

Pamphlet deliverers face hard road

CONTRACTOR ROW Melanie Young says she made \$2 an hour and her steps tracked.

Peter Bateman

Melanie Young was looking to earn some extra money for her young family – all she had to do was download a smart phone app.

Two days later she was walking several kilometres delivering marketing material for some of Australia's best-known companies, as the app tracked her movements.

Young was a catalogue distribution walker, an independent contractor according to those who hired her – not an employee.

As an independent contractor for industry leader Salmat, she could be owed as little as \$20 for nine hours of work collating and delivering pamphlets, well below minimum wage.

In Young's case she wasn't even paid that.

Now, the catalogue distribution industry is facing allegations of exploitation, with features such as monitoring apps indicating a closer employment relationship between companies and contractors.

Young, hired by an area-representative-contractor on behalf of Salmat, lasted just four weeks before deciding it was not worth her time.

"You would log into the app and accept the contracts on the app, then it would give you a countdown for when it had to be completed, it was like a little GPS," she says.

"You would send all your data [from the app] to your area representative, otherwise they said you wouldn't get paid. It would record your start time, pause time and the time you finished, I think they would know how long it took for each of us to finish a contract.

"A contract would usually be about \$20, but it was taking so much time, sometimes six to seven hours to sort the catalogues and three to four hours to deliver them, I worked out I was making about \$2 an hour."

After nearly 100 hours of work Young estimates she was only owed \$150-200, but she never received any payment.

"They [contractor] never asked for my banking details and when I told them I was quitting and needed to be paid, the lady went on holidays, she never got back to me," she says. "Eventually I gave up, the only bonus is I dropped a clothing size."

According to a Salmat area-representative-contractor in Melbourne, independent contractors are typically paid directly by Salmat.

Salmat argues that independent contractors such as Young are not bound by the minimum wage as they are free to work how they please and accept or decline any contract.

Legal experts say Salmat's model raises questions about whether the walkers are really contractors or employees.

Tess Hardy, a senior lecturer at Melbourne Law School and co-director of the Centre for Employment and Labour Relations Law, says she would be surprised if Salmat wasn't worried.

"Some suggest that the nature of letter distribution work is so unique that it falls outside the boundaries of the relevant employment regulations. Similar arguments are being made in the gig economy," Hardy says. "But in reality, the work is not that unique. Rather, it seems that Salmat – either directly or via a subcontractor – are engaging people to perform menial tasks in exchange for payment. The workers do not appear to be operating any genuine business of their own."

Young did not have an ABN while working for Salmat, typically a requirement of independent contractors.

For its part Salmat told investors recently that the app – known as Salmathub – was a "true differentiator" that had "excellent uptake and response from users in the field and clients".

INVESTIGATION CONTINUES

Fairfax Media revealed in September that the Fair Work Ombudsman is investigating Salmat. Major clients including Woolworths and Coles have said they are also looking into their relationship with the company.

Hardy believes that, according to the information available, Salmat's role and the exact contractual arrangements remain uncertain.

"If Salmat is paying the walkers directly, then it may be that Salmat is found to be the true employer. In any case, the fact that Salmat has engaged the walkers via a separate entity does not make them immune to liability. For example, where the



Melanie Young worked for Salmat as a letterbox distribution walker for a few weeks. Photo: Simon Schluter

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Carita Kazakoff, principal solicitor

head contractor has set the contract price at such a low level that it makes it impossible for the relevant employer to comply with their award obligations, then it is quite possible that the head contractor will be taken to be 'involved in' the contravention and liable as an accessory under the Fair Work Act."

TOUGH TIMES

Salmat started as a pioneer of catalogue distribution marketing in Australia.

It has since grown to a publicly listed company worth \$114 million. But the company has endured a tough few years as its share price has fallen from almost \$4 to 58 cents.

The share price has fallen steadily since Fairfax Media first highlighted its labour practices dropping from just above 70 cents since the start of September.

Salmat's most recent results

show it delivered 4.3 billion catalogues last financial year down 3 per cent on the previous year and it maintains the majority market share in the industry.

Revenue fell 3.2 per cent to \$250.2 million as the company reported a headline loss of \$5.2 million and an underlying profit of \$11.4 million.

The marketing solutions arm had a drop in revenue from \$191.2 million to \$176.9 million and a 5.7 per cent fall in its profit before interest, tax, depreciation and amortisation to \$16.6 million.

It indicated that it would focus on streamlined operations citing its Salmathub app as a key differentiator from competitors.

THE DISTRIBUTION INDUSTRY

Salmat is not alone in the business of letterbox distribution, competitor PMP boasts a reach of 7 million Australian households, and there are many smaller operations.

Carita Kazakoff, principal solicitor at Young Workers Centre and part of Slater & Gordon's industrial and employment law team, is working with some of the industry's exploited workers.

Kazakoff believes in most cases the type of work being described in the catalogue industry is that of an employee, not a contractor.

"What is disgusting is these business models rely on a continuing practice of exploitation," she says.

"Workers are absolutely entitled to back-pay claims if they have been getting paid under their award wage."

Kazakoff believes this type of

exploitation is widespread in any industry that relies so heavily on independent contractors. "It's common in things like contract cleaning as well," she says.

One walker who spoke on condition of confidentiality, accepts contracts from both Salmat and PMP in order to make about \$12 an hour.

He says PMP pays even less per contract than Salmat, offering as little as \$11.07 per thousand households, working out to under \$2 an hour based on his average speed of 150 houses per hour.

PMP declined to comment on industry practices.

During the course of the investigation Fairfax has spoken to multiple people with stories of exploitation in the distribution industry – many of whom worked for smaller operations.

Sites like Gumtree advertise jobs from large distributors like Salmat and PMP, to small businesses with some explicitly advertising pay rates at below minimum wage.

Many require walkers to download some kind of tracking app.

Others post warnings about contractors who have ripped them off.

Young considers herself lucky that she could give up her job with Salmat. "I realise a lot of others aren't able to quit, migrants, older people and people on lower incomes I think many of them don't have a choice. I've seen them outside in all conditions, I feel sorry for them," she says. "I think people can live without junk mail."

Salmat refused to comment on the legality of its use of independent contractors or applications that track its workers.

A spokesperson for Coles said: "All Coles team members are paid in accordance with their legal entitlements. We encourage any employee at a supplier to Coles with concerns regarding their pay or conditions to contact the Coles wages and conditions hotline."



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