



DIVISION OF
CORPORATION FINANCE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

March 21, 2024

Carmen X. W. Lu
Wachtell, Lipton, Rosen & Katz

Re: Uber Technologies, Inc. (the "Company")
Incoming letter dated January 5, 2024

Dear Carmen X. W. Lu:

This letter is in response to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by Achmea Investment Management for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders.

The Proposal requests that the board of directors commission an independent third-party audit on driver health and safety, evaluating the effects of the Company's performance metrics, policies, and procedures on driver health and safety across markets.

We are unable to concur in your view that the Company may exclude the Proposal under Rule 14a-8(i)(3). We do not believe that the Proposal, taken as a whole, is so vague or indefinite that it is rendered materially misleading.

We are unable to concur in your view that the Company may exclude the Proposal under Rule 14a-8(i)(7). In our view, the Proposal transcends ordinary business matters.

We are unable to concur in your view that the Company may exclude the Proposal under Rule 14a-8(i)(10). In our view, the Company has not substantially implemented the Proposal.

Copies of all of the correspondence on which this response is based will be made available on our website at <https://www.sec.gov/corpfin/2023-2024-shareholder-proposals-no-action>.

Sincerely,

Rule 14a-8 Review Team

cc: Frank Wagemans
Achmea Investment Management

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January 5, 2024

VIA ONLINE SUBMISSION

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549

Re: *Uber Technologies, Inc.*
Shareholder Proposal Submitted by
Achmea Investment Management (Stichting Bewaarder Achmea Beleggingspools)

Ladies and Gentlemen:

This letter is submitted on behalf of Uber Technologies, Inc. (the "Company") to confirm to the Staff of the Division of Corporation Finance (the "Staff") of the Securities and Exchange Commission (the "Commission") that the Company intends to exclude from its proxy statement and form of proxy for its 2024 annual meeting of shareholders (collectively, the "2024 Proxy Materials") a shareholder proposal (the "Proposal") and statements in support thereof received

from Achmea Investment Management (Stichting Bewaarder Achmea Beleggingspools) (the “Proponent”).

For the reasons outlined below, we hereby respectfully request that the Staff concur in our view that the Proposal may be properly excluded from the 2024 Proxy Materials.

In accordance with Rule 14a-8(j) of the Securities Exchange Act of 1934, this letter is being filed with the Commission no later than eighty (80) calendar days before the Company intends to file its definitive 2024 Proxy Materials with the Commission, and we are contemporaneously sending a copy of this letter and its attachments to the Proponent. On behalf of the Company, we confirm that the Company will promptly forward to the Proponent any Staff response to this no-action request that the Staff transmits only to the Company.

Rule 14a-8(k) and Staff Legal Bulletin No. 14D (Nov. 7, 2008) provide that shareholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or the Staff. Accordingly, we are taking this opportunity to inform the Proponent that if the Proponent elects to submit additional correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should be furnished concurrently to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) and Staff Legal Bulletin No. 14D (Nov. 7, 2008).

SUMMARY OF THE PROPOSAL

The Proposal sets forth the following proposed resolution for the vote of the Company’s shareholders at its 2024 annual meeting of shareholders:

RESOLVED: Shareholders of Uber Technologies, Inc. (“Uber”) request that the Board of Directors commission an independent third-party audit on driver health and safety, evaluating the effects of Uber’s performance metrics, policies, and procedures on driver health and safety across markets.

The audit should be conducted with input from drivers, workplace safety experts, and relevant stakeholders from the regions where Uber operates and consider legislative/regulatory developments and adverse media coverage. A report on the audit, prepared at a reasonable cost omitting confidential and proprietary information, should be publicly disclosed on Uber’s website.

A full copy of the Proposal and statement in support thereof are attached to this letter as Exhibit A hereto.

BASIS FOR EXCLUSION

The Company respectfully requests that the Staff concur in its view that the Proposal may be excluded from the 2024 Proxy Materials pursuant to:

- Rule 14a-8(i)(10) because the Proposal has been substantially implemented;

- Rule 14a-8(i)(7) because the Proposal deals with matters relating to the Company's ordinary business operations; and
- Rule 14a-8(i)(3) because the Proposal is inherently vague and indefinite, and subject to multiple interpretations, such that the Company and its shareholders voting on the Proposal would not know with any reasonable certainty exactly what actions or measures the Proposal requires.

BACKGROUND

Prior to the submission of the Proposal on November 22, 2023, the Company had engaged in extensive discussions with the Proponent on matters relating to driver safety. The discussions began shortly after the Proponent submitted the following substantially similar proposal (the "2023 Proposal") for the vote of the Company's shareholders at its 2023 annual meeting of shareholders (the "2023 Annual Meeting"):

RESOLVED: Shareholders of Uber Technologies, Inc. ("Uber") request that the Board of Directors commission an independent third-party audit on driver health and safety, evaluating the effects of Uber's performance metrics and ratings and its policies and procedures on driver health and safety.

The audit should be conducted with input from drivers, workplace safety experts, and other relevant stakeholders and consider legislative and regulatory developments and adverse media coverage. A report on the audit, prepared at a reasonable cost and omitting confidential and proprietary information, should be publicly disclosed on Uber's website.

Following the submission of the 2023 Proposal, the Company sought to engage with the Proponent with the goal of reaching a mutually agreeable resolution. In February 2023, the parties reached an agreement in principle on the terms of a resolution. However, in March 2023, the Proponent declined to proceed with the resolution on the basis that it would not resolve the Proponent's concerns. The Proponent did not specify what additional terms would be required to reach a settlement with respect to the proposal and raised new asks at each successive meeting with the Company. Consequently, the 2023 Proposal proceeded to a shareholder vote at the 2023 Annual Meeting and received the support of 8.8 percent of the votes cast.

In August 2023, the Company released its civil rights assessment (the "2023 Civil Rights Assessment") which was conducted by former Attorney General Eric Holder leading a team from Covington & Burling LLP ("Covington"). The assessment, which commenced in the fall of 2022, evaluated, among other issues, the Company's platform, policies and procedures as it related to user and driver safety. Covington reviewed documents and data, interviewed each member of the Company's executive team and internal subject-matter experts, convened roundtables with leaders of the Company's employee resource groups and members of Uber Crew (drivers and couriers elected to represent those communities), held a listening session with national advocacy and civil rights organizations, and spoke with nonprofit organizations with which the Company partners. Based on this work, Covington concluded that the Company has taken significant steps to promote civil rights and diversity, equity and inclusion for all users, including drivers, on its U.S. mobility

platform, in its corporate workforce, and in the communities it serves. Covington also identified additional steps the Company could take to achieve these objectives, which steps the Company is in the process of implementing.

After the release of the 2023 Civil Rights Assessment, the Proponent reached out to the Company seeking engagement. During a call with the Proponent in September 2023, a Company representative discussed the steps being undertaken to implement the recommendations of the 2023 Civil Rights Assessment. The Proponent did not provide any further feedback to the Company following this conversation and proceeded to submit the Proposal several weeks later.

ANALYSIS

I. The Proposal May Be Excluded under Rule 14a-8(i)(10) Because the Proposal Has Been Substantially Implemented.

Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal from its proxy materials if the company has already “substantially implemented” the proposal. In 1983, the Commission recognized that a formalistic application of the rule requiring full implementation “defeated [the rule’s] purpose” because proponents were successfully convincing the Staff to deny no-action relief by submitting proposals that differed from existing company policy by only a few words. *See* Exchange Act Release No. 20091 (Aug. 16, 1983) (the “1983 Release”). Therefore, in the 1983 Release, the Commission adopted a revised interpretation of the rule to permit the omission of proposals that had been “substantially implemented.” *Id.* (emphasis added). The Commission codified this revised interpretation in Exchange Act Release No. 40018 (May 21, 1998).

The Staff has provided no-action relief under Rule 14a-8(i)(10) when a company has substantially implemented, and therefore satisfied, the “essential objective” of a proposal, even if the company did not take the exact action requested by the proponent or did not implement the proposal in every detail, or, with respect to shareholder proposals requesting reports, the company has provided relevant public disclosures in another form. *See, e.g., Starbucks Corporation* (Jan. 19, 2022) (permitting the exclusion of a proposal seeking a workplace non-discrimination audit where the company had met the essential objective of the proposal in its recent civil rights audit and other public disclosures); *Hess Corp.* (Apr. 11, 2019) (permitting the exclusion of a proposal requesting a report on aligning the company’s carbon footprint with the necessary greenhouse gas reductions to achieve the Paris Agreement’s goal where the company had met the essential objective of the proposal through its most recent sustainability report, its responses to the Carbon Disclosure Project Climate Change Questionnaire, and its 2018 Investor Day Presentation); *Mondelēz International, Inc.* (Mar. 7, 2014) (permitting the exclusion of a proposal requesting a report on the company’s process for identifying and analyzing potential and actual human rights risks of the company’s operations and supply chain where the company had achieved the essential objective of the proposal by publicly disclosing its risk-management processes). The Staff has also noted that a determination of “substantial implementation” of the underlying proposal “depends upon whether [the company’s] particular policies, practices and procedures compare favorably with the guidelines of the proposal.” *See Texaco, Inc.* (Recon.) (Mar. 28, 1991).

Here, the Company’s existing public disclosures already substantially implement the Proposal. The Proposal requests that the Company’s Board of Directors (the “Board”) commission an

independent third-party audit on driver health and safety, evaluating the effects of Uber’s performance metrics, policies, and procedures on driver health and safety across markets. The Proposal asks that the audit be conducted with input from drivers, workplace safety experts, and relevant stakeholders from the regions where Uber operates and consider legislative/regulatory developments and adverse media coverage. As summarized and discussed in further detail below, the Company has already conducted and publicly disclosed the results of its 2023 Civil Rights Assessment that encompasses matters relating to driver health and safety and the Company’s performance metrics, policies and procedures. The Company’s Environmental, Social and Governance Report, Safety Report, Governance Transparency Report and proxy statement disclosures also provide additional public disclosures that satisfy the essential objective of the Proposal and address the underlying concerns outlined in the Proposal and the supporting statement.

Proposal Request	Company Disclosures
“third party audit on driver health and safety”	2023 Civil Rights Assessment, pp. 12-37 ¹ 2023 Environmental, Social and Governance Report, pp. 11-34 ² 2019-20 U.S. Safety Report ³
“evaluating the effects of Uber’s performance metrics, policies, and procedures on driver health and safety across markets”	2023 Civil Rights Assessment, pp. 12-37 2023 Environmental, Social and Governance Report, pp. 11-34 2019-20 U.S. Safety Report 2023 Proxy Statement ⁴
“input from drivers, workplace safety experts, and relevant stakeholders”	2023 Civil Rights Assessment, pp. 8-9, 12-37 2023 Environmental, Social and Governance Report, pp. 11-34
“consider legislative/regulatory developments and adverse media coverage”	Government Transparency Report ⁵ 2019-20 U.S. Safety Report

¹ See https://s23.q4cdn.com/407969754/files/doc_governance/2023/Uber-CRA-Report-August-2023.pdf

² See https://s23.q4cdn.com/407969754/files/doc_downloads/2023/04/Uber-2023-Environmental-Social-and-Governance-Report.pdf

³ See <https://www.uber.com/us/en/about/reports/us-safety-report/>

⁴ See https://www.sec.gov/ix?doc=/Archives/edgar/data/1543151/000155278123000193/e23076_uber-def14a.htm

⁵ See <https://www.uber.com/us/en/about/reports/transparency/>

2023 Civil Rights Assessment

In the fall of 2022, the Company engaged Covington, an independent third party, to conduct a comprehensive assessment of the Company's efforts to promote civil rights and diversity, equity and inclusion (“DEI”) and to make recommendations for additional actions the Company could take to achieve its civil rights and DEI objectives in the United States. As part of the assessment, Covington interviewed each member of the company's executive team and many internal subject-matter experts, convened roundtables with leaders of the Company's employee resource groups and members of Uber Crew (drivers and couriers elected to represent those communities), held a listening session with national advocacy and civil rights organizations, and spoke with nonprofit organizations with which the Company partners. The civil rights assessment was publicly released in August 2023.

Among the focus areas of the 2023 Civil Rights Assessment was driver health and safety and how the Company's products, platform, policies and procedures impacted drivers—the key issues raised by the Proposal. The 2023 Civil Rights Assessment concluded that the Company has leveraged a wide range of technologies, policies and procedures to make ride-hailing more reliable, accessible and equitable. Specifically, the assessment concluded that the Company has (1) established teams with a mandate to promote fairness for all platform users, (2) taken steps to give platform users more control over their data and to enhance the user friendliness of its privacy policies, (3) focused on promoting accessibility on its mobility platform, (4) established a Safety Advisory Board composed of external subject matter experts and stakeholders to provide the Company with input on driver safety and safety-related enhancements to the Company's platform, (5) published safety reports describing the Company's strategic approach to promoting driver safety and summarizing safety-related data, and (6) demonstrated commitment to listening to drivers and addressing their needs.

The 2023 Civil Rights Assessment also provided the Company with specific recommendations relating to driver health and safety matters in the context of the Company's platform, policies and practices. Such recommendations include (1) developing a central fairness strategy to continue mitigating bias on the platform, (2) developing a risk-based standard operating procedure for evaluating products for bias prior to launch, (3) continuing to partner with leading experts to enhance the Company's privacy program and practices, (4) developing product solutions that enhance accessibility and provide drivers with accessibility-related resources, (5) continuing to evaluate opportunities to develop safety initiatives designed to address the needs of particular populations, including drivers, (6) continuing to enhance safeguards in the driver deactivation process, (7) continuing to promote transparency by publishing safety data and information, (8) incorporating platform worker health and safety expertise into the work of the company's Safety Advisory Board, and (9) continuing to expand and refine the mechanisms it uses to engage with drivers and publish an update on the Company's corporate commitments in this area.

In response to the recommendations set forth in the 2023 Civil Rights Assessment, the Company has established a management committee to implement the recommendations of the assessment and to provide updates on the progress on the implementation of the assessment's recommendations.

The 2023 Civil Rights Assessment already substantially implements the Proposal by delving deeply into the issues and underlying concerns raised in the Proposal, namely, driver health and safety and the impacts of the Company's platform, policies and procedures. The assessment was also conducted by an independent third party and engaged input from a wide range of experts and stakeholders, including drivers, workplace safety experts and civil rights organizations. The Company is also in the process of implementing the recommendations of the 2023 Civil Rights Assessment.

2023 Environmental, Social and Governance Report

The Company's 2023 Environmental, Social and Governance Report further implements the Proposal by providing additional disclosures on driver health and safety matters across the jurisdictions in which the Company operates. In particular, the report provides disclosures on recent regulatory developments concerning the Company, summarizes the results of feedback collected from drivers and the various steps that the Company has taken to ensure responsiveness to driver feedback, including the addition of driver and courier well-being metrics in the Company's executive compensation program and advocacy efforts on behalf of drivers and couriers in markets around the world. The Company's Environmental, Social and Governance Report is also updated annually to ensure that the Company's stakeholders have access to current information on driver health and safety matters as well as progress on policies and procedures the Company is undertaking in this area.

2019-20 U.S. Safety Report

The Company has periodically released a U.S. Safety Report overseen by the Safety Advisory Board discussing in detail internally audited disclosures of safety metrics including data on motor vehicle fatalities, fatal physical assaults and sexual assaults as well as initiatives undertaken by the Company to enhance safety, including improvements to the platform, technological solutions, support and response teams, and partnerships with experts and advocates. The report encompasses driver safety matters and discusses initiatives taken to enhance driver safety, such as the introduction of rider verification, audio recording and dashcam registration features on the platform. The Company intends to continue providing updates to future iterations of its safety reporting.

Government Transparency Report

The Company also annually publishes a Government Transparency Report which discloses the types of information the Company has provided to airports, public health officials, government regulators and law enforcement agencies in the United States and Canada. The report discusses how the Company collaborates with government agencies in different contexts to promote the safety of platform users, including drivers. The report also includes additional links to the Company's policies and guidelines for specific jurisdictions as well as summary data on airport, public health, regulatory and law enforcement data requests.

2023 Proxy Statement

The Company's annual proxy statement provides additional disclosures on the Company's safety policies and practices. Specifically, pages 13 to 14 of the 2023 proxy statement discusses the role

of the Board in overseeing driver and courier well-being and user safety. The Compensation Discussion and Analysis section of the 2023 proxy statement also discusses in detail how safety metrics are incorporated into executive compensation plans and discloses the specific quantitative safety metrics and weightings used to determine executive compensation.

Taken as a whole, the Company's existing disclosures already substantially address the core aspects of the Proposal and accomplish its essential objective by providing detailed review and ongoing assessments of driver health and safety matters and policies and procedures undertaken to address these issues across different jurisdictions. The 2023 Civil Rights Assessment was also undertaken by an independent third party and the Company's U.S. Safety Report was overseen by the Safety Advisory Board and the metrics disclosed therein are closely internally audited. Consequently, the Company's existing disclosures not only meet the key objectives of the Proposal in substance but also in form. Moreover, to address any underlying concerns regarding driver health and safety as indicated by the Proposal and the supporting statement, the Company has committed to a number of additional measures, including implementing the recommendations of the 2023 Civil Rights Assessment and periodically publishing updated disclosures on such matters through the Company's Environmental, Social and Governance, Safety and Government Transparency Reports. Given the work already undertaken by the Company, there appear to be no further action required of the Board to address the essential objective of the Proposal. The existing disclosures compare favorably with those requested under the Proposal and address the Proposal's underlying concerns. Accordingly, the Proposal may be properly excluded from the Company's 2024 Proxy Materials under Rule 14a-8(i)(10).

II. The Proposal May Be Excluded under Rule 14a-8(i)(7) Because It Deals With Matters Relating to the Ordinary Business Operations of the Company.

Under Rule 14a-8(i)(7), a shareholder proposal may be excluded from a company's proxy materials if the proposal "deals with matters relating to the company's ordinary business operations." In Exchange Act Release No. 34-40018 (May 21, 1998), the Commission stated that the policy underlying the ordinary business exclusion rests on two central considerations. The first consideration which is applicable with respect to the Proposal, recognizes that certain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight. *Id.* More recently, in Staff Legal Bulletin No. 14L (Nov. 3, 2021), the Staff stated that it will look to whether the policy issue raised in a shareholder proposal may have broad societal impact such that it transcends the ordinary business of the company, regardless of nexus between the issue and the company's business. In addition, the Commission has stated that when a proposal requests the preparation of a report, the relevant inquiry is whether the subject matter of the report relates to a company's ordinary business. *See* Exchange Act Release No. 34-20091 (Aug. 16, 1983) ("[T]he staff will consider whether the subject matter of the special report or the committee involves a matter of ordinary business; where it does, the proposal will be excludable under Rule 14a-8(c)(7)").

A. The Proposal Is Excludable Because It Relates to Workplace Safety and Operations, an Ordinary Business Matter.

The Staff has consistently concurred that shareholder proposals relating to workplace matters are excludable under Rule 14a-8(i)(7). The Staff recently considered this issue in *Amazon, Inc.* (Apr.

7, 2022), where the proposal requested a report on the risks to the company related to ensuring adequate staffing of its business and operations, including risks associated with tighter labor markets, and how the company is mitigating or plans to mitigate those risks, and to include a discussion of the extent to which the company relies on part-time, temporary and contracted workers in each of its three operating segments, and whether staffing considerations have affected any of the Company's decisions about strategy, such as expansion plans or entering new geographies or lines of business. In concurring with exclusion under Rule 14a-8(i)(7), the Staff noted that the proposal "relates to, and does not transcend, ordinary business matters." Similarly, in *United Technologies Corp.* (Feb. 19, 1993), the Staff specifically noted management of the workplace and labor-management relations as examples of excludable ordinary business matters. See also, *Starwood Hotels & Resorts Worldwide* (Feb. 14, 2012) (permitting exclusion of a proposal relating to employee staffing and training decisions on the basis that "[p]roposals concerning a company's management of its workforce are generally excludable under [R]ule 14a-8(i)(7)").

In addition, the Staff has long held that shareholder proposals relating to workplace safety are excludable under Rule 14a-9(i)(7). In *Amazon.com, Inc.* (Apr. 1, 2020, recon. denied, Apr. 9, 2020), the Staff concurred with the exclusion of a proposal that requested a report on the company's efforts to "reduce the risk of accidents" that "describe[s] the [b]oard's oversight process of safety management, staffing levels, inspection and maintenance of facilities and equipment and those of the Company's dedicated third-party contractors." In concurring with exclusion under Rule 14a-8(i)(7), the Staff noted that "the [p]roposal focuses on workplace accident prevention, an ordinary business matter, and does not transcend the Company's ordinary business operations." Similarly, in *Pilgrim's Pride Corp.* (Feb. 25, 2016) where the proposal requested that the company publish a report describing the company's policies, practices, performance, and improvement targets related to occupational health and safety, the Staff concurred with the view that the proposal was excludable under Rule 14a-8(i)(7) on the basis that it related to workplace safety, an ordinary business matter. See also *The Home Depot, Inc.* (Mar. 20, 2020) (permitting exclusion of a proposal requesting a report on the company's use of prison labor with the supporting statement citing to unsafe or unhealthy working conditions on the basis that the proposal was excludable as relating to overall workplace safety, workplace conditions, and general worker compensation issues); *The TJX Companies* (Mar. 20, 2020) (same); *The Chemours Co.* (Jan. 17, 2017) (permitting exclusion of a proposal requesting a report "on the steps the [c]ompany has taken to reduce the risk of accidents" on the basis that the proposal related to ordinary business activities).

Here, the Proposal requests the Company's Board "commission an independent third-party audit on driver health and safety, evaluating the effects of Uber's performance metrics, policies, and procedures on driver health and safety across markets." The Proposal's supporting statement also addresses concerns relating to driver safety, citing news sources which discuss safety incidents. Like the foregoing precedents, the Proposal relates to and seeks detailed disclosures on how the Company manages workplace health and safety issues in the context of the Company's performance metrics, policies and procedures—matters which are fundamentally related to the Company's day-to-day operations, and which as a practical matter, could be not subject to direct shareholder oversight. Issues of driver health and safety implicate all aspects of the Company's operations, policies and procedures, ranging from platform protocols and features to data tracking, reporting and auditing processes, to collaboration and cooperation with third-party experts, governments, and law enforcement officials, to compliance with regulations around the world.

Like the precedents discussed above, because workplace safety is an integral and routine element of the Company's business operations, the Proposal may be properly excluded under Rule 14a-8(i)(7) as relating to the Company's ordinary business operations.

B. The Proposal Does Not Focus on a Significant Social Policy Issue That Transcends the Company's Ordinary Business.

The Staff has consistently permitted the exclusion of shareholder proposals where the proposal focused on ordinary business matters, even though the proposal may also touch upon potentially significant policy issues. *See Apple Inc.* (Jan. 3, 2023) (permitting exclusion of a proposal that requested a report on the effects of the company's return-to-office policy on employee retention and company's competitiveness, notwithstanding the fact that the proposal touched on human capital matters); *Dollar Tree* (May 2, 2022) (permitting the exclusion of proposal that requested a report on the risks of business strategy from increasing labor market pressure, notwithstanding the fact that the proposal touched on human capital and public health matters); *Amazon.com, Inc.* (Apr. 8, 2022) (permitting the exclusion of a proposal that requested a report on workforce turnover as a result of the Covid-19 pandemic, notwithstanding the fact that the proposal touched on human capital and public health matters); *Kraft Foods Inc.* (Feb. 23, 2012) (permitting exclusion of a proposal requesting a report detailing the ways the company would assess risk to its supply chain, notwithstanding the proponent's claim that water scarcity risk in the supply chain is a significant policy issue); *PetSmart, Inc.* (Mar. 24, 2011) (permitting exclusion when, although the proposal addressed the significant policy matter of the humane treatment of animals, it also requested that the company's board require suppliers to provide certain certifications, an ordinary business matter); *CIGNA Corp.* (Feb. 23, 2011) (permitting exclusion of a proposal when, although the proposal addressed the potential significant policy issue of access to affordable health care, it asked CIGNA to report on expense management, an ordinary business matter); and *Capital One Financial Corp.* (Feb. 3, 2005) (permitting exclusion of a proposal when, although the proposal addressed the significant policy issue of outsourcing, it also asked the company to disclose information about how it manages its workforce, an ordinary business matter).

Similar to the foregoing precedents, the Proposal does not focus on any significant social policy issues that transcends the ordinary business of the Company. While the Proposal touches on human capital matters, the central focus of the Proposal is the Company's performance metrics, policies and procedures, which, as discussed above, are inherently ordinary business matters. Likewise, the Proposal's supporting statement is focused on data and metrics that relate specifically to the Company's business operations and do not touch on social policy issues with broad societal impact. Accordingly, we ask that the Staff concur that the Company may exclude the Proposal from its 2024 Proxy Materials under Rule 14a-8(i)(7) as relating to its ordinary business operations.

III. The Proposal May Be Excluded under Rule 14a-8(i)(3) Because the Proposal is Inherently Vague and Indefinite, and Subject to Multiple Interpretations.

Pursuant to Rule 14a-8(i)(3), the Company may exclude a shareholder proposal from its proxy materials if the proposal or supporting statement is contrary to any of the Commission's proxy rules, including Rule 14a-9, which prohibits materially false or misleading statements in proxy soliciting materials. The Staff has interpreted Rule 14a-8(i)(3) to include shareholder proposals

that are vague and indefinite, and the Staff has consistently concurred with exclusion of shareholder proposals on the basis that “neither the stockholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires.” Staff Legal Bulletin No. 14B (Sept. 15, 2004). The courts have also ruled that “shareholders are entitled to know precisely the breadth of the proposal on which they are asked to vote” and that a proposal should be excluded when “it [would be] impossible for the board of directors or the stockholders at large to comprehend precisely what the proposal would entail.” *New York City Employees’ Retirement System v. Brunswick Corp.*, 789 F. Supp. 144, 146 (S.D.N.Y. 1992); *Dyer v. SEC*, 287 F.2d 773, 781 (8th Cir. 1961).

The Staff has routinely permitted the exclusion of proposals that fail to define key terms, contain only general or uninformative references as to steps to be taken, or otherwise fail to provide sufficient clarity or guidance to enable either shareholders or the company to understand how the proposal would be implemented. For example, the Staff has noted that a proposal may be excludable when the “meaning and application of terms and conditions...in the proposal would have to be made without guidance from the proposal and would be subject to differing interpretations” such that “any action ultimately taken by the company upon implementation [of the proposal] could be significantly different from the actions envisioned by the shareholders voting on the proposal.” See *Fuqua Industries, Inc.* (Mar. 12, 1991) (permitting exclusion of a proposal to prohibit “any major shareholder . . . which currently owns 25% of the Company and has three Board seats from compromising the ownership of the other stockholders,” where the meaning and application of such terms as “any major shareholder,” “assets/interest” and “obtaining control” would be subject to differing interpretations). See also *Apple Inc.* (Dec. 22, 2021) (permitting exclusion of a proposal requesting the company convert to a “public benefit corporation” without clarifying how the company should implement such proposal); *The Boeing Company* (Feb. 23, 2021) (permitting exclusion of a proposal requiring that 60% of the company’s directors “must have an aerospace/aviation/engineering executive background” where such phrase was undefined); *Apple Inc.* (Dec. 6, 2019) (permitting exclusion of a proposal seeking to “improve guiding principles of executive compensation” that did not provide an explanation or definition of the key term “executive compensation”); *eBay Inc.* (Apr. 10, 2019) (permitting exclusion of a proposal requesting that the company “reform the company’s executive compensation committee” because “neither shareholders nor the Company would be able to determine with any reasonable certainty the nature of the ‘reform’ the [p]roposal is requesting”); *Cisco Systems, Inc.* (Oct. 7, 2016) (permitting exclusion of a proposal requesting that the board “not take any action whose primary purpose is to prevent the effectiveness of shareholder vote without a compelling justification for such action,” where it was unclear what board actions would “prevent the effectiveness of [a] shareholder vote” and how the essential terms “primary purpose” and “compelling justification” would apply to board actions); and *AT&T Inc.* (Feb. 21, 2014) (permitting exclusion of a proposal requesting a review of policies and procedures related to the “directors’ moral, ethical and legal fiduciary duties and opportunities,” where such phrase was undefined).

The Proposal requests the Board commission an independent third-party audit focused on “driver health and safety” – terms that are impermissibly vague, have not been defined in either the Proposal or the supporting statement, or by the Proponent during its conversations with the Company, and could be subject to a wide range of interpretations, and which could lead the

Company to taking actions that could be significantly different from the actions envisioned by shareholders voting on the Proposal. The text of the Proposal fails to clarify what kinds of “driver health and safety” issues should be assessed. The Proposal’s supporting statement also provides limited guidance and adds further confusion by listing a handful of examples of safety issues, including “nonfatal/attempted assault, verbal abuse carjackings/robberies, threats, etc.” a nonexclusive list that only invites further speculation and disagreement as to the intended nature and scope of the Proposal. The supporting statement also fails to provide any guidance on driver health issues that ought to be covered in an audit report. For example, the Proposal and the supporting statement provide no guidance on the types of driver health issues that ought to be considered or the kinds of benchmarks, standards or criteria that should be used in assessing driver health. Driver health and safety issues are broad and complex topics that could be open to any number of conflicting interpretations and the Proposal and its supporting statement leave open a range of possibilities for how these terms could be interpreted by the Company and its shareholders.

Compounding the ambiguity of the Proposal is its request that the audit focus on the “effects of Uber’s performance metrics, policies, and procedures” on “driver health and safety.” Neither the Proposal nor the supporting statement define how “effects” should be assessed and measured. For example, it is unclear from the Proposal and the supporting statement whether the audit should exclusively focus on adverse “effects” or assess the net “effects” of Uber’s performance metrics, policies, procedures taking into account both adverse and positive “effects.” In addition, neither the Proposal nor the supporting statement provide any guidance as to which kinds of “performance metrics, policies, and procedures” an audit ought to cover. Given the Company’s scale and global operations, an assessment of its performance metrics, policies and procedures would invite a broad range of interpretations, particularly as to the scope and depth of such assessment.

To further complicate matters, the Proposal asks that the audit assess driver health and safety “across markets” and also invite input from “drivers, workplace safety experts, and relevant stakeholders from the regions where Uber operates.” It is unclear from the Proposal and the supporting statement whether the term “across markets” should encompass the jurisdictions specifically named in the supporting statement, the regions where Uber operates or a different subset of markets.

The terms “workplace safety experts” and “relevant stakeholders” are also undefined in the Proposal and the supporting statement and create an additional range of potential interpretations of how the Proposal could be implemented. For example, the Proposal and the supporting statement do not define what criteria should be used to qualify “workplace safety experts,” nor do they provide any guidance on what criteria or metrics should be used to determine “relevant stakeholders” from whom to draw input for an audit.

Given that the Proposal includes several terms that are undefined and indefinite that neither shareholders voting on it, nor the Company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty what actions or measures the Proposal requires, we ask that the Staff concur that the Company may exclude the Proposal from its 2024 Proxy Materials under Rule 14a-8(i)(3) on the basis that the Proposal is inherently vague and indefinite, in violation of Rule 14a-9.

CONCLUSION

Based on the foregoing analyses, the Company respectfully requests the Staff's concurrence with the Company's view or, alternatively, that the Staff confirm that it will not recommend any enforcement action if the Company excludes the Proposal from the 2024 Proxy Materials.

If we can be of any further assistance in this matter, please do not hesitate to call me at (212) 403-1138. If the Staff is unable to concur with the Company's conclusions without additional information or discussions, the Company respectfully requests the opportunity to confer with members of the Staff prior to the issuance of any written response to this letter. In accordance with Staff Legal Bulletin No. 14F, Part F (Oct. 18, 2011), please kindly send your response to this letter by email to CXWLu@wlrk.com.

Very truly yours,



Carmen X. W. Lu

Enclosures

cc: Terra Castaldi, Uber Technologies, Inc.
Alvin Huntspon, Uber Technologies, Inc.
Carolyn Mo, Uber Technologies, Inc.
Frank Wagemans, Achmea Investment Management

EXHIBIT A

Proponent's Proposal and Supporting Statements

From: **Martijn Stam (MW)** [REDACTED]
Date: Wed, Nov 22, 2023 at 4:14 PM
Subject: Shareholder resolution Annual Meeting of Stockholders 2024
To: Investor@uber.com <Investor@uber.com>, Alvin Huntspon [REDACTED],
[REDACTED]
Cc: Frank Wagemans (FAJ) [REDACTED]

Dear Sir or Madam,

First of all I hope all is well on your side. On behalf of Achmea Investment Management (Stichting Bewaarder Achmea Beleggingspools) I hereby want to inform you that we file a shareholder proposal for Uber's 2024 Annual Meeting of Stockholders on the topic of "Health and Safety". The resolution and the supporting documents have - in accordance to the Uber 2023 Proxy Statement - been sent to your corporate secretary by registered mail. Attached you can find a copy of the letter from our board members as legal representatives, the resolution, and proof of stock ownership.

Could you please let me know if you have received this message in good order and inform me in case you need any additional information to process this proposal or if there any unclarities? Many thanks for your reaction.

Kind regards, on behalf of Achmea IM,

Achmea Investment Management

Martijn Stam

Engagement Specialist

Handelsweg 2 | 3707 NH Zeist

Postbus 866 I 3700 AW Zeist

M [REDACTED]

E [REDACTED]

Achmea Investment Management B.V. is statutair gevestigd te Zeist, staat ingeschreven in het handelsregister van de KvK onder nummer 18059537

*****DISCLAIMER*****

De informatie in dit bericht is vertrouwelijk. Het is daarom niet toegestaan dat u deze informatie openbaar maakt, vermenigvuldigt of verspreidt, tenzij de verzender aangeeft dat dit wel is toegestaan. Als dit e-mailbericht niet voor u bestemd is, vragen wij u vriendelijk maar dringend om het bericht en kopieën daarvan te vernietigen. Dit bericht is gecontroleerd op bekende virussen. Helaas kunnen wij niet garanderen dat het bericht dat u ontvangt volledig en tijdig verzonden is, of tijdig ontvangen wordt en vrij is van virussen of aantasting door derden.

November 20, 2023

Via mail

Uber Technologies, Inc.
c/o Corporate Secretary
1515 3rd Street
San Francisco, California 94158
Attn: Tony West, Senior Vice President, Chief Legal Officer and Corporate Secretary Uber Technologies, Inc

Re: Shareholder proposal for 2024 Annual Shareholder Meeting

Dear Mr. West,


I am submitting the attached proposal (the “Proposal”) pursuant to the Securities and Exchange Commission’s Rule 14a-8 to be included in the proxy statement of Uber Technologies, Inc. (the “Company”) for its 2024 annual meeting of shareholders. I am the lead filer for the Proposal and may be joined by other shareholders as co-filers.

Stichting Bewaarder Achmea Beleggingspools has continuously beneficially owned, for at least 1 year as of the date hereof, at least \$25,000 worth of the Company’s common stock. Verification of this ownership is attached. Stichting Bewaarder Achmea Beleggingspools intends to continue to hold such shares through the date of the Company’s 2024 annual meeting of shareholders.

Stichting Bewaarder Achmea Beleggingspools is available to meet with the Company via teleconference on December 11, 12 or 13, 2023 between 9:00-11:00 am EDT. Any co-filers have authorized Stichting Bewaarder Achmea Beleggingspools to conduct the initial engagement meeting, but may participate subject to their availability.

I can be contacted on [REDACTED] or by email at [REDACTED] to schedule a meeting. Please feel free to contact me with any question.

Sincerely,


DocuSigned by:  DocuSigned by:
Maureen Schlegel
CLO
A965513ACF034FE... 0DB53E7DBD594C2...

21/11/2023 | 16:37 CET 20/11/2023 | 13:01 CET

Resolved:

Shareholders of Uber Technologies, Inc. (“Uber”) request that the Board of Directors commission an independent third-party audit on driver health and safety, evaluating the effects of Uber’s performance metrics, policies, and procedures on driver health and safety across markets.

The audit should be conducted with input from drivers, workplace safety experts, and relevant stakeholders from the regions where Uber operates and consider legislative/regulatory developments and adverse media coverage. A report on the audit, prepared at a reasonable cost omitting confidential and proprietary information, should be publicly disclosed on Uber’s website.

Supporting Statement:

The largest ride-hail company globally, Uber strives to be “the safest way to go anywhere and get anything,” yet leaves its drivers worldwide facing pervasive health and safety issues.

In its 2023 statement in opposition to this proposal, Uber stated that an independent audit on safety was unnecessary as “we are currently undertaking an independent third party civil rights assessment that incorporates many of the same requests.”¹ That was not accurate; the civil rights audit was United States-focused, not conducted with a health and safety perspective, and its recommendations said Uber should “explore adding additional safety metrics to current disclosures.”² Additionally, Uber only releases United States safety reports, which do not include nonfatal/attempted assault, verbal abuse, carjackings/robberies, threats, etc.

In the United States, Uber drivers represent almost 1 percent of job-related deaths. A recent report revealed that 83 app workers were murdered on the job from 2017 to 2021; a study of over 900 drivers found that 67 percent experienced violence/threatening behavior in the last year, and 60 percent continued rides that made them feel unsafe because they were worried about deactivation or income loss.

Independent reporting suggests a global driver safety crisis. Australian authorities fined Uber for neglecting to report over 500 serious incidents, some resulting in hospitalizations, and witnessed “a concerning surge in UberEats driver fatalities.”³ Instances range from assaults due to route choices in Montreal, fatalities following robbery attempts in Calgary, assaults on drivers in Australia, reports of violence in India, racially motivated verbal and physical assault in the United Kingdom, and drivers attacked and carjacked in Brazil, resulting in them demanding increased protection against theft and robbery.

We are especially concerned that Uber's policies may discourage drivers from reporting safety incidents. If drivers decline or cancel too many rides, Uber can issue penalties. Drivers also

¹https://s23.q4cdn.com/407969754/files/doc_financials/2023/Stockholders2023/final-2023-proxy.pdf

²https://s23.q4cdn.com/407969754/files/doc_governance/2023/Uber-CRA-Report-August-2023.pdf

³<https://www.smh.com.au/national/spate-of-rider-deaths-a-tragedy-uber-chief-executive-20201125-p56hz4.html>

report that Uber deactivates them while investigating incidents. In April 2023, a Dutch appeals court also ruled Uber violated drivers' rights in several instances, including when algorithms were involved in terminating driver accounts.

Lawmakers, regulators, media, public health practitioners, and the public have scrutinized the safety crisis. The lack of transparency and failure to adequately investigate and address driver health and safety issues pose significant financial, regulatory, and reputational risks to Uber.

We urge shareholders to vote FOR this proposal.

November 22, 2023

Tony West
Uber Technologies, Inc.
c/o Corporate Secretary
1515 3rd Street
San Francisco, California 94158

Re: Shareholder proposal submitted by Stichting Bewaarder Achmea Beleggingspools

Dear Mr. West,

I write concerning a shareholder proposal (the "Proposal") submitted to Uber (the "Company") by Stichting Bewaarder Achmea Beleggingspools.

As of November 22, 2023, Stichting Bewaarder Achmea Beleggingspools beneficially owned, and had beneficially owned continuously for at least one year, shares of the Company's common stock worth at least \$25,000 (the "Shares").

BNY Mellon has acted as record holder of the Shares and is a DTC participant. If you require any additional information, please do not hesitate to contact me.

Very truly yours,



BNY Mellon
Jacques Huijsmans
Service Director

February 8, 2024

Via Shareholder Proposal Portal

Securities and Exchange Commission
Office of the Chief Counsel
Division of Corporation Finance
100 F Street, NE
Washington, DC 20549

Re: Request by Uber Technologies Inc. to omit proposal submitted by Stichting Bewaarder Achmea Beleggingspools (Achmea Investment Management).

Ladies and Gentlemen,

Pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, Achmea Investment Management (the “Proponent”) submitted a shareholder proposal (the “Proposal”) to Uber Technologies Inc. (“Uber” or the “Company”). The Proposal asks Uber’s board of directors to commission an independent, third-party audit on driver health and safety, evaluating the effects of Uber’s performance metrics, policies, and procedures on driver health and safety across markets.

In a letter to the Division dated January 5, 2024 (the “No-Action Request”), Uber stated that it intends to omit the Proposal from its proxy materials to be distributed to shareholders in connection with the Company's 2024 annual meeting of shareholders. Uber argues that it is entitled to exclude the Proposal in reliance on Rule 14a-8(i)(10), on the ground that the Proposal has been substantially implemented; Rule 14a-8(i)(7), as relating to the Company’s ordinary business operations; and Rule 14a-8(i)(3), claiming that the Proposal is excessively vague. As discussed more fully below, Uber has not met its burden of proving its entitlement to exclude the Proposal on any of those bases, and the Proponent respectfully requests that the Company’s request for relief be denied.

The Proposal

The Proposal states:

RESOLVED: Shareholders of Uber Technologies, Inc. (“Uber”) request that the Board of Directors commission an independent third-party audit on driver health and safety, evaluating the effects of Uber’s performance metrics, policies, and procedures on driver health and safety across markets.

The audit should be conducted with input from drivers, workplace safety experts, and relevant stakeholders from the regions where Uber operates and consider legislative/regulatory developments and adverse media coverage. A report on the audit, prepared at a reasonable cost omitting confidential and proprietary information, should be publicly disclosed on Uber’s website.

Substantial Implementation

Rule 14a-8(i)(10) allows a company to exclude a proposal that has already been substantially implemented. Although a proposal need not be implemented exactly as the proposal asks, the company's actions must "compare favorably with the guidelines of the proposal,"¹ address the proposal's "underlying concerns,"² and satisfy the proposal's "essential objective."³

The Proposal's sole focus is on driver health and safety, not rider safety or Uber's diversity, equity, and inclusion ("DEI") efforts. In other words, the Proposal's underlying concern is the safety and well-being of the Company's drivers. Likewise, the Proposal's core request is for an audit analyzing the impact of Uber's performance metrics, policies, and procedures (collectively, "Policies") on driver health and safety.

The connection between the two is key: It is not enough for Uber to make disclosures that contain scattered mentions of Policies and driver health and safety, which it has done. Instead, the Proposal asks Uber to commission an audit that evaluates how the Company's Policies affect its drivers. The Proposal's essential objective, then, is an analysis of that relationship. Nothing to which Uber points in the No-Action Request--or even all of the reports the Company cites taken together--accomplishes that goal. Uber's actions and disclosures fall short of what the Proposal requests and do not substantially implement the Proposal.

First, Uber points to a section of the report on the Civil Rights Audit ("CRA") conducted by law firm Covington & Burling ("Covington") as showing substantial implementation of the Proposal's requests for both an independent audit and an evaluation of how the Policies impact driver health and safety across markets. The CRA was performed in response to a shareholder proposal voted on at Uber's 2023 annual meeting of shareholders.

Neither the CRA process nor the disclosures contained in the CRA report compare favorably to the guidelines of the Proposal. The CRA's purpose differed from that of the audit sought in the Proposal: It aimed to "assess the company's efforts to promote civil rights and diversity, equity, and inclusion (DEI) and to make recommendations for additional actions the company could take to achieve its civil rights and DEI objectives."⁴ There is thus no reason to believe that Policies related to driver health and safety but not relevant to the CRA's goal were reviewed in connection with the CRA, notwithstanding Uber's claim that "[a]mong the focus areas of the 2023 Civil Rights Assessment was driver health and safety and how the Company's products, platform, policies and procedures impacted drivers—the key issues raised by the Proposal."⁵

While Covington has significant experience leading racial equity audits, it does not purport to have any expertise in worker health and safety. The description of the firm's "Litigation and Investigations"⁶ practice makes no mention of investigating health and safety violations, advising on health and safety issues, or representing companies in health and safety-related enforcement actions

¹ Texaco Inc. (Mar. 28, 1991)

² Exchange Act Release No. 95267, at 11 (July 13, 2022) ("The staff also has considered whether the company has addressed a proposal's underlying concerns and whether the essential objectives of a proposal have been met.")

³ E.g., Huntington Ingalls Industries Inc. (Feb. 12, 2016)

⁴ CRA Report, at 1

⁵ No-Action Request, at 6

⁶ <https://www.cov.com/en/practices-and-industries/practices/litigation-and-investigations>

or investigations. The description of the “Employment”⁷ area of the firm’s “Regulatory and Public Policy” practice, which identifies numerous subjects of expertise—including employment discrimination, “collective employment rights,” class action litigation, non-compete agreements, sexual harassment, and compensation plans—is silent regarding health and safety.

The Proposal asked that workplace safety experts be consulted in connection with the requested audit. No such expert was identified or referenced in the CRA report. Covington stated explicitly that the CRA was limited to Uber’s civil rights and DEI performance in the United States,⁸ but the Proposal asked for an audit covering the effect of Policies on driver health and safety across markets. This is a significant shortcoming given that, according to Uber’s most recent 10-K, as of December 31, 2022, the Company “operated in approximately 70 countries, and “markets outside the United States accounted for approximately 76% of all trips,” and they recently reported 9.4 billion trips in 2023, an average of nearly 26 million daily trips last year.

Nor does the substance of the CRA report track the Proposal’s request, which is unsurprising given the civil rights lens of the CRA. Sexual violence against female riders and drivers is discussed in some detail, but not other types of violent crime, which reflects the CRA’s focus on gender justice⁹ rather than worker health and safety more generally. The CRA report does not present data or even anecdotal evidence on the impact of existing Policies on driver health and safety or the actual or expected efficacy of recently implemented or contemplated Policy changes. The section of the CRA report relied on by Uber addresses rider safety in addition to driver safety; at times, the shifting terminology among “drivers,” “users” and “riders” makes it difficult to identify who is being referenced.

The No-Action Request lists numerous recommendations set forth in the CRA report,¹⁰ but most are not relevant to driver health and safety. Instead, they involve matters such as evaluating products for bias, driver engagement, privacy, and development of a “central fairness strategy.” The CRA’s recommendation that Uber should “consult with experts to identify, consider, and address the specific safety concerns of other potentially vulnerable user populations, including drivers of color” does not encompass all drivers and illustrates the civil rights and DEI orientation of the CRA. Even the CRA report’s laudable recommendation that Uber “should explore adding a new member to the Safety Advisory Board with experience in evaluating and addressing work-related safety risks”¹¹ was not based on an analysis of the inadequacy of current Policies in addressing risks faced by all drivers.

Second, Uber touts a portion of its Environmental, Social and Governance Report (“ESG Report”) as responsive to the Proposal. The ESG Report is prepared by Uber, so it cannot be considered equivalent to a report on an independent audit. The Proposal requested an independent audit to avoid the cherry-picking seen in many companies’ sustainability and ESG reports, which aim to cast companies in a positive light.

⁷ <https://www.cov.com/en/practices-and-industries/practices/regulatory-and-public-policy/employment>

⁸ CRA Report, at 4

⁹ See CRA Report, at 6

¹⁰ See No-Action Request, at 6

¹¹ CRA Report, at 31

What's more, very little of this part of the ESG Report addresses driver safety; most of the section discusses issues like independent contractor classification, earnings transparency, app modifications, driver perks, methods of obtaining driver feedback, and insurance that are unrelated to the Proposal. The references to driver health and safety focus on Uber's inputs and processes, rather than outcomes as the Proposal requests. For example, the ESG Report asserts that Uber has "invested in driver and courier safety, and expanded safety features to newer lines of business like Uber Moto,"¹² dialogued with the International Transport Workers' Federation on health and safety,¹³ and incorporated safety as a metric into executive compensation formulas.¹⁴ There is no discussion, however, about how those actions have affected driver health and safety. Like the CRA report, the ESG Report mixes discussions of user and driver safety, despite the fact that the safety issues facing the groups differ.

Uber says in the ESG Report that its Safety Report enables it to "track [its] progress, drive accountability, and strengthen safety on [its] platform and beyond."¹⁵ However, it does not provide any information on how progress--or lack thereof--relates to any specific Policy, nor does it describe ways in which driver safety should be improved or identify the Policy levers Uber plans to use to achieve safety goals.

Third, Uber claims that the 2019-2020 Safety Report (the "Safety Report") is responsive to all elements of the Proposal's resolved clause.¹⁶ Like the ESG Report, the Safety Report was prepared by Uber, not an independent third party,¹⁷ so it is not responsive to the Proposal's request for an independent audit. The Safety Report is also outdated: It includes data on "critical safety incidents that were reported to occur in connection with the Uber rideshare platform" between January 1, 2019 and December 31, 2020.¹⁸ Thus, the most recent incidents covered by the Safety Report took place more than three years ago. The audit requested in the Proposal would consider current Policies and driver health and safety information. Uber's 2019-2020 and 2017-2018 Safety Reports are both limited to the US market, so it is not responsive to the proposal's request for reporting across markets.

The limited scope of the Safety Report also undermines Uber's claim that it substantially implements the Proposal. It discloses only "critical safety incidents," which are defined to include fatal motor vehicle accidents, fatal physical assaults, and sexual assault.¹⁹ The Proposal contains no such limitation.

Of the approximately three pages of the Safety Report describing screening initiatives intended to increase safety on the Uber platform, just one paragraph involved rider screening, and

¹² ESG Report, at 26

¹³ ESG Report, at 21

¹⁴ ESG Report, at 26

¹⁵ ESG Report, at 26

¹⁶ No-Action Request, at 5

¹⁷ We note that Uber's methodology for analyzing fatal motor vehicle crashes was validated by the Governors Highway Safety Association. Safety Report, at 42. The Safety Report's other references to audit or auditors denote internal auditors and the internal audit function. *See, e.g.*, Safety Report, at 45-46.

¹⁸ Safety Report, at 30

¹⁹ Safety Report, at 9

even that measure only applies to riders using anonymous payment methods.²⁰ The majority of the platform safety features described in the Safety Report are also designed to protect riders, rather than drivers.²¹ There is no analysis regarding the impact of any of these initiatives or features, or of other Policies, such as penalties issued when drivers decline or cancel rides or driver deactivation during safety incident investigations, on driver safety. It is also important to note that the Safety Report, like the CRA report and ESG Report, does not address the worker health element of the Proposal. For example, Policies resulting in lower driver earnings per ride can impact driver health by requiring drivers to drive for longer hours, increasing the amount of time drivers spend sitting and decreasing the amount of sleep they get.

Fourth, Uber urges that its Government Transparency Report satisfies the element of the Proposal asking that the audit consider “legislative/regulatory developments and adverse media coverage.” The Government Transparency Report, which is produced by Uber and not an independent third party, has nothing to do with legislative and regulatory developments driven by concerns over driver health and safety, which is what the Proposal seeks. Rather, its focus is data privacy; it describes and discloses data requests to Uber from governmental entities and outlines the legal basis for those requests. None of the requests was specifically focused on driver health and safety, and driver health and safety would only be implicated if driver data were encompassed by a broader data request from a regulator, such as a request for platform user data spurred by a public health emergency.²² Accordingly, the Government Transparency Report makes no connection among these broader concerns, Uber’s Policies, and driver health and safety, which is the core request of the Proposal.

Finally, the No-Action Request points to the descriptions in Uber’s most recent proxy statement—again, a document prepared by Uber—of the board’s oversight of driver safety and safety-related executive compensation metrics. The board oversight discussion is superficial and self-serving, simply listing subjects on which the board received information: “information about the benefits of multi-app use by Drivers and Couriers on our platform; how Uber listens and responds to direct feedback from Drivers; improvements we made to the experience of driving and delivering with Uber based on feedback; and building a sustainable structure for the well-being of Drivers and Couriers that includes flexibility and earnings transparency.” Even if one interprets any of that information as encompassing driver health and safety, the fact that the board receives it does not indicate the board is responding to this information to better manage driver safety-related risks or accomplish the Proposal’s essential objective of producing a publicly-disclosed audit of how Uber’s Policies affect driver health and safety.

According to the No-Action Request, “The Compensation Discussion and Analysis [“CD&A”] section of the 2023 proxy statement also discusses in detail how safety metrics are incorporated into executive compensation plans and discloses the specific quantitative safety metrics and weightings used to determine executive compensation.” The only driver-related metric disclosed for the named executives officers’ (“NEOs”) cash bonus plan is entitled “Best platform for Drivers and Couriers.” The explanation for that metric does not mention driver health and safety: “In 2022,

²⁰ Safety Report, at 22-25

²¹ See 2019-2020 Safety Report, at 26-28

²² See <https://www.uber.com/us/en/about/reports/transparency/public-health/?uclid=f0c1dbcb-5b38-465b-ac58-55afe13b6b91>

as a result of our focus on Driver and Courier well-being and product innovation, monthly active Drivers and Couriers increased by 23%, with our global Driver and Courier base now at an all-time high of almost 5.4 million, with record levels of Driver and Courier engagement. The roll out of a suite of new product features, including Upfront Fares and Upfront Destination, that represent a foundational change in the Driver experience has resulted in an increase in session conversions and trips.²³ The “best platform” metric, then, does not directly reward executives for improving driver health and safety. The proxy statement description does not explain how “well-being” is measured, instead emphasizing app design and driver engagement.

The formula for NEOs’ performance-based restricted stock unit (“PRSU”) awards includes “Safety Improvement,” which was weighted at 10% for PSRUs awarded in 2020, 2021, and 2022. The proxy statement indicates that this metric uses data on two kinds of critical safety incidents—motor vehicle fatalities and critical sexual assaults²⁴--that are defined in the Safety Report as affecting both drivers and riders. Moreover, the proxy statement notes that “societal shifts during the COVID-19 pandemic” influenced changes in the frequency of these critical safety incidents but is silent as to the role, if any, played by Uber’s Policies or Policy changes, the Proposal’s core request.

In sum, Uber’s CRA and existing reports do not compare favorably to the Proposal’s guidelines, address the concerns underlying the Proposal, or accomplish the Proposal’s essential objective, which is for Uber to commission an independent analysis of how the Company’s Policies affect driver health and safety across markets:

- The CRA, while conducted by an independent third party, analyzed only Uber’s efforts to promote civil rights and DEI and to made recommendations for additional actions the Company could take to achieve its civil rights and DEI objectives. The CRA’s mandate thus did not call for a review and analysis of all Policies that could affect driver health and safety, and the CRA report gives no indication that Covington did so.
- All the other reports on which Uber relies were prepared by Uber, rather than an independent third party.
- Neither the CRA report nor any other document cited in the No-Action Request provides data or analysis regarding driver health and safety outside the United States, which is sought by the Proposal.
- None of the reports Uber cites analyzes how the Company’s Policies shape drivers’ willingness to report safety incidents or the frequency of such incidents. The Proposal requests such an analysis.
- Data on only three types of safety incidents is disclosed in the Safety Report, whereas the Proposal does not limit the requested audit’s scope in any way.

Ordinary Business

Rule 14a-8(i)(7) allows exclusion of proposals related to a company’s ordinary business operations. Uber claims that the Proposal relates to the Company’s ordinary business operations because its subject is worker health and safety, which Uber argues is not a significant social policy issue transcending ordinary business.

²³ See 2023 Proxy Statement, at 51-52

²⁴ Proxy Statement, at 59-60

Although it is true that the Staff has allowed exclusion of proposals on some workforce-related topics, as the determinations cited by Uber show, other subjects involving the workforce have been deemed significant social policy issues. They include proposals on cash-balance pension plans,²⁵ gender pay equity,²⁶ race²⁷ and sexual orientation²⁸ discrimination in employment, disclosure of EEO-1 reports,²⁹ and the MacBride non-discrimination principles.³⁰

The Division most recently described its approach to determining whether a proposal's topic is a significant social policy issue in Staff Legal Bulletin ("SLB") 14L, which was issued in November 2021. There, the Staff emphasized that the focus when deciding whether an otherwise excludable proposal concerns a significant social policy issue should be whether it "raises issues with a broad societal impact" even if the proponent does not demonstrate the issue's significance to the specific company. SLB 14L illustrated the application of the broad societal impact standard by pointing to human capital matters, stating that a "proposal[] squarely raising human capital management issues with a broad societal impact" would not be subject to exclusion.

Post-SLB 14L determinations on two worker health and safety proposals much like the Proposal show that this issue has a broad societal impact. In Amazon,³¹ the Staff did not concur with the company that a proposal requesting an audit of warehouse workers' working conditions and treatment was excludable on ordinary business grounds. The proponent argued that the proposal's subject was a human capital matter with broad societal impact. Dollar General's³² argument for excluding a proposal seeking an audit of how the company's policies affected workers' safety and well-being rested primarily on the claim that implementing the proposal would prejudice Dollar General in litigation, but the proponent urged the Staff not to allow the company to evade accountability on the significant social policy issue of workers' safety and well-being. The SEC ultimately denied Dollar General's request for relief, the proposal went on to receive majority support, and the company publicly stated it is conducting the requested audit.

Many of the determinations on which Uber relies in the No-Action Request date from prior to SLB 14L, which limits their persuasiveness here. None of the three determinations Uber cites that were issued after SLB 14L--Apple,³³ Dollar Tree,³⁴ and Amazon (AFL-CIO Reserve Fund)³⁵--addressed worker health and safety. All three addressed various aspects of employee staffing: The Apple proposal focused on the impact of the company's return-to-work policy, while the Dollar Tree proposal asked the company to disclose how staffing challenges were affecting its business

²⁵ International Business Machines Co. (Feb. 16, 2000)

²⁶ R.R. Donnelly & Sons Co. (Jan. 6, 1999)

²⁷ See *ACTWU v. Wal-Mart*, 821 F. Supp. 877 (S.D.N.Y. 1993)

²⁸ OGE Energy, Inc. (Feb. 24, 2004)

²⁹ Circuit City Stores, Inc. (Apr. 6, 1999)

³⁰ The TJX Companies (Apr. 1, 1999)

³¹ Amazon.com, Inc. (Apr. 6, 2022)

³² Dollar General Corporation (Mar. 31, 2023)

³³ Apple Inc. (Jan. 3, 2023)

³⁴ Dollar Tree Inc. (May 2, 2022)

³⁵ Amazon.com, Inc. (AFL-CIO Reserve Fund) (Apr. 8, 2022)

strategy and the Amazon resolution sought data on workforce turnover related to the pandemic. The proponents of these proposals were unsuccessful in convincing the Staff that the “Great Resignation” or COVID-19 pandemic was a significant social policy issue, or that the proposals were sufficiently connected to those subjects to avoid exclusion. Thus, those determinations do not support exclusion of the Proposal.

The scale of Uber’s operations bolsters the conclusion that the health and safety of its driver workforce has broad societal impact. In its response to Amazon’s unsuccessful 2022 request to exclude the warehouse worker health and safety audit proposal, the proponent pointed to the scale of Amazon’s warehouse operations as a factor weighing against exclusion. The same is true here. By its own account, Uber is “one of the largest open platforms for work in the world,” providing ridehailing, delivery, and logistics services.³⁶

The importance of the services provided on Uber’s platform is reflected in the significant media attention paid to the Company. Recent examples of articles just on driver safety include:

- Jessica Perez, “Uber driver injured in knife attack asks for more driver safety precautions,” KETV, Jan. 29, 2024
- Kim Phillips, “Uber driver allegedly assaulted by passenger attempting to steal vehicle,” CTV News, Jan. 10, 2024.
- Emma Fradgley, “Uber driver stabbed and women followed Clapham: Third arrest,” Your Local Guardian, Nov. 28, 2023.
- Tahlia Roy, “Uber blocks driver Harjit Singh from a week's work after the Canberra father reports 'horrible' early morning attack,” Australian Broadcasting Corporation, Nov. 22, 2023
- Heidi Groover, “Ride-hail driver fatally shot on the job in Edmonds,” The Seattle Times, Jan. 9, 2024
- Remy Tumin, “Fearing Abduction, Uber Rider Kills Driver,” The New York Times, June 27, 2023
- Lana Ferguson, “Uber response to attack poor, driver says,” The Dallas Morning News, Aug. 10, 2023
- Chiara Profenna, “Portland Uber drivers test out dash cams amid rising safety worries,” The Oregonian, July 8, 2023
- Jake Allen, “I thought I was going to die”; Gun violence leaves Uber, Lyft drivers afraid for safety,” The Indianapolis Star, Mar. 26, 2023
- Rosalia Ahumada, “Uber driver in Sacramento carjacked and robbed at gunpoint; search for suspect continues,” Sacramento Bee, Dec. 20, 2022
- Emmanuel Camarillo, “Armed robbers target food delivery drivers on Near West Side,” Chicago Sun-Times, Jan. 29, 2024
- Matt Cohen, “Man accused of killing, dismembering Uber Eats driver indicted, facing death penalty,” Tampa Bay Times, May 19, 2023
- Caroline Kubzansky, “Driver’s death rattles colleagues and friends, raises questions about safety on the job,” Chicago Tribune, Dec. 9, 2023
- “Why the gig economy is dangerous, and how to fix it,” Pittsburgh Post-Gazette, May 16, 2023

³⁶ Uber Technologies Inc. Filing on Form 10-K filed on Feb. 21, 2023, at 9

- Paige Cornwell, “New bill would benefit survivors of ride-share drivers killed on the job,” *The Seattle Times*, Jan. 30, 2024
- Kevin Smith, “Rideshare drivers protest conditions,” *Orange County Register (California)*, May 5, 2023
- Emmanuel Camarillo and Sophie Sherry, “Family seeks justice for ride-hailing driver shot, killed in Austin,” *Chicago Sun-Times*, Dec. 28, 2023
- Alexandra Olson & Wyatt Grantham-Philips, “Attacks on delivery drivers add fears among gig workers,” *St. Louis Post-Dispatch*, May 7, 2023
- Matt Cohen, “After 2 Tampa Bay delivery attacks, gig workers worry about dangers; A kidnapping and a killing of local Uber, DoorDash drivers in the same week show risks these contractors face,” *Tampa Bay Times*, Apr. 26, 2023

Worker health and safety, especially at a company with Uber’s reach, has a broad societal impact and is thus a significant social policy issue transcending ordinary business. As well, the extent to which the press has covered driver safety issues at Uber shows the extent of public debate and concern about the issue. Uber has thus not met its burden of showing that it is entitled to exclude the Proposal in reliance on Rule 14a-8(i)(7), and the Proponents respectfully ask that its request be denied.

Vagueness

Uber contends that the Proposal is excessively vague and indefinite and thus excludable pursuant to Rule 14a-8(i)(3). It is difficult to reconcile this claim with Uber’s detailed argument that it has substantially implemented the Proposal. If the Proposal’s key terms are so vague, how is Uber confident that its CRA and existing disclosures compare favorably to the Proposal’s guidelines?

Putting that contradiction aside, Uber’s vagueness claim is meritless. According to Uber, the phrase “driver health and safety” is undefined and “subject to a wide range of interpretations,” which “could lead the Company to taking actions that could be significantly different from the actions envisioned by shareholders voting on the Proposal.”³⁷ Uber takes issue with the Proposal’s failure to specify which health and safety issues should be analyzed, describe how the effects of Uber’s Policies should be measured, or identify which Policies should be considered. Similarly, Uber argues that the Proposal must elaborate on who should be considered a “workplace safety expert” and a “relevant stakeholder.”

But a proposal need not specify every detail of implementation; indeed, such prescriptiveness—if it could be accomplished within Rule 14a-8’s 500-word limit—would surely invite a claim that the proposal was excludable on micromanagement grounds. Shareholders voting on the Proposal can understand the general request it makes, given that the terms have ordinary dictionary definitions and the supporting statement provides additional color. For example, the supporting statement takes issue with Uber’s decision not to include data about robberies, nonfatal assaults, carjackings, threats, and verbal abuse in the Safety Report. Shareholders would also be aware or deduce that the Proposal, like many proposals, gives the board and management discretion to make decisions about the specifics of implementation.

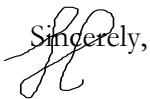
³⁷ No-Action Request, at 11-12



Uber also says the Proposal’s geographical coverage is unclear. Uber suggests that “across markets” in the resolved clause could refer to only those jurisdictions referenced in the supporting statement—Australia, Canada, India, the United Kingdom, and Brazil—but those countries were mentioned in examples describing the safety threats drivers have faced around the world. Nothing in the Proposal supports that interpretation. The logical reading is the other alternative suggested by Uber, that “across markets” refers to the regions where Uber’s platform operates. That interpretation is consistent with the resolved clause’s request that the audit be informed by “drivers, workplace safety experts, and relevant stakeholders from the regions where Uber operates.”

The Proposal is not excessively vague because it clearly describes the basic contours of the audit it asks Uber to conduct, using terms that have widely understood meanings. It is not necessary for the Proposal to provide implementation details for every aspect of the Proposal in order for shareholders and Uber to understand what the Proposal requests. Leaving such details to the board and management’s discretion is common practice. Uber has not met its burden of establishing that it is entitled to exclude the Proposal in reliance on Rule 14a-8(i)(3) and the Proponent respectfully requests that its request for relief be denied.

* * *

The Proponent appreciates the opportunity to be of assistance in this matter. If you have any questions or need additional information, please contact Frank Wagemans at +(31) 622087929 or by e-mail frank.wagemans@achmea.nl

Sincerely,


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9/2/2024 | 12:01 CET

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February 26, 2024

VIA ONLINE SUBMISSION

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549

Re: *Uber Technologies, Inc.
Shareholder Proposal Submitted by
Achmea Investment Management (Stichting Bewaarder Achmea Beleggingspools)*

Ladies and Gentlemen:

This letter is submitted on behalf of Uber Technologies, Inc. (the "Company") in response to the letter of Achmea Investment Management (the "Proponent"), sent on February 12, 2024 (the "Rebuttal Letter") submitted in response to the Company's letter, dated January 5, 2024 (the "No-Action Letter") respectfully requesting the Staff of the Division of Corporation Finance (the "Staff") of the Securities and Exchange Commission concur in the Company's view that the Proponent's shareholder proposal (the "Proposal") and statements in support thereof be excluded

from the Company's proxy statement and form of proxy for its 2024 annual meeting of shareholders (collectively, the "2024 Proxy Materials").

The Company respectfully seeks to clarify several mischaracterizations set forth in the Rebuttal Letter:

I. The Proponent Inaccurately Downplays the Company's Existing Reporting, Responsive Actions and Commitments Relating to Driver Health and Safety.

The Proponent's Rebuttal Letter states that the Company's existing disclosures "do not compare favorably" to the Proposal's essential objective or address its underlying concerns on the basis of five key claims which the Company believes to be inaccurate and misleading:

Rebuttal Letter Claim #1: "The CRA, while conducted by an independent third party, analyzed only Uber's efforts to promote civil rights and DEI and to made recommendations for additional actions the Company could take to achieve its civil rights and DEI objectives. The CRA's mandate thus did not call for a review and analysis of all Policies that could affect driver health and safety, and the CRA report gives no indication that Covington did so."

Civil rights issues encompass matters relating to driver health and safety. Consequently, the mandate of the Company's Civil Rights Assessment (the "CRA") included assessments of driver health and safety. The CRA included recommendations specific to driver health and safety, such as adding a "member focused on platform worker health and safety" to the Company's Safety Advisory Board (which the Company has undertaken) and continuing reporting on safety metrics (which the Company is committed to undertaking in its forthcoming public disclosures). Covington grounded these recommendations in extensive fact-finding, including a roundtable discussion with members of Uber Crew, a group of more than 70 drivers and couriers who represent the drivers and couriers in their geographic regions and reviewed the Company's policies, procedures and educational materials, including those related to health and safety. Contrary to the Proponent's claim, the CRA report discusses in detail initiatives, policies and platform enhancements that the Company has developed in furtherance of driver health and safety. The Proponent also criticizes the fact that Covington, which oversaw the CRA, did not have "any expertise in worker health and safety." However, as the CRA notes, the assessment solicited input from more than 80 internal subject-matter experts, including those with subject matter experience and expertise specific to health and safety matters. The CRA also solicited input from drivers, advocacy groups and civil rights organizations. The conclusions and recommendations of the CRA represent the culmination of input from a wide range of relevant parties; the fact that a law firm was selected to facilitate and oversee the information gathering should not erase the validity or value of the CRA.

Rebuttal Letter Claim #2: "All the other reports on which Uber relies were prepared by Uber, rather than an independent third party."

The Proponent states that many of the Company's disclosures were prepared by the Company rather than an independent third party. The Company takes all public reporting very seriously and recognizes inaccuracies, misstatements or biases may materially impact the Company's reputation and trustworthiness among drivers and riders, as well as create legal and financial risks. The

Company also recognizes driver health and safety as a business imperative—drivers are an essential component of the Company’s platform and the Company is focused on timely disclosures that recognize and address driver concerns. Consequently, the Company’s public reports regarding its safety strategies and policies are subject to robust internal controls and review by management and the Board. Uber has also engaged experts to conduct validation assessments of the data classification in its safety reports, and appended their independent findings to each report. The methodologies used by the Company in its public reports are also disclosed, allowing third parties to review and assess the quality of the Company’s disclosures. The Company’s Safety Advisory Board, comprised of eight external experts with leadership experience in road safety, sexual violence, law enforcement, and now worker health and safety, provides recommendations and counsel on safety strategies and initiatives, as well as input on the Company’s safety disclosures. In light of the steps that the Company takes to ensure accuracy and transparency in its public reporting, the addition of a third party audit would not be meaningfully additive to the Company’s reporting processes.

Rebuttal Letter Claim #3: “Neither the CRA report nor any other document cited in the No-Action Request provides data or analysis regarding driver health and safety outside the United States, which is sought by the Proposal.”

The Proponent inaccurately claims that the Company has not provided data or analysis on driver safety outside the United States. Consistent with the Company’s public commitment to meeting the recommendations of the CRA, and as noted in the No-Action Letter, the Company expects to continue its reporting regarding driver safety, including reporting on safety metrics, in addition to providing disclosures covering jurisdictions outside the United States. In addition, the Company maintains comprehensive policies and procedures on safety globally, guided by its global safety management system, and has continued to actively evolve its safety features and policies based on driver feedback and assessments of driver health and safety. Safety feature availability is tailored to local markets and informed by analysis conducted by the Company’s safety team, with key safety features such as the Safety Toolkit and Share my Ride/Follow my Ride available in all markets. Below is a list of some of the Company’s safety offerings:

<p>Safety Features for Riders and Drivers</p>	<ul style="list-style-type: none"> ● RideCheck (to detect when a trip may have gone wrong) ● Safety Toolkit ● Phone number and address anonymization ● Trip sharing with friends and family ● GPS tracking of trips ● In-app emergency button ● Audio recording ● Verify my ride feature ● Safety education
<p>Driver-Specific Safety Features</p>	<ul style="list-style-type: none"> ● Dashcam registration ● Unsafe driving alerts ● Speed limit alerts ● Driving hours tool ● Left hand turn rerouting ● Interactive bike and motorbike safety checklists

	<ul style="list-style-type: none"> ● Helmet verification
Driver Safety Features Adopted During Covid	<ul style="list-style-type: none"> ● Health safety education ● No mask no ride policy ● Go online/mask verification ● Restricting front seat riding ● Covid Resource Hub ● Safety supplies and PPE ● Access to COVID vaccines

In short, whether driver health and safety data outside the United States is presently disclosed by the Company does not meaningfully impact whether the Company has met the essential objective and addressed the underlying objective of the Proposal, because the Company has (1) already committed to its reporting on safety disclosures, including reporting on safety programs, (2) implemented health and safety policies that are broadly consistent across different jurisdictions globally, and (3) implemented global changes to its platform in response to assessments of U.S. safety data.

Rebuttal Letter Claim #4: “None of the reports Uber cites analyzes how the Company’s Policies shape drivers’ willingness to report safety incidents or the frequency of such incidents. The Proposal requests such an analysis.”

The Company has already substantively addressed this issue through its safety policies and tools developed for drivers. The Company’s responsive actions evidence the robust assessments and analysis that the Company has undertaken regarding reporting of safety incidents. For example, page 39 of the Company’s Safety Report outlines the multiple channels for reporting safety incidents. As a matter of policy, drivers are actively encouraged to report safety incidents through these channels and are not penalized for making reports. Drivers receive communications advising them how to use the safety features, including how to report a safety incident online via a link to a dedicated help node¹ with guidance for reporting various incident types. Additional resources on reporting include a guide available on YouTube² that demonstrates how drivers can report safety incidents; and our Community Guidelines page³ also contains directions for reporting incidents through the app. Additionally, the Safety Toolkit is an in-app resource for drivers and provides a streamlined way to report incidents. In some markets, the Company offers education on interpersonal interactions for drivers that includes guidance on how to report incidents. Uber also proactively seeks, reviews, aggregates and assesses safety incident data to help inform its safety policies and procedures.

The Company has also implemented policies for investigating safety incidents: contrary to the Proponent’s suggestion that drivers are deactivated during safety incident investigations, the Company’s policy calls for the reported-against account to be placed on a temporary hold when

¹ <https://help.uber.com/driving-and-delivering/section/safety?nodeId=9f5e0b5d-196e-4f19-82b0-67474630f54c>

² <https://youtu.be/Z4JSkSunESI?feature=shared&t=78>

³ <https://www.uber.com/us/en/drive/basics/uber-community-guidelines/#:~:text=incident%20to%20us,-.Report%20the%20incident,message%20to%20our%20support%20team>

safety incidents are being investigated by the Safety Response team. This is true whether an incident is reported against a rider or a driver, and it allows the Company's safety team to reach out to all parties for a thorough review before determining the appropriate action to take. The account holder reporting an incident is only placed on hold if Uber receives a counter complaint during an investigation and this policy applies to rider and driver accounts. Such measures are designed to ensure a fair balance between driver and rider safety and do not intentionally seek to penalize any party for reporting safety incidents.

The Proponent also mischaracterizes the Company's Upfront Fares and Upfront Destinations features, which were implemented to provide valuable information prior to a trip about (1) the destination they will be traveling to and (2) information on how far away or in which direction the trip is going. Drivers value having this flexibility and ability to make informed decisions about their app use. These features allow drivers to better select trips that fit into their personal needs and schedules and avoid unnecessary driving distances and times that could adversely impact their health and safety. These features also reflect the significant resources and analysis that the Company has undertaken to ensure its policies and platform serve the interests of drivers.

The Proponent's request also reflects a troubling focus on micromanaging the Company's operations by imposing new conditions on how the Company must implement the Proposal. The text of the Proposal does not specifically request any analysis of how the Company's Policies shape drivers' willingness to report safety incidents or the frequency of such incidents and the Staff has previously noted that shareholder proposals may be excluded based on "the level of granularity sought in the proposal and whether and to what extent it inappropriately limits discretion of the board or management." Staff Legal Bulletin No. 14L (Nov. 3, 2021).

Rebuttal Letter Claim # 5: "Data on only three types of safety incidents is disclosed in the Safety Report, whereas the Proposal does not limit the requested audit's scope in any way."

As noted above, the Company has already committed to reporting on safety metrics that will be publicly disclosed. In addition, the Company believes that the quality of reporting should take into consideration the relevance, consistency, accuracy and reliability of reported safety metrics, rather than the number of metrics being reported. The Company has focused attention on the most serious safety incidents with the most critical impacts to the health and safety of drivers and riders—motor vehicle fatalities, fatal physical assaults and sexual assaults—and directed resources to ensure consistency and accuracy in reporting such metrics.

When examined closely, the Proponent's criticisms regarding the Company's existing disclosures fail to identify any omissions that meaningfully demonstrate that the Company failed to meet the "essential objective" of the Proposal or address the Proposal's underlying concerns. Instead, the Proponent criticizes the Company for failing to meet its specific reporting criteria, many of which were not articulated in the Proposal, while overlooking the fact that the Company through its existing disclosures and responsive actions has already substantively addressed the underlying concerns and met the essential objective of a driver health and safety audit.

II. The Proposal Primarily Focuses on Ordinary Business Matters.

The Proponent's Rebuttal Letter further underscores how the Proposal is focused on ordinary business matters rather than significant social policy issues. The Rebuttal Letter is focused exclusively on the Company's disclosures, policies and practices, such as health and safety reporting processes, scope, methodologies, metrics and the use of anecdotal evidence.

The Proposal is also different from *Amazon.com, Inc. (Apr. 6, 2022)* and *Dollar General Corporation (Mar. 31, 2023)* which were submitted in the context of well-publicized and documented evidence of workforce health and safety violations that had drawn the attention of regulators and public health organizations. In contrast, only 0.0002% of rides during 2019 and 2020 involved a critical safety incident and 99.9% of rides were completed without any incident. The Company's pool of drivers has continued to grow over time while the rate of rides ending without any reported incident has remained consistent. Uber also continues to proactively take measures to meet the needs of drivers using the app.

The articles cited by the Proponent are outdated and fail to acknowledge the fact that Uber has already taken responsive actions, for example, Uber has implemented rider verification⁴ and improved actioning on fake names⁵, increased availability of dashcams, introduced the ability for drivers to register their own dashcams⁶, and added in-app video recording⁷. Some of the articles also reflect inaccuracies, for example, one article⁸ states that a discounted dashcam offering in Portland was the first of its kind, when in fact Uber has experimented with different cost-effective ways to provide drivers access to dashcam dating back to 2019, and continues to find innovative ways to improve accessibility for drivers to record trips, including in-app audio and video recording in some markets.

Fundamentally, the Proposal focuses on the Company's operations and safety policies and practices. While the Proposal may touch on broader human capital issues, the Proposal's key objectives and concerns exclusively focus on the Company's business practices and policies and do not transcend the ordinary business of the Company.

CONCLUSION

Based on the foregoing analyses and other analyses set forth in the No-Action Letter, the Company respectfully requests the Staff's concurrence with the Company's view or, alternatively, that the

⁴ <https://www.uber.com/newsroom/onlyonuber23/>

⁵ <https://www.uber.com/newsroom/safety-in-the-drivers-seat>

⁶ <https://www.uber.com/en-GB/blog/london/register-your-dashcam/>

⁷ <https://www.uber.com/newsroom/onlyonuber23/>

⁸ <https://www.oregonlive.com/crime/2023/07/portland-uber-drivers-test-out-discounted-dash-cams-amid-rising-safety-worries.html>

Staff confirm that it will not recommend any enforcement action if the Company excludes the Proposal from the 2024 Proxy Materials.

If we can be of any further assistance in this matter, please do not hesitate to call me at (212) 403-1138. If the Staff is unable to concur with the Company's conclusions without additional information or discussions, the Company respectfully requests the opportunity to confer with members of the Staff prior to the issuance of any written response to this letter. In accordance with Staff Legal Bulletin No. 14F, Part F (Oct. 18, 2011), please kindly send your response to this letter by email to CXWLu@wlrk.com.

Very truly yours,



Carmen X. W. Lu

Enclosures

cc: Terra Castaldi, Uber Technologies, Inc.
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