

Note in Response to Fair Work Commission Statement & Directions [2021] FWCFB 5227

Regarding Menulog Pty Ltd's Application to Make a Modern Award
AM2021/72

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Dated 29 August 2021

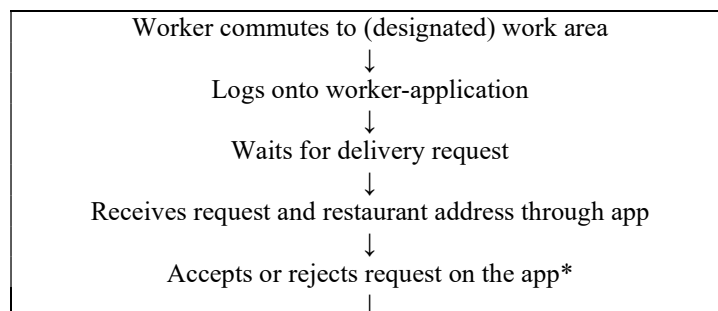
REQUEST FOR CLARIFICATION

This request is made by three researchers, Dr Tom Barratt of Edith Cowan University, Dr Caleb Goods of The University of Western Australia and Dr Alex Veen of The University of Sydney (**research team**) in accordance with Fair Work Commission (**The Commission**)'s statement and directions.

In this note we seek clarification about Menulog's operations, in order that The Commission make the optimal decision regarding Menulog Pty Ltd (**Menulog**)'s application for a modern award.

QUESTIONS

- 1 The research team note that Menulog refer to "employers" throughout their reply submission dated 12 July. Employees (rather than contractors) of which employers would be covered by the putative Modern Award?
- 2 Related to [1] above how large an industry would be covered by the putative Modern Award, in terms of turnover and/or employees?
- 3 In our submission dated 6 August we referred to the labour process working for food-delivery platforms in the Australian context using an independent contractor model (See Figure 1 below). Can Menulog please explain how their labour process for food-delivery (or delivery of other items, with vendor in place of restaurant) differs under an employment model?



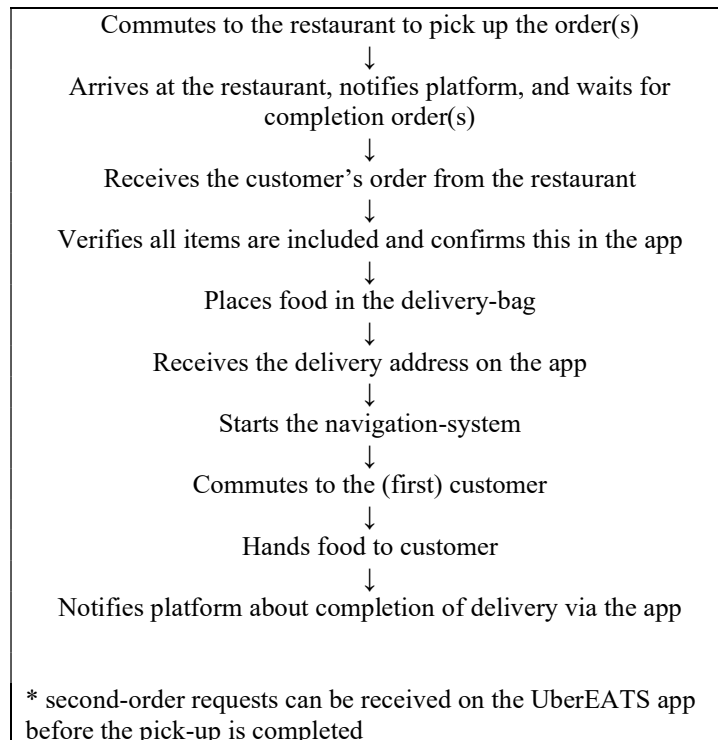


Figure 1 – The Labour Process of Platform-Based Food-Delivery Work

4 Given Menulog’s reliance on the application of *ejusdem generis* in their submission, can Menulog inform The Commission of the relative proportion and importance of ‘non-fast food delivery’ to their business when compared with food delivery?

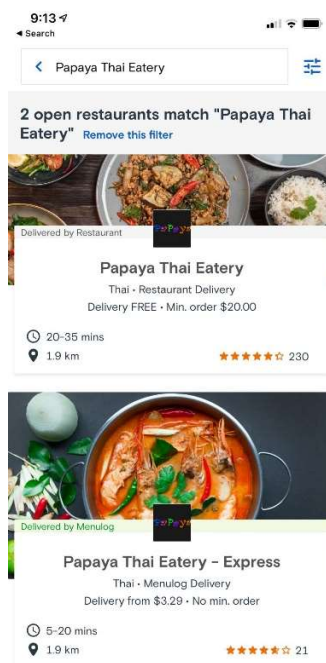


Figure 2 – Example of Menulog ‘app’ offering choice of Menulog or Restaurant Delivery

5 Menulog's mobile application allows customers of certain restaurants to choose between delivery of certain items by Menulog's courier network *or* a restaurant's own in-house delivery networks, where available (See Figure 2 above for illustrative example). Can Menulog explain how the nature of the work between 'in house food delivery' and that what would be carried out under the putative Modern Award is substantially different from one another?

We respectfully request that the relevant responses be shared with all interested parties. The research team can be reached via Dr Barratt at t.barratt@ecu.edu.au.

*This submission reflects the expert opinions of Drs Barratt, Goods and Veen, and does not necessarily represent the views of their respective institutions.