App-Based Ride-Hail & Food-Delivery Work in British Columbia:

What We Heard

BRITISH COLUMBIA
Ministry of Labour

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INTRODUCTION

In October 2022, the Ministry of Labour (the Ministry) initiated a public engagement to review and propose appropriate employment standards and other protections for app-based ride-hail and food-delivery workers. This priority initiative is referenced in the Parliamentary Secretary's mandate letter and is a key component of the government's broader approach to make the economy work better for people living here in B.C.

Through the engagement, the Ministry heard directly from app-based ride-hail and food-delivery workers about their realities, challenges and priorities. The engagement also included meetings with platform companies that operate in B.C.[1], labour organizations, business associations, non-profit organizations, researchers and academic experts. What was heard during the engagement is outlined in this report and will inform the next steps for government, and it will inform our efforts to make work more reliable and less precarious.

[1] This report uses the term 'platform companies' to refer collectively to transportation network companies and companies that provide online platform food ordering and delivery services.

Who did we talk with, and how?

In November and December 2022, the Ministry's Parliamentary Secretary held in-person roundtable discussions with app-based ride-hail and food-delivery workers in communities throughout B.C. Roundtables were held in Prince George, Kamloops, Kelowna, Victoria, Nanaimo, Parksville, Abbotsford, Richmond, Vancouver and Surrey. Over 150 app-based ride-hail and food-delivery workers participated, including those who rely on this work as their only or primary source of income, those who use app-based work to supplement other employment, as well as workers who are students, retirees and recent immigrants to Canada.

In addition to these in-person meetings, 22 virtual meetings were held with platform companies, business associations, labour organizations, non-profit groups, academics and researchers. Many of these stakeholders also provided written submissions.

The Ministry also surveyed app-based ride-hail and food-delivery workers and the general public. It was available online in English, French, Punjabi, Tagalog, Arabic, traditional Chinese and simplified Chinese. A total of 1,470 surveys were completed during the survey period from November 23, 2022, to January 6, 2023. Of these, 1,106 were current or former app-based ride-hail and food-delivery workers.

Although meeting participants and survey respondents expressed a wide range of perspectives on the issues, clear themes did emerge. This document provides an overview of the major themes emphasized by different groups – areas of agreement among key groups as well as key areas of disagreement.

ONLINE SURVEY: QUICK FACTS

- **The online survey was one of several ways people in B.C. could participate in the engagement, with over 1400 surveys completed.**

- **The vast majority of app-based workers who completed the survey worked in the Lower Mainland and Fraser Valley, followed by Vancouver Island, the Coast region, the Interior and very few gig workers in the North.**

- **The survey was completed by over 1000 ride-hail and food-delivery workers in B.C. and the results offer insight into the reality of many app-based ride-hail and food-delivery workers in the province. However, caution must be used in generalizing to all workers in this sector.**

- **Of the workers who completed the survey, more than two-thirds (69%) work only on food-delivery platforms, 17% work only on ride-hail platforms and 14% work on both.**

- **More than half of app-based ride-hail and food-delivery workers who completed the survey said they are working on multiple apps; just less than half of respondents (44%) stated they work on just one app; 39% said they work on two apps, 15% claimed they work on three to five apps, and 2% of those surveyed said they work on more than five**

WHAT WE HEARD: KEY THEMES

Ride-Hail & Food-Delivery Workers – Key Themes

We heard from over 150 ride-hail and food-delivery workers at in-person roundtable discussions in communities across B.C., as well as through an online survey completed by over 1000 workers who shared their experiences and views. A review of the workers' input identified a number of themes.

For many food-delivery and ride-hail workers, gig work is not a 'side hustle' – it is their livelihood

More than half of survey respondents reported they depend on gig work as their main source of income. For nearly two in five respondents (39%), gig work is their only source of income. For another 15%, it is their main (but not only) source of income. During the in-person engagements, we heard from many gig workers working more than 'full-time' hours. One quarter of the workers who completed the survey (26%) reported spending *more* than 40 hours per week logged on and working on these platforms. In total, 42% reported working more than 30 hours per week.

Low and unpredictable pay is a top concern for workers; many are earning less than minimum wage

The survey asked, "Do you have any other comments about your experiences with gig work that you would like to share?" In response, calls for a minimum hourly rate and a higher per-job rate, were among the top themes. This aligns with the input received at in-person roundtable meetings in which 'higher, more-predictable pay' was consistently raised as a top priority. We heard from many workers that once their tips and expenses are deducted, less than minimum wage is being earned for the hours they work.

- **No reimbursement for fuel or vehicle costs**
  App-based workers must cover their own fuel and vehicle maintenance costs. Workers stated that significant increases in gas prices can have a real impact on how much money they end up making at the end of the day after they subtract their vehicle costs to operate. Workers further indicated that the cost of gas and for vehicle maintenance can be difficult to predict, making planning and budgeting difficult. In the online survey when workers were asked what protection they would like to see for app-based workers, "support for capital costs" was the most common response.

- **Pressure to accept low-pay assignments**
  In some cases, workers told us the payment offered for an assignment[2] is less than the cost of gas that would be required to complete the assignment. However, because workers feel pressure to maintain certain assignment 'acceptance rates', they feel compelled to accept these money-losing assignments.

- **Pressure to maintain a high order acceptance rate**
  One issue raised by workers – in a number of different contexts – was the pressure to maintain a high assignment acceptance rate. Workers emphasized that they value being able to accept or decline orders, but also noted the many incentives they face to maintain a high order-acceptance rate. The minimum assignment acceptance rates and the incentives workers receive to maintain them vary between platforms and can be significant. For example, several workers referenced a platform company that provides a minimum per-delivery/trip payment to workers who maintain an 80% assignment acceptance rate. The guarantee of a minimum payment has a significant impact on workers' earnings, so some workers felt that maintaining an 80% acceptance rate was critical.

- **Low per-trip/per-delivery pay**
  In our engagement, many workers felt the pay they are offered to complete assignments was too low. Workers noted they are increasingly offered $2-$3 to deliver a meal and emphasized how difficult it was to cover costs and make ends meet by completing assignments that paid so little.

[2] The engaged time of providing a ride to a passenger or delivering food.

- **No pay while waiting for assignments**
  Workers are not paid for the time they spend waiting for assignments (un-engaged time). They reported that the more time spent waiting, which at times can be significant, means the lower the pay at the end of the week. Some food-delivery workers identified the reason they are spending more time logged in waiting for assignments might be because fewer people are ordering food, or it could be that more workers are logged in to deliver at the same time.

- **Delivery fees do not always reflect long waits in traffic, late passengers, or slow restaurants**
  Workers report that often circumstances outside of their control result in lower pay than anticipated. They also reported situations in which ride-hail platforms charged a fee to passengers for traffic delays, but the platform did not pass this on to workers.

- **Tips are not always received**
  Workers felt that 100% of tips from customers should be passed on to workers and noted that did not always happen.

- **Transparency of pay for assignments**
  Workers stated they often do not know what the pay for the assignment will be prior to accepting a job, service fees are not always clear on what is being charged to the driver or to the customer, making it difficult to determine whether the value of the assignment offsets the gas and vehicle costs.

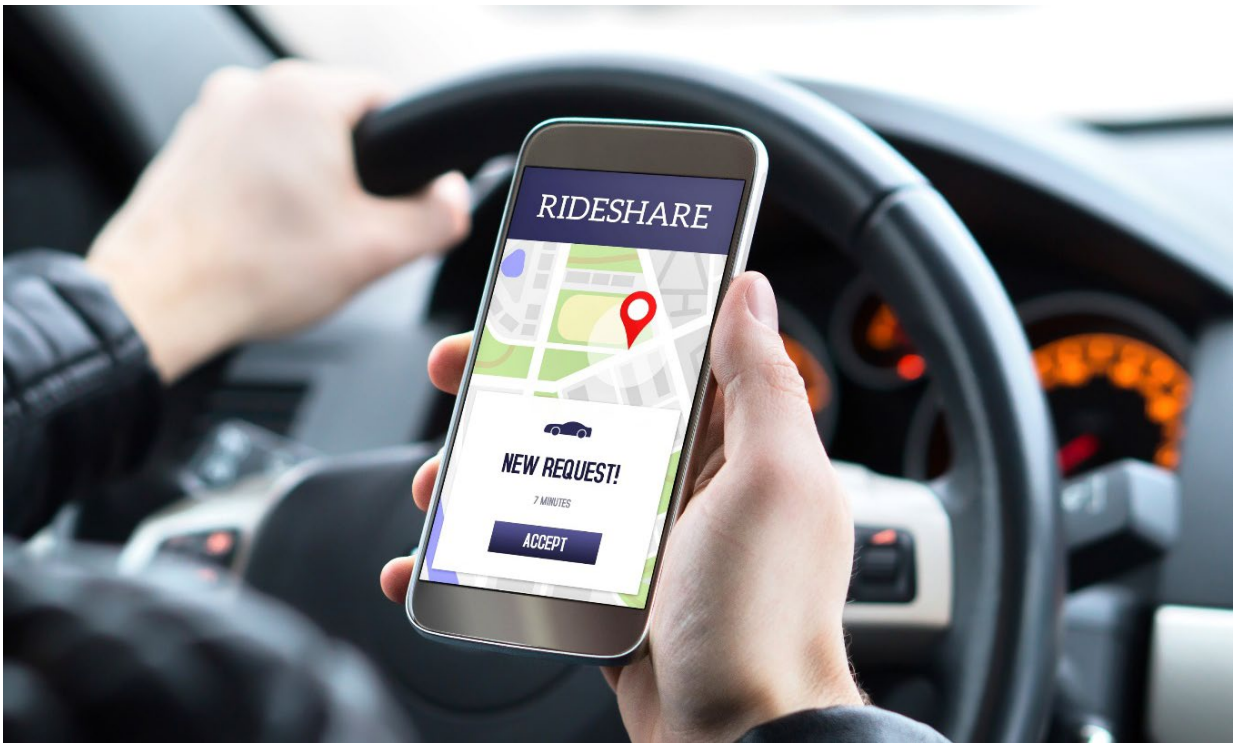
Workers value the flexibility of app-based work

Some workers explained they value app-based work because it provides a way to earn income that could be picked up or dropped at any time, and it can work around unpredictable family obligations or academic schedules. Others said they had specifically chosen this work to maintain greater freedom from the requirements of more traditional employers, and they value having the latitude these platforms provide in allowing workers to choose when and how much to work. In the survey, 88% of respondents rated flexibility of working when they wanted to as "important" or "very important," and 86% rated flexibility of working as much or as little as they wanted as "important" or "very important."

- **The ability to choose assignments**
  Workers value the flexibility on whether to accept or decline specific orders offered by platforms.

- **The ability to choose when and how long to work**
  While noting that some platforms restrict where and when they can work, many workers value the flexibility to stop working at almost any point in the day or taking long periods away from work.

- **The ability to work across multiple platforms**
  Workers value the ability to work on multiple apps at once, but they often do this to maximize their earnings.



Workers face safety risks, and they want better protections

Overall, there was strong support among workers for a wide variety of protections. In our survey, more than four in five respondents rated additional worker protections as being “important” or “very important” to them. Some priorities identified in the survey and in roundtable discussions were:

- **The ability to refuse unsafe work**
  Workers identified it is difficult to refuse unsafe work for two reasons. First, some apps withhold final destination information until the passenger or food has been picked up, so it is difficult for workers to try to assess if the assignment will be safe until after they accept it. Second, some apps *do* reveal the final destination, but workers feel obligated to accept assignments even if they believe it is to, for example, an unsafe neighbourhood or street (particularly bicycle riders), otherwise they will face penalties. Workers want the right to refuse unsafe work without repercussions.

- **Employer-based workers’ compensation**
  Workers stated they want employer-based workers’ compensation coverage. Currently, some workers pay for their own Personal Optional Protection through WorkSafeBC. Others operate without any protection.

- **Sick pay**
  In addition to wage-loss compensation for work-related injuries, many workers said they worry about not having access to paid sick leave if they become too sick to work.

- **Recourse for unfair terminations/deactivations**
  Unfair deactivations and timely reinstatement was a concern raised most often by ride-hail drivers who described instances of drivers' accounts being suspended for days – or terminated – based on a negative report by a passenger. Drivers felt that some customer complaints were unwarranted or untrue, and described the huge impact of being suddenly cut off from what is sometimes their only source of income. Workers told us that when riders and drivers have a dispute with a platform company, the complaint and termination process should give more weight to their version of events. When workers were unfairly deactivated or suspended, they felt they should receive some compensation for lost income.

Many workers in this industry are people of colour and newcomers to Canada

In the roundtable discussions, some workers noted the challenges they face as new immigrants and people of colour. Some described the racism and lack of respect they face from restaurant workers or passengers. Others noted the difficulty of dealing with certain platform companies who only communicate with them in English, via an online chat function. The inability to have a telephone conversation with company representatives to resolve issues was particularly difficult for workers facing English-language barriers. There was a sentiment expressed by some workers that one of the reasons that working conditions in this industry were difficult is because the workers in this field are new immigrants and people of colour who may be perceived as less worthy of the benefits and protections afforded to other workers, and 8.2% completed the survey in a language other than English.

Platform Companies – Key Themes

In B.C., the ride-hailing and food-delivery industry includes large multi-national platform companies as well as smaller locally operated companies. As part of our engagement, we conducted virtual conversations with representatives of various ride-hail and food-delivery platform companies. We consulted with small and large platform companies; some that operate in urban areas and others that operate in smaller communities and rural areas. Many of these companies followed up on our discussions with written submissions. A review of all the input identified a number of themes.

The importance of maintaining 'flexibility' for workers

Almost every company emphasized the importance of maintaining 'flexibility' for workers in their model. Specifically, this refers to workers' ability to:

- Choose where, when and for how long they want to work
- Decline or accept specific assignments
- Work on multiple apps simultaneously

Companies argued this flexibility was particularly important for their workers. One platform company noted that some of their workers are caregivers, who require the kind of flexibility the platform offers in order to earn income while also meeting family responsibilities.

Workers should not be considered employees

We heard from many platform companies that workers on their platforms should not be classified as employees. Major themes included:

- **Worker classification**
  Many platform companies indicated that if they treat app-based workers as employees, they would no longer be able to offer workers the flexibility that this work currently provides. They felt that if platform companies were compelled to treat workers as employees and pay a minimum hourly wage, platform companies would no longer be able to allow workers to pick and choose jobs or work on multiple apps simultaneously.

- **People working on their platforms do not want to be employees**
  Several platform companies cited past attempts to classify workers as employees in other jurisdictions that resulted in worker dissatisfaction with the arrangement, and in workers exiting the platform.
- **Classifying these workers as employees does not make sense, given the nature of the work**
  Some platform companies argued that app-based work is fundamentally different from employment; many workers only engage in app-based work for a few hours a week and use it as a supplement, rather than a substitute, to more traditional employment.

Many are using app-based work to supplement their primary income and benefits from other sources

One large platform company noted that 90% of their workers are on the platform fewer than 10 hours per week. Another noted that many of its workers receive benefits through other sources of employment or their spouses, while a third platform company, noted that most of its workers were retirees.

A competitive labour market compels platform companies to offer competitive earning opportunities and benefits to attract workers

Companies noted they actively compete to attract workers from their competitors, as having people available to make deliveries or pick up passengers makes their platforms more competitive. One platform company stated it pays higher delivery fees in order to incentivize drivers to prioritize jobs that come through its app. Other platform companies also discussed how their compensation and benefit offers are designed to be competitive with other companies.

Platform companies support establishing minimum standards that maintain flexibility

Many platform companies offered that there is room for improvement when it comes to working conditions in their industry. Several platform companies specifically new proposed occupational accident insurance as a minimum standard across the industry. Uber Canada and UFCW Canada publicly advocate for a package of industry standards for drivers and delivery people that includes a proposal for a guaranteed minimum earnings standard of 120% of minimum wage for engaged time. Other platform companies indicated an openness to establishing minimum standards so long as they would not interfere with flexibility, as discussed above.

Some common themes in this area were:

- **Pooled, self-directed benefit packages**
  Several platform companies advocated for a pooled benefit plan, arguing that it would:
    - Allow workers to choose the benefits that would be most relevant to them/not already provided by other plans they may have.

- Ensure that workers who are working through multiple apps have a single benefit plan that accrues contributions from all the apps they work through.
- Provide policymakers with a clearer picture of how many hours individuals are working across apps.

- **Mandatory occupational accident insurance**
  Several platform companies indicated support for mandatory occupational accident insurance that could cover lost wages. These platform companies referenced workers' compensation directly in their submissions.

- **Establishing a level playing field**
  Platform companies noted the value of establishing minimum standards across the industry, as a way of creating additional benefits and protections for workers while maintaining a level playing field for all companies. Smaller platform companies, in particular, noted the importance of creating common standards that could work and would be applied equitably for both large and small platform companies.

Worker Organizations – Key Themes

The following is an overview of the themes from the virtual discussions with representatives from worker organizations, including labour unions and other workers' rights advocates.

Worker safety is a critical issue

Many worker organizations emphasized the importance of benefits and protections for workers, particularly with regard to worker safety, citing recent examples of app-based workers who became injured while engaged in an assignment. Ensuring all workers are covered by workers' compensation was a common recommendation.

Workers are not aware of the benefits and protections they lack

Many worker organizations stated that workers are often not aware of the implications of being classified as independent contractors. One noted that workers often assume they are covered by employer-based workers' compensation coverage, when in fact it is not being provided to them.

The minimum standards in the Employment Standards Act should also apply to app-based work

To prevent the erosion of standards for all B.C. workers, some workers' organizations suggested that app-based workers should benefit from the same minimum standards that protect employees in more traditional employment relationships. Some representatives of worker organizations cautioned against *any* exemptions for app-based workers, others conceded that

some alternative standards could be appropriate, but any such exemptions or alternatives should require a strong justification. Most organizations were also clear that workers should get access to programs like Employment Insurance and employer contributions to the Canada Pension Plan.

App-based workers are being misclassified as 'independent contractors', and a new approach to determining status should be adopted

For some worker organizations, app-based workers do not have appropriate standards or protections because they are being misclassified as independent contractors when they should be recognized as employees. These organizations suggested the current system for addressing misclassification is inadequate because it falls to individual workers to challenge their status if they believe they are being misclassified. Worker organizations recommended addressing this issue by clarifying the definition of employment for these workers.

The BC Federation of Labour advocated for an approach known as the "ABC Test" – which is described in their public position paper on worker rights in the gig economy. A key feature of this approach is that it would reverse the onus so that workers are considered to be employees unless *employers* can demonstrate that their workers are independent contractors.

Timely and proactive enforcement

Worker organizations argued that timely and proactive enforcement by the Employment Standards Branch is another critical component to ensure workers are classified appropriately.

Business Associations – Key Themes

The engagement included a number of virtual conversations with representatives of B.C. business associations, with several more providing written submissions. A review of all the input received identified themes.

Business associations encourage government to consider the proposal by Uber & UFCW Canada

Uber Canada and UFCW Canada have proposed a set of industry standards for ride-hail and food-delivery sectors. Several business associations noted this proposal and encouraged government to consider this approach when creating employment standards for food-delivery and ride-hail workers.

Government should partner with industry in creating appropriate employment standards

Business associations emphasized the value in government working closely with industry in developing appropriate standards for ride-hail workers. One organization proposed the creation of an industry working group and recommended that government discuss any specific proposals with the group to ensure they are 'workable' before making final decisions.

Academics and Researchers – Key Themes

Virtual conversations were held with academics and public interest researchers with expertise in labour law, economics, gig work, precarious work and employment standards. Several experts also shared research and written submissions. A review of all the input received identified a number of themes.

It is important to consider issues of race, language, gender and economic vulnerability when considering employment standards and other protections for app-based workers

Some academics and researchers noted that app-based work attracts a disproportionate number of new Canadians and people of colour. They noted the current lack of minimum standards and protections of this group of workers further contributes to the marginalization of people who are already disadvantaged, relative to other Canadians who work in industries in which workers are recognized as employees. If government allows workers in this industry to continue to operate with fewer protections and minimum standards – experts cautioned that this

inequality could become further entrenched. Academics and researchers also noted the need to evaluate programs from a Gender-Based lens. They emphasized the importance of health and safety standards to protect both vulnerable passengers and workers.

These workers should not be considered independent contractors

While recognizing there is complexity to this issue, the prevailing view among the experts who participated in the engagement is that ride-hail and food-delivery workers should not be considered independent contractors given their limited bargaining power and the degree of control that platform companies exercise over their work. Several stated there is a compelling case that these workers should be considered employees of the platforms they work through.

Government should not create a new class of workers

Some researchers stated that from a public interest standpoint, there is danger in creating a new class of workers with fewer rights/protections than employees, as this could entrench inequality by creating a second-class of predominantly racialized app-based workers that enjoy fewer rights and protections than employees. Others saw creating a new category of workers with strong protections as a potential solution but cautioned that it would complicate an already complex employment standards system.

Potential spread of this independent contractor model to other industries

Several academics cautioned that if ride-hail and food-delivery drivers continue to operate as independent contractors, B.C. could see employers in other industries adopt this model as a means to reduce their labour costs. Academics cautioned about the societal impact of having a growing number of people in B.C. working without minimum employment standards and the other protections afforded to employees. This concern was also shared by some worker organizations.

App-based workers emphasize their need for flexibility because their pay is so low

Several academic experts suggested it is the lack of minimum standards in the industry that creates workers' need for flexibility. They believe the reason workers value the ability to work across platforms or decline certain orders is that this work can be unpredictable and poorly paid, so they need the flexibility to maximize their earnings. Experts suggested that that if there was a minimum earnings standard, workers would no longer receive the low-paying assignments they currently seek to decline, nor would they feel the same need to jump between platforms in search of better offers. If app-based workers were better paid, experts suggest, they would not need the flexible schedules they currently require juggling multiple different jobs to make ends meet.

Other People in B.C.

The engagement survey also welcomed input from interested members of the public. Almost 400 members of the public completed the online survey. A majority of survey respondents from the public support more protections for gig workers.

- 95% believed that gig workers should have the right to refuse unsafe work while working;
- 83% believed that gig workers should have the right to a fair process when terminated;
- 73% believed that gig workers should have benefits such as paid sick leave and wage protection if they become injured at work;
- One-third of respondents from the general public (34%) said they would be willing to pay more for ride-hail and delivery services through apps if they knew that workers would be receiving fair wages, benefits and workers' rights. Slightly less than one-half of respondents (45%) indicated that their willingness to pay more would depend on the cost increase, while 21% were unwilling to pay more.

Finally, respondents from the general public were invited to provide any final thoughts about gig work at the end of the survey. The most common themes that emerged from these comments included:

- Drivers are effectively employees, and should not be allowed to be classified as contractors (40% of comments);
- Gig economy platforms are exploitative (21% of comments);
- Gig workers need safety protections (20% of comments); and
- Gig workers need to be paid more (16% of comments).

COMMON THEMES ACROSS STAKEHOLDER GROUPS

The engagement identified common themes of agreement and common themes of disagreement across all those that had engaged.

Common Areas of Agreement

A review of the feedback received from different groups identified some common areas identified from all the groups engaged. While agreement was rarely unanimous and often groups had different views on important aspects of each issue, there were some points of general agreement worth noting.

A guaranteed minimum earnings standard is important

Workers, labour organizations, several platform companies, and business associations all recognized the importance of establishing a minimum wage or 'guaranteed earning standard' for workers. Agreement on this point was not universal – and there were different views on what form such a minimum earnings standard should take. For example, some proposed that a minimum earning standard should apply to 'engaged time' (when a worker is on assignment, i.e., delivering a meal, or transporting a passenger) while others said that it should apply to all time workers spend logged into the app (the time spent 'engaged', and the time spent waiting for assignments, that is the un-engaged time).

Workers' compensation is an important minimum standard

Workers, platform companies, academics and labour organizations voiced support for the idea that all app-based workers should be covered by workers' compensation. Several platform companies agreed that mandatory occupational accident insurance should be established as a minimum industry standard.

Flexibility is important

For different reasons, many groups agreed that preserving flexibility is important. There are many app-based workers who value and rely on this level of flexibility in their work, and academics, worker organizations and community organizations agreed with this. From the platform companies' perspective, the level of flexibility they currently offer is important for workers and allows them to attract people who cannot or will not engage in other types of work. Several companies suggested that many ride-hail or food-delivery workers would have to cease work on their platforms if they did not offer the current level of flexibility.

Common Areas of Disagreement

While there were some common points of agreement across groups, there were also some issues commonly raised by different groups in our engagement where there was disagreement.

Groups said employment status or classification of these workers is important, however there are different views on how they should be classified

- Many experts and worker organizations suggested the key issue to resolve is the misclassification of app-based workers as independent contractors. They felt the best way to establish appropriate standards and protections for these workers would be to ensure they are recognized as employees for the purposes of the *Employment Standards Act.* They explicitly opposed the creation of a new category of workers, arguing such a move would be unjustified and could complicate and undermine the laws and regulations that protect other workers in B.C.

- Major platform companies argued the opposite – that workers should *not* be considered employees. Some companies argued these workers are – and should remain – independent contractors. Other companies agreed these workers should not be considered employees but implied the creation of a new legal category for app-based workers could be an appropriate approach for creating minimum standards for this group of workers.

- Representatives of immigrant-serving organizations noted that many newcomers to Canada engaged in app-based work are not aware of the distinctions between an independent contractor and employee or the legal implications of each employment status.

Providing benefits to workers was important, with mixed views on the appropriate approach

- Some advocated for the creation of a portable benefits plan for ride-hail and food-delivery workers.

- In the online survey, 76% of workers indicated that a health and benefits plan would be ‘somewhat’ or ‘very’ important to them. In roundtable discussions, workers raised lack of benefits as an issue although they did not often raise or advocate for any particular approach.

- Several academic experts specifically opposed the creation of a portable benefits plan, arguing that bringing workers into existing national and provincial programs would be less administratively complex and would provide better benefits to workers.

CONCLUSION

This public engagement has provided a wide range of perspectives on ride-hail and food-delivery work. The input we received made it clear this work has become an important part of economic life in B.C. It provides a flexible way of earning income that a growing number of workers rely on, and the ride-hail and food-delivery services they provide are valued by people across B.C.

Public engagement also identified significant concerns about low, unpredictable pay, and a lack of protections for ride-hail and food-delivery workers. Many of the people who participated in our engagement – workers, academic experts, labour organizations and representatives of platform companies – agreed there is room for improvement in these areas, and establishing appropriate minimum standards for this industry could be beneficial.

The Government of British Columbia deeply appreciates the views and comments received during this public engagement process. This input has provided a strong foundation for the issue of standards for ride-hail and food delivery workers in B.C. Government is committed to continuing this dialogue with all partners and stakeholders in the months ahead to ensure we build a better, stronger B.C.