student-centred funding. If you look at other welfare programs, if you like, through out the federal government sphere - and I don't need to tell you this, but just to remind you - from schools to child care to provision of Medicare, to the new NDIS system, what is - the focus tends to be the patient, the client, the student, whereas we're still a bit behind in higher education. And so that's something that I could talk to you a bit more about, and basically what we're asking is that what should be implemented in Australia is exactly the forms that the 2008 Bradley Committee Review into higher education proposed, as I say, in 2008. And so there's been a lot of work on these issues and how we should implement economic reform in the area, but to date they haven't been implemented, and then there are specific issues that run off that, that I can talk to if you like. So I might stop there, because I'd rather you ask me questions about what you might have seen in our submission, rather than talking about something you don't want to hear about.

**COMMISSIONER GROPP:** Thank you. I'll kick off, then. Just what you were talking about in terms of those competitive neutrality issues. Have you got any assessment - given that we're looking at it through a productivity lens - on the impact on student choices, et cetera, from those - from the - in relation to variations of different access to, say, student loans or Commonwealth-

funded places? What are the impacts on student choices and training, and therefore, down the track, on productivity? Have you looked (indistinct) aware of anything about the impacts?

**DR HENDY:** So to the direct impact on productivity, no, because I feel it would be - based on my experience in years past, including as Assistant Minister for Productivity in a past life, it's pretty hard to measure this stuff, and I take note that it would be - that I don't know the veracity of a model that would show that there is a direct productivity improvement, in terms of numbers. But I think that - - -

**COMMISSIONER GROPP:** But (indistinct).

**DR HENDY:** Sorry?

**COMMISSIONER GROPP:** In terms of the impact on student choices, of course, I guess there's the immediate impact.

**DR HENDY:** I can't see you, Lisa, just so you know.

**COMMISSIONER GROPP:** Sorry, I lost you. Sorry. Hi.

**DR HENDY:** Okay, that's great. That's much better. Sorry, what was your question?

**COMMISSIONER GROPP:** Just in terms of more the immediate impact on student choices.

**DR HENDY:** Well, to go through the argument, which I think you'd appreciate, is that there is two levels at which you can argue there is a case for student-centred funding. One is that the system - that particular process would lead to individual choices being collectively accumulated into a better outcome for signalling to the sector, that's higher-education providers, where the job and skill shortages of the future lie. So I would argue, for example, that government focusing in recent years - doesn't matter who's in government - on specifically providing focus on skill shortages would be better, rather than initiating particular programs and picking what you think are the skill shortages today and what they could be in the future, what will be better is to set up a system - essentially, a demand-driven system that would provide student choice, indicating to the marketplace where the skill shortages will be in future. Because we currently have a view where skill shortages are today, but where the skill shortages will be in a year from now or two years from now in a particularly economically challenging environment, both globally and domestically, I don't think any government, any bureaucrat in Canberra can actually accurately forecast what that will be. But collectively, students making choices across a million students about where they think the job potentials are in the future, is a better signal. And I suspect you might have some sympathy for that point of view. And that's an efficiency-productivity issue.

The other thing is an equity issue, which isn't the same thing, as we know. But the equity issue is that today, you can have two students living in, you know, Western Sydney, in a suburb in Western Sydney, and both kids went to the same primary and high schools, but one decides to take a course and has the marks to get into University of Sydney, which is one of the most elite universities in the world, and the one next door decides that they're interested in a more niche career ambition, and they decide on an independent institute of higher education that's not funded by the public purse, and they are treated massively differently even though they're both domestic students. The one going to one of the most elite universities in the world is massively subsidised by the Federal purse and goes off to that elite university, and the one who's not going to the elite university, but because of their career choice, is going to an institute of higher education, isn't subsidised. Basically, not subsidised at all and has to pay full freight on their fees, and that's an equity issue - a domestic student equity issue that affects lower

socioeconomic and other categories that I understand federal governments of whatever political persuasion are interested in addressing.

So, for example, we can tell you that – and we have it in our submission, that the equity criteria like students with disability, lower socioeconomic and whatever. Independent higher education providers don't do as good a job as public universities, but public universities by and large are billion dollar corporations, and our members aren't. In fact, a lot of them are medium-sized businesses, not even large businesses, and yet their scores, according to Table A in our submission on p6, show they're not actually very far behind public universities.

If the government at the federal level want us to hit certain targets in terms of equity target groups, one way we could meet those targets is actually if the federal government would reduce the regulatory and competitor neutrality burdens that we have.

**COMMISSIONER de FONTENAY:** Thanks, Peter. I was just wondering what your view is off the possibility of a voucher type of system so that you – to take a crude version, all students with an ATAR above a certain cut-off receive a voucher to attend university, and they can use their, essentially, Commonwealth supported place anywhere that they choose.

So, one challenge that we have been wrestling with is that sometimes those types of systems serve only to reinforce the dominance of the existing strong reputation players in the sector. So, I'd be interested to know what your view is of a voucher type of system.

**DR HENDY:** So, a variation of that system is what was proposed by the Denice Bradley chaired review in 2008. I don't know. Voucher – using the word 'voucher' tends to be a bit of a toxic word in the political debate in Australia. So, whether you use that term or not, the fact is students seem to – or client-centred funding is a better way to go in terms of meeting the overall public interest test that I think governments want to implement.

The important thing here is that – just to say it is that this is something – if you had a student-based funding, then one of the areas where governments in recent past have been talking about reform, but rarely are able to implement it. That is the interaction between the VET sector and the higher education sector.

That is solved by moving to this sort of funding because what happens is that you provide the funding to the student, and they can choose whether it's a VET sector provider or higher education provider according to what course they want to do, and I think that that would be – so, you wouldn't just – I mean, I think that would be a better way to consider how to do this.

Now, when the Bradley committee did their big review in 08, they realised that the other side to this coin is a question about ensuring quality provision of education and that you don't – the public purse is not subject to rorting because of dodgy providers, and in the past, there has been instances where poorly thought out rollout of policy has led to a spike in the rorting of the – of provision of public moneys.

However, the solution to that is having good quality control. So, it's very important that whatever we do with TEQSA, and you'll know, I'm guessing, who TEQSA is, but if you don't, let me know, and ASQA do their jobs in quality standards assurance for both the VET and the higher end sector, and given – and once you're satisfied – and this was what the Bradley review said.

Once you set up a national system, which we do have now, that adequately assures quality of providers, then you can then provide focus for funding on students wherever they go because the system as a whole ensures that all the providers that they may choose, whether that or higher

end, are quality.

**COMMISSIONER de FONTENAY:** So, that would be if the – let’s call it voucher for the sake of clarity – that would be the case if there were a voucher system that applied to all students. What about – what is your view of a voucher student – system that applied only for the higher-end segment which - - -

**DR HENDY:** That’s just – yes.

**COMMISSIONER de FONTENAY:** Where students only – where there was a limited number of said vouchers? So, there was a cap on the number of government supported places.

**DR HENDY:** Our view would be that you would – you would start – so, what Bradley proposed which I think is sensible back in 08, not that long ago, was that you would start with the public universities. You would then extend it to the – and then once in – you – so, they were looking at two things.

They were looking at the national quality standard system as well as a funding of that, and, so, they were recommending what eventually became TEQSA, and they were – what they said was that if – once – as you were creating TEQSA and setting up the national system, you would student with funding – student-centred funding only for public sector universities because there was an undeniable acceptance of the quality in that sector.

Then you would – with the TEQSA model of quality standard setting, you would – you could then – once you were satisfied that was working properly, that would extend to the whole higher education sector of providers and – and, so, you would then – if it was then the case and you would think it was acceptable, a government could also expand it to the VET sector, but – so, you could do it in stages depending on your – what would be the word – your comfortable – to the extent to which the government was comfortable that the quality wouldn’t be jeopardised. You can still, however, with that whole system cap it. You can decide that because of a certain budgetary constraints that you would only have a certain number of funding of a certain number of students’ places, which is what happens today.

**COMMISSIONER BRENNAN:** So, Peter, Michael Brennan here, I think you’ve answered my question, but just for clarity, I mean, you’re talking about neutrality of funding, and I can think of sort of three ways in which you can think of that. One is that within the AQF levels that are the traditional domain of universities having greater neutrality between public and private providers which, I think, is your core argument, and that’s largely about Commonwealth supported places. There’s then this kind of niche area, I guess, where there’s qualification that’s at the same AQF level, but can be provided by a university or, perhaps, a private RTO or a – or a TAFE or something.

There’s a neutrality question there as to whether they’re getting the equivalent funding and access to an income contingent loan, perhaps, and then there’s the third element of neutrality which is what Catherine and I take it you’re saying was the sort of – the last element in the Bradley evolution, namely, greater neutrality if and between different AQF levels so that somebody starting a Certificate III or a Certificate IV would be getting a similar level of support or access to kind of similar mechanisms for support, as people agree.

**DR HENDY:** Yeah. We’re – on behalf of my members, I’m not pushing a particular line with respect to the third element. So, you can – at the moment, governments have made a decision that they actually do have different categories of funding for different types of - so they’ve got generic categories for different types of degrees, for example, as you will know. So it’s called “jobs-ready graduates scheme”, as it’s called now, and depending on what the federal

government makes a decision on, you know, you get a certain amount of subsidy from the taxpayer if you do medicine, if you do an economics degree or an arts degree or an engineering degree, that - I mean, if you're putting a purist economic argument, you would say that the money that was paid wouldn't have regard to that, and that the difference would be potentially funded by the student. But I'm not at the moment making any particular comments about, you know, how you calculate what the student contribution should be.

**COMMISSIONER BRENNAN:** That's almost a fourth category of neutrality, the neutrality between courses within an AQF level. But I think I'm getting the point.

**DR HENDY:** But can I just pick up on something, just to be sure. It was the way you phrased for regarding - so TAFEs can be what they call dual-sector registered organisations. So TAFEs and VET providers can also be higher education providers. And so where they're doing what you would technically - not even technically, what you literally would call the same thing that a university was doing, a bachelor's degree, say, when they do that, they are actually registered to be a higher education provider under TECSA. So that's how the system works, so that they're not separately - it's not separate. It's not a separate category, it's the same category.

**COMMISSIONER BRENNAN:** If others are okay, just shifting gear slightly, Peter. So your membership, it will include institutions that are funded, or who are predominantly delivering bachelor's qualifications and so therefore would currently - is this right - have access to income-contingent loans but not Commonwealth-supported places because of the sector that they're in, but presumably have members as well who are getting revenue from other mechanisms. So these are, like, you know, the business schools or sort of niche providers of various trainings; they're operating more at fee-for-service kind of market, that aren't necessarily providing a bachelor's qualification or something. Like, are you doing that sort of training as well?

**DR HENDY:** So that's right, that's right. That's right. They do - which you would regard as VET training. So they'll be registered as RTOs as well. But not all of them. So just to give you a sense of it, of our 74 members, only 19 are active dual-sector providers. So only 19 actively do VET courses. Thirty per cent are registered to, but to my understanding, don't. And when I'm talking about my members, you can basically take as read, that's the sector as a whole; the same sort of proportions. So I should mention something which we regard as an anomaly, specifically with respect to something you just raised. So yes, our members, students do get VET - sorry, FEE-HELP, but they - for the privilege of getting that, they pay a 20 per cent surcharge. So when they're - so in my example before, of the two kids living next door to each other and one goes to Sydney Uni and one goes to, I don't know, the College of Law or the Australian Institute of Music or whatever, the one who goes to the College of Law or Australian Institute of Music, doesn't - they don't have FEE-HELP. Twenty per cent is actually added to the burden of their debt, as an administrative fee of the Federal Government. If you go to Sydney again, to say it again, not to belabour the point but it's true, to one of the most elite universities in the world, you don't have that 20 per cent surcharge put on you and there is no clear argument of why that happens, except that it does. And in fact, during the pandemic that we've just had, the Federal Government has waived that 20 per cent, but now the pandemic is essentially passed, it is being reimposed. So they're reimposing a 20 per cent tax. And 20 per cent's quite sizeable, as you would appreciate.

**COMMISSIONER de FONTENAY:** Yes. So Peter, supposing that the sectors were - some of these policies were changed and there was more growth in the independent sector, one thing that we have noticed for the main universities is that there is very little differentiation. So Melbourne University and Sydney University, and La Trobe University are very similar in terms of the

offerings, in terms of the level of those offerings. Can you talk a bit about the level of product differentiation that will be available in the market if the independent sector were to grow?

**DR HENDY:** Well, that's a very good question because it is an issue that, if you were to extend CSP places, if you want to call it that, to the private sector, there would be a trade-off because you would lose a degree of autonomy in setting your fees, because you would expect that the Federal Government would, as they do with public universities, have a view about that and would insist on greater control over fees and things like that. So that is an issue that would have to be faced by the private sector. There are members of ours, who are large members, who have said that even if this were to occur, they wouldn't utilise it and they would just stay purely private, and they would just charge and be private providers because they believe they have a niche market where they are very, very competitive, and today that's how they compete. They actually have this differential, and yet they compete, and they compete effectively and thrive. The second thing - the second part to my answer is that in the private or independent area of the higher education sector, 45 per cent of students are international, and we're not talking about that part of the sector at all.

**COMMISSIONER de FONTENAY:** Okay, so there you're speaking a bit to the differentiation in terms of prices between the independent sector and the regulators. Could you talk a bit about the, sort of, on the - in terms of the higher education offerings that are more similar to what is offered in universities, do they offer product differentiations in the market? So are the offerings that they're presenting, in terms of what you're learning or the way you're learning, creating some variety, some differentiation, you know? Some choices for students in the market?

**MR HENDY:** Yes. So certainly today, that is the case. And to give you some hard evidence on that, I refer you to the QILT surveys that are produced by the Department of Education on student satisfaction levels. The private providers, independent providers, are the - tend to be the highest-ranking in all those different categories that are presented for the undergraduates - this is for the undergraduates in particular, so that's for the graduate degrees, not the post-graduate degrees. It's a little bit more even with that, but whereas the elite G8 by and large in QILT surveys are at the bottom of the rankings, my members are at the top of the rankings. So they are actually providing student satisfaction in terms of teaching all aspects of services to the students, but also in terms of students' perception of their student outcomes at the end of their courses, because these surveys do account for - they do go to students who have finished their degrees and are commenting on how they believe their degrees have helped - have been provided and how it helped them in their careers.

The second thing is - and this is a bit more anecdotal. So that's hard evidence, if you want, those surveys, and there's a trend line over many years as they've been conducted. But the second is that my members tell me that one of their differentiation points is that they are much more attuned to ensuring students have workforce participation during the course of their degrees, and that - and one of their niche market successes is they're closer to the employment market in Australia and are able to get internships or whatever it is that their students need to help them do their courses. That's more anecdotal, but the quilt survey overall results would suggest that that is true.

**COMMISSIONER GROPP:** Thanks. Can I just switch to micro credentialing, Peter, and what your members - we're hearing this from industry - there's great, you know, demand for it, but are you seeing that, and also what are you thinking of putting something in your submission about a pilot exercise, but - - -

**DR HENDY:** Yes.

**COMMISSIONER ROBSON:** - - - what are your members doing to address that and what's the role for policy in that, if any?

**DR HENDY:** The main role for policy is standard setting, to be honest. To have acceptable standards in definition of what is micro credentials and a lot of the debate, I find, on micro credentials is not necessarily that is on micro credentials; it's about short courses generally. And so there's a bit of a mixture. When people are talking about micro credentials, which was the buzzword of the year, they're actually really talking about short courses. And the higher education sector, VET sector, and business groups have been tossing and turning about this for quite a while.

As you know, I used to - I now represent education providers, but I've had jobs in the past where I've represented the business sector overall, and I do know that there is a bit of a - on the business side, there is concern about ensuring that micro credentials do not usurp what is otherwise regarded as necessary accreditation for, you know, a particular degree and something like that. And this is where - if I could call it again - standard setting comes in at the federal level, that it is made clear what exactly is defined as micro credentials. Basically, the government has been active on this, and at - I don't know.

I think it was around about March that they came out with some definitions of what it should be. I think one of the things about micro credentials that they had in their standard setting was that they have to involve exams so that it's just not doing a course for 10 hours. You actually have to have an examination to test the student's take-up of the relevant knowledge, so I don't know if that helps you, Lisa, but that's all I've got.

**COMMISSIONER GROPP:** Thanks. I think we're done with questions, Peter. Have you got anything you wanted to finish with?

**DR HENDY:** No, no. I really want to thank you for your time, and put this on the agenda. I thought you'd - there is something I'd like to mention that you probably know of, but just in case you didn't IPART in New South Wales is doing a review of competitive neutrality, and one of the - currently right now - and one of the things they are looking at is the scope of the bodies in New South Wales that are subject to competitive neutrality principles. This is going back - all the way back to COAG principles that were set up in 1995 whenever it was. And they are reviewing them. Universities are explicitly exempt from competitive neutrality principles in New South Wales and, to my knowledge, in every state in Australia. And they are reviewing that issue, and just like for you, we've put in a submission and argue the case.

**COMMISSIONER GROPP:** Okay. Thank you. That's really helpful.

**UNIDENTIFIED SPEAKER:** Thank you, Peter.

**DR HENDY:** All right. Well, thank you very much.

**COMMISSIONER GROPP:** Thank you very much. Okay. Ladies and gentlemen, that concludes today's scheduled proceedings. For the record, is there anyone else who wants to appear today before the commission? Okay. I adjourn these proceedings. The Commission will resume tomorrow on Tuesday 8 November 2022 at the same location in Melbourne. I'm not sure what time. Thank you.

**MATTER ADJOURNED AT 3.16 pm**

**UNTIL TUESDAY, 8 NOVEMBER 2022**