

# *More power to gig workers – a key step towards a better platform economy*

The move to allow union-like bodies to represent workers can be beneficial to platform operators too, in seeking win-win solutions to issues affecting the sector.



**Terence Ho**

This week, the Government unveiled a framework for formal representation of platform workers in negotiations vis-a-vis platform operators. This is an important step forward in protecting the interests of platform workers, who form a significant and growing segment of the workforce.

Of the three areas of recommendations put forward in 2022 by the Advisory Committee on Platform Workers set up by the Ministry of Manpower (MOM) to

safeguard the interests of platform workers, the ones on work injury compensation and Central Provident Fund contributions have already been translated into policy. The third issue – representation for platform workers – was devolved to a tripartite work group, which has now completed its work.

While the framework for platform workers can take a leaf from employee unions, it has to address the unique context of platform work, an arrangement that is inherently more flexible than employment via a contract of service. Representation of platform workers will also need to take into account the different profiles and priorities of workers, among whom are part-timers who perform occasional work as well as full-timers who depend on platform work for a living.

## **CHALLENGE OF CLASSIFYING PLATFORM WORKERS**

In seeking to strengthen employment protection for platform workers, governments across the world have been grappling with the question of whether to treat this group of workers as employees, independent contractors or something in between.

Online platform operators such as Grab, Uber and Deliveroo typically exercise greater control over their workers than firms would over independent contractors they engage. By leveraging technology, incentives and penalties, platform algorithms shape work patterns and behaviours in significant ways. Notwithstanding this, platform workers still enjoy greater flexibility than most employees, such as being able to work for multiple platforms and choosing how many hours of work to put in.

Herein lies the dilemma. If platform workers are regarded as employees, they would be entitled to the full set of employment benefits and protection as provided for in law. Depending on jurisdiction, this could include paid leave, employer pension contributions, redundancy benefits and the right to join unions.

However, these benefits come with greater cost for both employers and workers. Inclusion in insurance and pension plans could reduce take-home pay for platform workers if they or their companies are required to make regular contributions. Greater obligations for platform operators could render their business models unviable or prompt them

to impose reciprocal obligations on their workers.

While most jurisdictions still consider platform workers independent contractors, changes are afoot. Spain passed labour law reforms obliging online platform operators to hire delivery riders on employment contracts. In 2021, the Supreme Court in the United Kingdom upheld a ruling that Uber drivers were “workers” rather than independent contractors. This entitled them to benefits such as the minimum wage, paid holiday leave and pension plans, but not other benefits accorded to “employees”, who have a separate legal status in the UK.

## **THE MIDDLE PATH**

Singapore has taken the middle way in seeking to strengthen protection for platform workers while recognising the importance of flexibility in work arrangements for platform operators and workers.

The recommendations on collective representation, in particular, are tailored to the context of platform work. The differences between the rules for employees and those for platform workers are therefore worth noting.

National Trades Union Congress-affiliated associations such as the National Taxi Association, National Private Hire Vehicles Association and National Delivery Champions Association already advocate for their respective workers’ interests but lack a formal mandate to represent them.

Under the new framework, the mandate to represent platform workers can be secured by direct recognition by the platform operator or a secret ballot. The latter will be conducted by

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# Good start but much work lies ahead

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electronic voting, rather than the voting in person required for unionised companies. This is practical, given that platform workers are likely to be dispersed around Singapore, most without fixed working days or hours, making it much harder to gather them at a particular location.

Most platform operators also have a heterogenous group of workers comprising full-timers and part-timers with varying degrees of time commitment. Hence, it could be difficult to get enough platform workers to vote in order to secure the majority support of all eligible workers. Consequently, a lower threshold has been set to obtain the mandate to represent a platform company's workers: a simple majority based on a quorum of 20 per cent of eligible workers will suffice. What is also critical is to disseminate information to workers regarding the ballot and provide sufficient time for them to exercise their right to vote.

For platform workers, the other point of departure pertains to the scope of issues open for negotiation by worker representatives. Employee unions are proscribed from negotiating certain management prerogatives – such as promotion, dismissal and task assignment – that are considered the sole jurisdiction of employers in running their business.

Given the rapidly evolving



Protecting the well-being of platform workers is in the interest of all stakeholders, including platform operators and end users. The key is to do so while preserving the flexibility that companies and workers seek through platform work, says the writer. ST PHOTO: KUA CHEE SIONG

nature of platform work, however, the tripartite work group recommended against spelling out in law what can or cannot be negotiated. This would be left instead to mutual agreement between a platform operator and worker representative body, to allow for greater flexibility. Negotiations will be guided by a set of principles outlined in the tripartite work group's report. Among them: a mutual commitment to operators'

business success and workers' welfare. Another principle is that platform operators need not divulge their proprietary information.

Aside from these key differences, the framework for platform worker representation takes reference from existing rules of engagement between employers and unions, which have worked well to preserve industrial harmony through the years.

For instance, collective

agreements between platform operators and worker representative bodies are to be certified by the Industrial Arbitration Court to make them binding, similar to the practice for agreements between employers and employee unions.

Likewise, disagreements between platform operators and platform worker representatives may be referred to MOM for conciliation, and further escalated to the Industrial

Arbitration Court if necessary.

## FOUNDATION FOR WIN-WIN PARTNERSHIPS

The new framework for representation will strengthen the bargaining power of platform workers, giving them a collective voice in raising and negotiating issues with management.

Platform operators, too, stand to benefit from greater certainty accorded by the law. Instead of

having to deal with various parties purporting to speak on behalf of workers, they can now engage designated representative bodies authorised to negotiate for their platform workers. Provisions for dispute resolution via MOM and the Industrial Arbitration Court can also help prevent unresolved disputes from jeopardising industrial harmony.

While the framework lays the foundation for stable, long-term relationships between platform operators and worker representatives, much work lies ahead.

One challenge representative bodies will face is how to factor in the diverse interests of platform workers, whose commitment to a particular platform may range from taking up occasional jobs to relying on it as their principal source of livelihood.

As with employee unions, it will take time to nurture the spirit of tripartism, where each party considers the long-term interests of its partners and stakeholders to achieve sustainable win-win outcomes.

Protecting the well-being of platform workers is in the interest of all stakeholders, including platform operators and end users. The key is to do so while preserving the flexibility that companies and workers seek through platform work. This set of recommendations on worker representation and collective bargaining attempts to strike a balance. It is a promising start, but given the fluid nature of platform work, further policy refinement and adaptation may well be needed as the new framework is implemented and experience gained along the way.

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