

# Comments on the Proposed Maharashtra Motor Vehicles Aggregator Rules

IT for Change

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### IT for Change,<sup>1</sup> May 2023

IT for Change is happy to offer some inputs to the panel drafting the Maharashtra Motor Vehicles Aggregator Rules (Rules), based on our engagement with the Central Government's Motor Vehicles Aggregator Guidelines (MVAG). For this pre-drafting consultation, we would like to offer broad directional focus and feedback from our experience working with state governments on the question of aggregators in the transportation sector. For example, when the Center published the MVA Guidelines in 2020, alongside the labor codes, we engaged with the respective departments to propose suggestions that could make the sector financially and socially sustainable for the primary value-creators on the platforms – the drivers.

At the outset, it must be said that the Central MVAG, 2020, published by the Ministry of Road Transport and Safety, cover a wide range of concerns. These include compliances for aggregators like language accessibility options for clarity (Guideline 9(2)), and transparency of operations extending to algorithms, fare, and incentives to drivers (Guideline 9(6) and 13). Additionally, safety considerations like functioning GPS monitoring (Guideline 9(11), 10(1), and 10(3)), and protection of women employees and drivers (Guideline 10(3)) are addressed. Non-discrimination (Guideline 12) and licensing for aggregators and subsequent suspensions in case of failure to comply (Guidelines 15-17) are also covered. These provisions should be directly transposed for the purposes of state-level rules as well.

#### **Our inputs, in addition to these, are as follows:**

**First**, we would like to bring focus on worker data rights and algorithmic accountability in the Rules. So far, MVAG, as well as the labor codes, are silent in terms of a specific clause on workers' data rights. Such a clause is particularly required when there are databases that aggregators have to maintain for work processes and social security under the MVAG and Code on Social Security, 2020 (CSS). What is notable in the existing MVAG are the transparency obligations on the aggregators, as mentioned above under Guideline 9(6). However, there needs to be an additional 'right to explanation' and 'algorithmic auditing' to ensure that the regulation effectively supports drivers' data rights. Additionally, 24/7 control centers have real-time access to vehicular data, and aggregators secure a wealth of workers' personal information for the purpose of onboarding and fulfilling know-your-customer requirements. We need a robust central law on personal data protection in place. Furthermore, explicit data rights are required to protect both collective economic claims and prevent individual breach-of-privacy harms. Collective economic rights are required to be respected in regard to the data generated on the

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<sup>1</sup> These comments have been authored by Shreeja Sen and Sreyan Chatterjee, and reviewed by Anita Gurumurthy and Nandini Chami.

application of the aggregator. For example, walling off of customer data without regulation concentrates digital intelligence in the transportation sector. This makes it difficult for the regulator, workers, as well other aggregators to respectively govern, receive fair wages, and compete meaningfully in the sector. The collective rights of drivers, unions, and driver-run data trusts, especially over their personal data, must also be recognized.

**Secondly**, we would want to draw the panel's attention to the issues of working hours for a platform worker on a typical workday. The MVAG recommend that each platform worker needs to be mandatorily disconnected for 12 hours each day from the aggregator's application. While this regulation is important in the interest of road safety, it cannot be disconnected from the economic reality of platform jobs. Platform workers must work for more than 12 hours and on multiple aggregator applications to earn a basic subsistence. At the same time, [discussion](#) around living wages is underway in relation to minimum labor standards. The rules need to make this link between wages and working hours explicit – ideally, living wages, or at least, minimum wages for a full 40-hour work week need to be guaranteed, while ensuring that road safety norms in the form of mandatory disconnection from the workplace are effectively enforced. Relatedly, it is also important for the panel to devote time to consider pricing issues, including the rate that aggregators charge from customers, the rate they pay to workers, and how they calculate inflation in a fair manner. This includes addressing questions on surge pricing as well. The panel should also consider whether a transaction levy on each transaction is viable to ensure compliance with these rules and allow the regulator to obtain real-time information on how actual pricing happens in practice.

**Thirdly**, in the interest of effective risk management and considering that the majority of platform workers belong to marginalized socio-economic groups, the panel should ensure that they are immune from the risk of non-compliance with these rules. For instance, a lack of updation of records should not be a justification to deny workers their earned social security benefits. Further, the rules should protect and explicitly mention a right to be free from reprisals when workers undertake collective actions to enforce these rules in a lawful manner, exercising their constitutional right to freely associate under Article 19. Effective social dialogue will be crucial and, as a first step, special focus should be given to ensure that a strong regime of information rights emerges from these Rules. Information rights should not only enhance the regulator's access to data from the aggregator but also empower workers and their representatives to claim economic benefits and social security protections from the aggregators.

**Fourthly**, the Rules provide an opportunity for the regulator to clarify the electric vehicle adoption policy, including clear milestones, funding sources, and sustainability targets. Some governments, like the Government of National Capital Territory of Delhi, have chosen to use the state rules as the legislative instrument to lay down the vision for electric vehicles and environmental sustainability.

**Fifthly**, regulation relating to bike taxis has been discussed to ameliorate some of the conflicts arising in this sub-sector. A specific policy on bike taxis would be a welcome addition to the Rules.

**Finally**, we note that regulation of novel platform companies or aggregators through their sectoral activities is increasing in India, particularly since the MVAG were passed in 2020. Some state governments have used the opportunity afforded by the MVAG and labor codes to harmonize their general social security schemes with the laws and rules governing the transportation sector. For example, welfare boards are well known tripartite structures that can provide a space for both aggregators and their workers to make their needs known to the regulator, maintain industrial peace and harmony, and negotiate suitable outcomes relating to wages and other parameters. Industry and region-specific wage boards, as well as state social security boards, can act as a viable regulatory structure for novel business models and complex sectors. They can draw support from the CSS, wherein such a state-level board is mandated for unorganized workers. Whichever route the panel chooses for the transportation aggregation business, it is important that the rules retain legislative space for a relevant board or an analogous tripartite structure.