IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COMMON LAW DIVISION
GROUP PROCEEDINGS LIST

No. S ECI 2020 01834

Case Number: S ECI 2020 01834
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B E T W E E N

JAMAL SALEM in her capacity as executor for the estate of ANWAR SALEM

Plaintiff

-and-

UBER TECHNOLOGIES INCORPORATED and others
according to the attached Schedule

Defendants

DEFENCE TO ~~SECOND~~ FOURTH FURTHER AMENDED STATEMENT OF CLAIM
(filed pursuant to the Order of the Honourable Justice Nichols made on ~~10 June 2022 (as amended on 15 July 2022)~~24 August 2023)

Date of Document: ~~9 August 2022~~8 September 2023
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Defined terms have the same meaning in the ~~Second~~ Fourth Further Amended Statement of Claim filed on ~~1 July 2022~~19 June 2023 (**~~2FASOC~~4FASOC**) unless otherwise stated.

References to paragraphs are references to paragraphs in the ~~2FASOC~~4FASOC unless otherwise indicated.

PART A - PARTIES AND GROUP MEMBERS

1. The Defendants do not admit paragraph 1.

2. The Defendants admit paragraph 2.

2A. The Defendants do not admit paragraph 2A.

2B. The Defendants:

   a. do not admit paragraph 2B; and

   b. otherwise refer to and repeat paragraph 144 below.

3. The Defendants do not admit paragraph 3.

4. The Defendants admit paragraph 4.

5. The Defendants admit paragraph 5.

6. The Defendants admit paragraph 6.

7. The Defendants admit paragraph 7.

8. The Defendants admit paragraph 8.

9. The Defendants:

   a. admit paragraph 9; and

   b. say further that the Sixth and Seventh Defendants are together from time to time referred to in the Further Amended Defence to the ~~2FASOC~~4FASOC collectively as **Rasier Pacific**.

PART B - THE UBER GROUP'S ESTABLISHMENT AND OPERATION OF UBERX

The Uber Group

10. As to paragraph 10, the Defendants:

   a. say that the First Defendant (**Uber Inc**) was the parent, or ultimate holding, company of each of the Second to Seventh Defendants from the date of incorporation of each of them;

   b. by no later than 31 December 2014 Uber Inc was the parent or ultimate holding company of a group of over 110 entities incorporated in different jurisdictions; and

   c. otherwise deny paragraph 10.

11. As to paragraph 11, the Defendants admit the paragraph and say further that:

   a. the software application known as the "Uber app" could only be used by registered users; and

   b. the software application known as the "Uber Partner app" could only be used by registered users in the manner described in paragraph 13 below.

12. As to paragraph 12, the Defendants:

   a. say that during the material times alleged a person registered to use the Uber app (a **Rider**) could use the Uber app to request transportation from a third party in the vicinity of the Rider, available and willing to provide that Rider with transportation; and

   b. otherwise deny paragraph 12.

13. As to paragraph 13, the Defendants:

   a. say that during the material times alleged a third party who wished to provide transportation to Riders and who successfully registered an account (an **Uber**

Driver Partner) could use the Uber Partner app to receive and accept transportation requests from Riders within their vicinity, when willing to do so; and

b. otherwise deny paragraph 13.

14. As to paragraph 14, the Defendants:

a. say that during the material times alleged, Uber Inc licensed use of the Uber app and the Uber Partner app to Uber International C.V. who, in turn, sub-licensed the use of the Uber app and Uber Partner app to the Third Defendant (**Uber BV**) which operated and made available the Uber app and the Uber Partner app to Riders and Uber Driver Partners outside of the United States of America; and

b. otherwise deny paragraph 14.

Particulars

Platform Contribution Transaction Agreement between Uber Inc. and Uber International CV dated 31 May 2013.

License Agreement between Uber International C.V. and Uber B.V. dated 11 June 2013.

15. As to paragraph 15, the Defendants:

a. admit paragraph 15(a);

b. admit that during the material times alleged Uber BV provided access to the software required for the support and operation of the Uber app and the Uber Partner app in specific locations in Victoria, New South Wales, Queensland and Western Australia as set out in Schedule 1 (the **Relevant Locations**) at different points in time as set out in Schedule 1; and

c. otherwise deny paragraph 15(b).

16. As to paragraph 16, the Defendants:

a. say that:

i. Uber Inc was incorporated on or about 16 July 2010 in the State of Delaware in the United States of America and it was (and is) the parent company or ultimate holding company of other companies within the Uber Group;

ii. other companies within the Uber Group were incorporated at various different times and in different countries or locations within countries to carry out different roles, operations or activities;

b. say that, to the extent that the ride request application part of the Uber business (hereinafter referred to as the "**Uber Business**" and defined in the ~~2FASOC~~4FASOC) is capable of description or general summary, at various times during the Claim Period (as defined in the ~~2FASOC~~4FASOC), the Uber business consisted of:

i. the licensing of the Uber app to be made available to Riders in a particular country or location;

ii. the licensing of the Uber Partner app to be made available to Uber Driver Partners in a particular country or location;

iii. the facilitation of requests for transportation by Riders to Uber Driver Partners who are willing to accept the Rider~~s~~'s request;

iv. the facilitation of payment by the Rider to the Uber Driver Partner;

v. the payment of a fee by the Uber Driver Partners when the transportation of the Rider has taken place; and

c. otherwise deny paragraph 16.

The Uber Business in Australia

17. The Defendants deny paragraph 17 and further say that:

a. the first product launched in New South Wales was Uber Black which may be described in summary or general terms as a product that:

i. allowed private vehicle drivers in Sydney, New South Wales (some of whom meet the class description "New South Wales Hire Car Industry Members") to receive and accept leads for transportation from Riders through the Uber Partner app; and

ii. thereby allowed private vehicle operators in Sydney, New South Wales to increase their potential customer base in that such drivers had the opportunity to receive and accept leads for transportation from Riders through the Uber Partner app, in addition to their existing booking methods, which was not limited to private hire vehicle operators (some of whom also meet the class description "New South Wales Hire Car Industry Members").

18. The Defendants:

~~a. deny paragraph 18;~~

~~b.~~a. repeat paragraph 17 above;

b. admit that at all material times from about October 2012, Uber Inc:

i. exercised oversight of the operations and business strategy of the Uber Group, as it existed from time to time, in respect of its operations and business in Australia;

ii. received reports about the Uber business in Australia;

c. further say that during the material times alleged:

i. a number of the companies within the Uber Group had not been established or otherwise incorporated, including Rasier Pacific, which was not incorporated until 18 December 2015; and

ii. the "Point to Point Passenger Transport Service" described in paragraph 12 of the ~~2FASOC~~4FASOC (which is also part of the described "Uber Business") was not in operation in Australia.

d. otherwise deny paragraph 18.

19. As to paragraph 19, the Defendants:

a. admit that Uber Inc provided certain loans to Uber Australia as is recorded in its Financial Report for the year ended 30 June 2013; and

b. otherwise say that paragraph 19 of the ~~2FASOC~~4FASOC is vague and embarrassing and do not admit paragraph 19.

20. As to paragraph 20, the Defendants:

a. say that during the material times alleged, Uber Australia provided certain support services such as local marketing promotions to potential Riders and Uber Driver Partners in the Relevant Locations; and

b. say that during the material times alleged from at least 1 November 2013, Uber BV paid Uber Australia from time to time for the performance of those services; and

c. otherwise deny paragraph 20.

20A. As to paragraph 20A, the Defendants:

a. admit paragraph 20A(a), (b) and (d); and

b. repeat paragraphs 20(a) and (b) above~~.~~; and

~~b.~~c. otherwise deny paragraph 20A(c).

21. As to paragraph 21, the Defendants:

a. say that during the material times alleged, a Rider in the Relevant Locations was:

i. required to complete a "SIGN UP TO RIDE" application available via the Uber app and on the Uber website (www.uber.com);

ii. required to provide payment information (such as credit card or PayPal account details);

iii. required to accept the existing terms and conditions as they existed at the relevant time as a condition of registering and being able to use the Uber app;

iv. was, following the matters in subparagraphs i–iii above, registered from time to time by Uber BV as a Rider; and

b. otherwise deny paragraph 21.

22. As to paragraph 22, the Defendants:

a. say that during the material times alleged, the terms and conditions were changed from time to time:

i. but broadly contained terms to the effect pleaded at paragraph 22(a)–(e) and (h);

ii. in respect of paragraph 22(f), the terms and conditions did not refer to Uber Partners (as defined in the ~~2FASOC~~4FASOC) but rather referred to independent third party transportation providers and independent third party logistics providers under agreement with Uber BV or certain of Uber's affiliates;

iii. in respect of paragraph 22(g), the terms and conditions from at least around December 2014 contained clauses to the effect that Uber BV would facilitate payment of the applicable charges on behalf of the third party transportation or logistics provider as such third party transportation or logistics provider's limited payment collection agent; and

b. otherwise deny paragraph 22.

23. The Defendants ~~deny paragraph 23 and further~~:

a. admit that at all material times from about October 2012, Uber Australia employed certain persons to perform work, and performed work, connected to the operation of the Uber business in Australia, including to:

i. develop and implement campaigns marketing the Uber app and the Uber Partner app; and

ii. undertake tasks connected to the onboarding of Uber Partners;

b. admit that from time to time from about December 2012, Uber Australia rented premises in the Australian States for the purposes of:

i. providing office accommodation for employees of Uber Australia; and

ii. providing office accommodation from time to time for employees of other entities in the Uber Group; and;

iii. providing services associated with the onboarding of Uber Driver Partners, including inductions and conducting or arranging vehicle roadworthiness inspections;

c. admit that from about October 2012, Uber Australia received payment from Uber B.V. for providing the services pleaded in paragraph 20A above; and

~~a. otherwise deny paragraph 23repeat paragraphs 16, 17 and 20 above;~~

~~b. say that the operations in each of the Relevant Locations occurred at different points in time as set out in Schedule 1;~~

~~c. say that from time to time in the Relevant Locations, the operations of Uber Australia included marketing of the Uber app to Riders and the marketing of the Uber Partner app to third party providers of transportation services to Riders;~~

~~d. say that from time to time in the Relevant Locations, premises were rented by Uber Australia for the purpose of employees carrying out their roles as employees; and~~

~~e.~~d. ~~say that from time to time in the Relevant Locations, employees of Uber Australia carried out inductions and vehicle roadworthiness inspections of the third party providers of transportation services to Riders.~~

UberX established

24. As to paragraph 24, the Defendants:

a. say that the ride-sharing product known as UberX commenced in certain parts of the United States from about July 2012 (hereinafter referred to as the "**UberX Product**"); and

b. otherwise deny paragraph 24.

25. As to paragraph 25, the Defendants:

a. say that:

i. the UberX Product has been available in different countries at different times;

ii. in the Relevant Locations, the UberX Product has been available to Riders in different locations and at different times as set out in Schedule 1, as an option to Riders when making use of the Uber app;

iii. the UberX Product was accessible to Riders that had downloaded the Uber app and entered into the terms and conditions with Uber BV in the form which those terms and conditions were in from time to time;

iv. third parties willing to provide the UberX Product to Riders that had downloaded the Uber Partner app and entered into agreements with Uber BV in the form the agreements were in from time to time, and had fulfilled any other relevant or necessary conditions were able to provide transportation services to Riders (**UberX Driver Partners**);

v. from around September 2016 requests for transportation through the Uber app could be made in advance; and

b. otherwise deny paragraph 25.

Expansion of UberX

26. As to paragraph 26, the Defendants:

a. say that, in around April 2013, Uber Inc published on a website, www.uber.com, a document entitled "Uber Policy White Paper 1.0";

b. say that, in broad terms, the matters pleaded at paragraph 26(a)-(~~a~~b) ~~(sic)~~ of the ~~2FASOC~~4FASOC were stated in the White Paper;

c. say further those matters were referable to jurisdictions where Uber faced competition from other ridesharing operations; and

d. otherwise deny paragraph 26.

26A. As to paragraph 26A, the Defendants:

a. admit that from about November 2013 internal guidance for Uber employees responsible for rolling out UberX in a new jurisdiction required the review of applicable laws and regulations;

b. admit the balance of paragraph 26A with respect to the period from around April 2014; and

c. otherwise deny paragraph 26A.

Review of applicable laws and regulations, including penalties and enforcement, in the Australian states

26B. The Defendants admit paragraph 26B.

Receipt of legal advice regarding the establishment and operation of UberX in the Australian states

26C. As to paragraph 26C, the Defendants:

a. admit that Uber B.V., Uber Technologies, Inc., Uber Australia and Rasier Operations received legal advice regarding the operation of UberX in the Australian States;

b. rely on that legal advice for its full terms and effect; and

~~d.~~c. otherwise deny paragraph 26C.

Engagement with Australian regulatory authorities and regulatory change

27. As to paragraph 27, the Defendants:

a. admit that from around 2014, discussions occurred on behalf of Uber Australia and Uber Inc with various regulatory authorities and government in the Australian States; and

b. otherwise deny paragraph 27.

27A. As to paragraph 27A, the Defendants:

a. repeat paragraph 27(a) above; and

b. otherwise deny paragraph 27A.

Promoting, procuring and encouraging the uptake of UberX in Australia

28. As to paragraph 28, the Defendants:

a. say that Uber Australia did, during the periods of time referred to in Schedule 1 and in respect of the Relevant Locations, undertake marketing in respect of the UberX Product;

b. say that Uber BV did from time to time, during the period referred to in Schedule 1 and in respect of the Relevant Locations, offer various promotions to Riders in respect of the UberX Product; and

c. otherwise deny paragraph 28.

29. As to paragraph 29, the Defendants:

a. say that they did from time to time, during the periods referred to in Schedule 1, in respect of the Relevant Locations, undertake marketing activities directed to UberX Driver Partners;

b. say that one or more of the Uber Entities did from time to time, during the periods referred to in Schedule 1, in respect of the Relevant Locations, offer incentives to UberX Driver Partners; and

c. otherwise deny paragraph 29.

Minimum vehicle requirements for UberX in Australia

30. The Defendants:

a. admit that minimum vehicle standards were set from time to time in respect of the UberX Product in the Relevant Locations; and

b. otherwise deny paragraph 30.

UberX Partners in Australia

31. The Defendants:

a. admit paragraph 31(a);

b. admit paragraph 31(b); and

c. as to paragraph 31(c), admit that one or more of the Uber Entities published minimum vehicle standards on the website www.uber.com, repeat paragraph 30 above and otherwise deny paragraph 31(c).

32. The Defendants deny paragraph 32 and further say that, during the material times alleged:

a. to the extent that a prospective UberX Driver Partner created an account in the Relevant Locations, the information provided was received by Uber BV;

b. as part of the activation process, Uber Australia procured criminal record checks, or otherwise confirmed such criminal record checks, on prospective UberX Driver Partners; and

c. as part of the activation process, Uber Australia arranged and reviewed the results of third party vehicle inspections of the vehicle nominated by prospective UberX Driver Partners for use in the provision of the UberX Product.

33. The Defendants deny paragraph 33.

33A. As to paragraph 33A, the Defendants:

a. admit paragraphs 33A(a) and (b); and

b. deny paragraph 33A(c) and repeat paragraphs 32(b) and (c) above.

Rasier Operations

34. The Defendants admit paragraph 34.

35. As to paragraph 35, the Defendants:

a. admit that from around May 2014, the Fifth Defendant (**Rasier Operations**) entered into agreements with UberX Driver Partners entitled "Transportation Provider Service Agreement"; and

b. otherwise deny paragraph 35.

36. As to paragraph 36, the Defendants:

a. say that there were terms in the Transportation Provider Service Agreement broadly to the effect pleaded in paragraphs 36 (a)–(k) of the ~~2FASOC~~4FASOC, but those terms did not refer to Point to Point Passenger Transport Services (as defined in the ~~2FASOC~~4FASOC);

b. rely on the terms of the Transportation Provider Service Agreement for their full force and effect; and

c. otherwise deny paragraph 36.

37. The Defendants deny paragraph 37.

38. As to paragraph 38, the Defendants:

a. say that, from time to time, smartphones were provided by Rasier Operations to UberX Driver Partners up to late 2014;

b. admit that the Transportation Provider Service Agreement, during the period May 2014 to December 2015, contained clauses broadly to the effect pleaded at paragraph 38(b);

c. admit that the Transportation Provider Service Agreement, during the period May 2014 to December 2015, contained clauses broadly to the effect pleaded at paragraph 38(c); and

d. otherwise deny paragraph 38.

38A. As to paragraph 38A, the Defendants:

a. say on or about 5 November 2015, Rasier Operations entered into a marketing arrangement across the Australian States with Splend Pty Ltd, a membership-based car hire business, that would enable Rasier Operations to inform prospective UberX Driver Partners about an option to obtain vehicles on a short-term to medium-term basis via a car hire arrangement; and

b. otherwise deny paragraph 38A.

Rasier Pacific

39. As to paragraph 39, the Defendants:

a. say on or about 23 December 2015, Rasier Operations and Rasier Pacific entered into an agreement concerning the Uber app in Australia which enabled the registered partnership between Rasier Pacific to enter into agreements with UberX Driver Partners; and

b. otherwise deny paragraph 39.

40. As to paragraph 40, the Defendants:

a. say from about 23 December 2015, Rasier Pacific entered into agreements with UberX Driver Partners entitled Rasier Pacific V.O.F. Services Agreement; and

b. otherwise deny paragraph 40.

41. As to paragraph 41 the Defendants:

a. say that there were terms in the Rasier Pacific V.O.F. Services Agreement broadly to the effect pleaded in paragraph 41(a)–(e), (g)–(o) of the ~~2FASOC~~4FASOC; and

b. otherwise deny paragraph 41.

42. The Defendants deny paragraph 42.

43. The Defendants deny paragraph 43 and say that:

a. the Rasier Pacific V.O.F. Services Agreement applied from 23 December 2015; and

b. from 17 November 2016, UberX Driver Partners could not elect to have a smartphone provided by Rasier Pacific.

43A. As to paragraph 43A, the Defendants:

a. say on or about 8 April 2016, Rasier Pacific entered into a marketing arrangement across the Australian States with Atlas CTL Pty Ltd, a membership-based car hire business that would enable Rasier Pacific to inform prospective UberX Driver Partners about an option to obtain vehicles on a short-term to medium-term basis via a car hire arrangement; and

b. otherwise deny paragraph 43A.

UberX in Australia

44. The Defendants deny paragraph 44 and say that the UberX Product became available to and used by Riders, and provide by UberX Driver Partners, in the Relevant Locations during the periods of time referred to in Schedule 1.

45. The Defendants:

a. refer to and repeat paragraphs 14, 22, 34, 39, 41 and 44 above;

b. say that Rasier Pacific entered into the distribution agreement with Rasier Operations pleaded at paragraph 39 above on or about 23 December 2015 and that Rasier Pacific V.O.F. Services Agreement applied from 23 December 2015; and

c. otherwise deny paragraph 45.

46. The Defendants deny paragraph 46 and say that:

a. the Uber app and the Uber Partner app were available in the Relevant Locations during the period of times referred to in Schedule 1;

b. a Rider accessed the UberX Product by opening the Uber app on a smartphone device and either:

i. the Rider was required to enter the relevant sign in details, namely an email address and a password; or

ii. such details were saved and automatically recognised by the Uber app, depending on the Rider's smartphone or Uber app settings;

c. a Rider was then given access to a map that displayed vehicles of UberX Driver Partners;

d. a Rider was then asked to confirm their pick up address (either by accepting the location detected by the Uber app via GPS or by manually entering a location), and was provided an option to nominate the destination address;

e. a Rider was then given the option to request an estimate of the cost of the potential ride;

f. a Rider then pressed a square marked "REQUEST uberX";

g. the Uber app sent the request from the Rider, via the Uber Partner app, to the UberX Driver Partner located closest to the Rider;

h. an UberX Driver Partner then chose to accept or decline the request, at his or her discretion, such that if the request was declined, the Uber app continued to send the ride request to nearby UberX Driver Partners through the Uber Partner app, until an UberX Driver Partner accepted the request;

i. the screen that was then displayed identified the UberX Driver Partner who had accepted the request, by name and also contained:

i. a photograph of the UberX Driver Partner;

ii. the registration plate of the UberX Driver Partner's vehicle;

iii. a description of the make and model of the UberX Driver Partner's vehicle;

iv. the feedback "star rating" of the UberX Driver Partner; and

v. an option to cancel the ride request, to call the UberX Driver Partner, or to send a text message to the UberX Driver Partner;

j. upon the Rider entering the vehicle of the UberX Driver Partner, the UberX Driver Partner pressed a button in the Uber Partner app to indicate that the ride had commenced;

k. the UberX Driver Partner then drove the Rider to the nominated destination;

l. on arrival at the nominated destination, the UberX Driver Partner made an electronic record of the destination location by pressing a button in the Uber Partner app to indicate the ride had ended;

m. the pick-up location and destination locations were used by Uber BV to calculate the cost to be charged to the Rider by the UberX Driver Partner for the ride;

n. prior to 23 December 2015, the cost was calculated in accordance with the service fee schedule which formed part of the Transportation Provider Services Agreement between the UberX Driver Partner and Rasier Operations, subject to any variances such as promotional fee discounts or demand-based pricing;

o. from 23 December 2015, the cost was calculated upon a base fare amount plus distance as determined by Rasier Pacific using location-based services enabled through the UberX Driver Partner's device and/or time amounts, as detailed at the website www.uber.com/cities for the applicable Relevant Location, subject to any variances such as promotional fee discounts or demand-based pricing;

p. at the conclusion of the ride, the credit card or PayPal account that the Rider had on file with Uber BV was then charged with the amount of the calculated fee; and

q. Uber BV issued an electronic receipt on behalf of the UberX Driver Partner to the Rider by email.

47. As to paragraph 47 the Defendants:

a. refer to and repeat paragraph 46 above;

b. say the fees payable by a Rider to an UberX Driver Partner were calculated and paid in accordance with the process described at paragraphs 47(a) – (f), save that:

i. payment via PayPal was not available until November 2015;

ii. the fees payable by a Rider to an UberX Driver Partner were deducted by Uber BV from the Rider's credit card or PayPal account on behalf of the UberX Driver Partners and credited to an account of Uber BV;

iii. Uber BV issued an electronic receipt on behalf of the UberX Driver Partner to the Rider by email;

iv. the Service Fee was charged until 22 December 2015 by Rasier Operations and from 23 December 2015 by Rasier Pacific; and

c. otherwise deny paragraph 47.

47A. As to paragraph 47A, the defendants:

a. admit paragraphs 47A(a) and (b);

b. admit that certain trip data was used by Uber Australia for the purposes of:

i. performing analytics regarding driver supply, rider demand, requests and acceptance rates, trips taken and fares paid;

ii. identifying trips taken by suspected transport compliance or regulatory enforcement officers; and

iii. strategic marketing, business analysis and planning, and support services; and

c. otherwise deny paragraph 47A.

48. As to paragraph 48, the Defendants:

a. admit that in the Relevant Locations and at the times referred to in Schedule 1, Uber Australia promoted to actual and potential UberX Driver Partners:

i. certain benefits of being an UberX Partner Driver, including those matters set out in paragraph 48(a)–(d);

ii. that UberX Partner Drivers were not limited to using the UberX product to receive ride requests;

iii. that UberX Driver Partners were able to be a Driver Partner around existing employment conditions; and

b. otherwise deny paragraph 48.

~~The Defendants deny paragraph 48 and further say to the extent that Uber Australia engaged in promotional activities in respect of UberX Driver Partners, they generally did so in the Relevant Locations and at the times referred to in Schedule 1, and broadly concerned the matters set out in paragraph 48(a) – (d).~~

48A. The Defendants deny paragraph 48A.

PART C - THE UBER ENTITIES' STRATEGY

Competition with other Point to Point Passenger Transport Services

~~48.~~49. The Defendants deny paragraph 49 and say that:

a. the UberX Product became available in the Relevant Locations during the period of times referred to in Schedule 1; and

b. by reason of subparagraph (a), UberX Driver Partners were available from time to time in the vicinity of the Relevant Locations in which they were driving to accept requests from Riders for transportation.

Unlawful conduct by UberX Partners and Uber Entities gave UberX a competitive advantage

~~49.~~50. The Defendants deny paragraph 50 and say:

a. that the Compliance Requirements that existed during the material times alleged are set out in Schedule 2; and

b. that such Compliance Requirements set out in Schedule 2 were not barriers to entry and says further that such matters were always subject to change or the possibility of change.

~~50.~~51. The Defendants:

a. repeat paragraphs 30 and 50 above; and

b. otherwise do not admit paragraph 51.

~~51.~~52. The Defendants deny paragraph 52.

~~52.~~53. The Defendants:

a. repeat paragraph 28 above;

b. say that to the extent that UberX Driver Partners were recruited in the Relevant Locations and at the times referred to in Schedule 1, the attraction to UberX Driver Partners broadly included matters such as those set out in subparagraphs 53 (b) – (d); and

c. otherwise deny paragraph 53.

~~53.~~54. The Defendants deny paragraph 54.

~~54.~~55. The Defendants:

a. repeat paragraph 28 above; and

b. otherwise deny paragraph 55.

~~55.~~56. The Defendants deny paragraph 56.

The Uber Entities' intention and knowledge that UberX Driver Partners would not be required to, and would not, satisfy Compliance Requirements

~~56.~~57. The Defendants deny paragraph 57.

Unlawful competition from UberX Driver Partners

~~56A.~~57A. The Defendants deny paragraph 57A.

~~56B.~~57B. The Defendants deny paragraph 57B.

PART D - FINES AND OTHER ENFORCEMENT ACTION, AND ENFORCEMENT EVASION

Victoria

~~57.~~58. The Defendants:

a. admit that infringement notices were issued to certain UberX Driver Partners from about May 2014;

b. admit that letters were sent by the Victorian Taxi Services Commission (**TSC**) to certain UberX Driver Partners threatening enforcement action from about July 2014;

c. admit that summonses were issued by the TSC to certain UberX Driver Partners from about November 2014;

d. say further that such infringement notices and summonses were not lawfully issued in the circumstances described in Schedule 3; and

e. otherwise deny paragraph 58.

~~58.~~59. The Defendants:

a. repeat paragraph 58 above;

b. admit that, from time to time, Rasier Operations and Uber Australia procured the payment of infringement notices issued to UberX Driver Partners including through an external law firm;

c. admit that, from time to time, one or more of the Uber Entities communicated that it would pay infringement notices issued to UberX Driver Partners;

d. admit that, from time to time, one or more of the Uber Entities informed or instructed UberX Driver Partners to notify one or more of the Uber Entities about any infringement notices and to provide the infringement notices to one or more of the Uber Entities;

e. admit that, from time to time, one or more of the Uber Entities assisted UberX Driver Partners with obtaining legal representation, and entered into third party payment arrangements with those lawyers; and

f. otherwise deny paragraph 59.

New South Wales

~~59.~~60. The Defendants:

a. admit that penalty notices were issued to certain UberX Driver Partners from about May 2014;

b. admit that the RMS threatened to issue court attendance notices (**CANs**) to certain UberX Driver Partners from about September 2014;

c. admit that CANs were issued by the RMS to certain UberX Driver Partners from about December 2014;

d. say further that such penalty notices and CANs were not lawfully issued in the circumstances described in Schedule 3; and

e. otherwise deny paragraph 60.

~~60.~~61. The Defendants:

a. repeat paragraph 60 above;

b. admit that, from time to time, Uber Australia procured payment of certain penalty notices issued to UberX Driver Partners including through an external law firm;

c. admit that, from time to time, one or more of the Uber Entities communicated that it would pay penalty notices issued to UberX Driver Partners;

d. admit that, from time to time, one or more of the Uber Entities informed or instructed UberX Driver Partners to notify one or more of the Uber Entities about any penalty notices and to provide the penalty notices to one or more of the Uber Entities;

e. admit that, from time to time, one or more of the Uber Entities assisted UberX Driver Partners with obtaining legal representation, and entered into third party payment arrangements with those lawyers; and

f. otherwise deny paragraph 61.

Queensland

~~61.~~62. The Defendants:

a. admit that infringement notices were issued to certain UberX Driver Partners from about August 2014; and

b. say further that such infringement notices were not lawfully issued in the circumstances described in Schedule 3; and

c. otherwise deny paragraph 62

~~62.~~63. The Defendants:

a. repeat paragraph 62 above;

b. admit that, from time to time, Uber Australia procured payment of certain infringement notices issued to UberX Driver Partners including through an external law firm;

c. admit that, from time to time, one or more of the Uber Entities communicated that it would pay infringement notices issued to UberX Driver Partners;

d. admit that, from time to time, one or more of the Uber Entities informed or instructed UberX Driver Partners to notify one or more of the Uber Entities about any infringement notices and to provide the infringement notices to one or more of the Uber Entities; and

e. otherwise deny paragraph 63.

Western Australia

~~63.~~64. The Defendants:

a. admit that infringement notices were issued to certain UberX Driver Partners from about December 2014;

b. admit that prosecution notices and court hearing notices were issued to certain UberX Driver Partners from about April 2015;

c. say further that such infringement notices, prosecution notices and court hearing notices were not lawfully issued in the circumstances described in Schedule 3; and

d. otherwise deny paragraph 64.

~~64.~~65. The Defendants:

a. repeat paragraph 64 above;

b. say that, from time to time, Uber BV and Uber Australia procured payment of certain infringement notices issued to UberX Driver Partners including through an external law firm;

c. admit that, from time to time, one or more of the Uber Entities communicated that it would pay infringement notices issued to UberX Driver Partners;

d. admit that, from time to time, one or more of the Uber Entities informed or instructed UberX Driver Partners to notify one or more of the Uber Entities about any infringement notices and to provide the infringement notices to one or more of the Uber Entities;

e. admit that, from time to time, one or more of the Uber Entities assisted UberX Driver Partners with obtaining legal representation, and entered into third party payment arrangements with those lawyers; and

f. otherwise deny paragraph 65.

Support of UberX Partners was for the purpose of maintaining supply

65A. The Defendants deny paragraph 65A.

Evading and delaying enforcement action

65B. The Defendants:

a. as to paragraph 65B(c)(i), admit that one or more of the Uber Entities told the regulatory authorities in Victoria and NSW that they intended to, or did, provide a "car pooling-like" service;

b. admit paragraph 65B(c)(ii);

c. as to paragraph 65B(d), admit that on one occasion in April 2014, one or more of the Uber entities delayed access by regulatory authorities to electronic records; and

d. otherwise deny paragraph 65B.

~~The Defendants deny paragraph 65B.~~

~~65.~~66. As to paragraph 66, the Defendants:

a. admit that ~~certain tools existed~~ from about 2014, an entity or entities within the Uber Group developed or caused to be developed certain tools that could, if used, enable users within the Uber Group to do one or more of the things broadly described in paragraphs 66(a) to (e) of the 2FASOC; and

b. otherwise deny~~e not~~ admit paragraph 66.

67. As to paragraph 67, the Defendants:

a. admit that during the Claim Period, one or more of the Uber entities identified Riders in the Australian States in the manner broadly described in paragraph 67(a); and

~~c.~~b. otherwise~~The Defendants~~ deny paragraph 67.

PART E - CONSPIRACY BY UNLAWFUL MEANS

Commission of offences by UberX Driver Partners in Victoria

Offences against section 158(1) of the Victorian Transport Act

~~66.~~68. The Defendants admit paragraph 68 and refer to Schedule 3.

~~67.~~69. The Defendants:

a. deny paragraph 69;

b. refer to Schedule 3;

c. further say the allegation is embarrassing in that:

i. it is hypothetical and refers to matters which are said to be "typical";

ii. it does not plead an alleged offence that actually occurred or any facts, matters or circumstances referable to any specific event or specific conduct in respect of any named UberX Driver Partner; and

d. by reason of subparagraph (c), it is not possible to determine whether or not certain of the defences which would have been available to any named UberX Driver Partner may have been engaged such that it cannot be established that the alleged hypothetical UberX Driver Partner would have been found guilty of an offence.

Offences against section 165 of the Victorian Transport Act

~~68.~~70. The Defendants admit paragraph 70 and refer to Schedule 3.

~~69.~~71. The Defendants:

a. deny paragraph 71;

b. refer to Schedule 3;

c. further say the allegation is embarrassing in that:

i. it is hypothetical and refers to matters which are said to be "typical";

ii. it does not plead an alleged offence that actually occurred or any facts, matters or circumstances referable to any specific event or specific conduct in respect of any named UberX Driver Partner; and

d. by reason of subparagraph (c), it is not possible to determine whether or not certain of the defences which would have been available to any named UberX Driver Partner may have been engaged such that it cannot be established that the alleged hypothetical UberX Driver Partner would have been found guilty of an offence.

Complicity by Uber Entities in the commission of offences by UberX Driver Partners in Victoria

~~70.~~72. The Defendants deny paragraph 72 and repeat paragraphs 69 and 71 above.

~~71.~~73. The Defendants deny paragraph 73 and repeat paragraphs 69 and 71 above.

~~71A.~~73A. The Defendants deny paragraph 73A and repeat paragraph 69 and 71 above.

~~72.~~74. The Defendants deny paragraph 74 and repeat paragraphs 69 and 71 above.

~~73.~~75. The Defendants deny paragraph 75 and repeat paragraphs 69 and 71 above.

Conspiracy by unlawful means in Victoria

~~73A.~~75A. The Defendants deny paragraph 75A and further repeat paragraphs 69 and 71 above and refer to and repeat paragraph 76 below.

~~74.~~76. The Defendants deny paragraph 76 and:

a. repeat paragraph 49 above; and

~~b. say the particulars, as set out at paragraph 76(2) of the 2FASOC4FASOC, including the allegation of unlawful competition, are incapable of supporting the allegation of an agreement or combination "with the common intention of injury" and that is an incorrect formulation of the intentional aspect of the tort or, is otherwise insufficient to make out the alleged tort; and~~

~~c.~~b. say that further or alternatively, as a matter of fact and law, the alleged intention cannot be founded upon the alleged actions by the Uber Entities other than Rasier Pacific as companies in the same group, since the taking of those actions does not evidence, was not founded upon, and cannot establish any agreement or any agreed combination between them that was arrived at with the intention of injuring the Plaintiff and/or each Industry Member; and consequently those actions do not give rise to any tortious conspiracy.

76A. The Defendants deny paragraph 76A.

~~75.~~77. The Defendants deny paragraph 77 and repeat paragraph 76 above.

~~76.~~78. The Defendants deny paragraph 78 and repeat paragraph 76 above.

Commission of offences by Uber Entities and UberX Driver Partners in New South Wales

Offences against s 37(1) of the NSW Transport Act

~~77.~~79. The Defendants admit paragraph 79 and refer to Schedule 3.

~~78.~~80. The Defendants deny paragraph 80.

~~79.~~81. The Defendants deny paragraph 81 and refer to Schedule 3.

~~80.~~82. The Defendants:

a. deny paragraph 82;

b. refer to Schedule 3;

c. further say that the allegation is embarrassing in that:

i. it is hypothetical and refers to matters which are said to be "typical";

ii. it does not plead an alleged offence that actually occurred or any facts, matters or circumstances referable to any specific event or specific conduct in respect of any named UberX Driver Partner; and

d. by reason of subparagraph (c), it is not possible to determine whether or not certain of the defences which would have been available to any named UberX Driver Partner may have been engaged such that it cannot be established that the alleged hypothetical UberX Driver Partner would have been found guilty of an offence.

~~81.~~83. The Defendants:

a. deny paragraph 83;

b. refer to Schedule 3;

c. further say that the allegation is embarrassing in that:

i. it is hypothetical and refers to matters which are said to be "typical";

ii. it does not plead an alleged offence that actually occurred or any facts, matters or circumstances referable to any specific event or specific conduct in respect of any named UberX Driver Partner; and

d. by reason of subparagraph (c), it is not possible to determine whether or not certain of the defences which would have been available to any named UberX Driver Partner may have been engaged such that it cannot be established that the alleged hypothetical UberX Driver Partner would have been found guilty of an offence.

Offences against s 40(2) of the NSW Transport Act

~~82.~~84. The Defendants admit paragraph 84 and refer to Schedule 3.

~~83.~~85. The Defendants:

a. deny paragraph 85;

b. refer to Schedule 3;

c. further say that the allegation is embarrassing in that:

i. it is hypothetical and refers to matters which are said to be "typical";

ii. it does not plead an alleged offence that actually occurred or any facts, matters or circumstances referable to any specific event or specific conduct in respect of any named UberX Driver Partner; and

d. by reason of subparagraph (c), it is not possible to determine whether or not certain of the defences which would have been available to any named UberX Driver Partner may have been engaged such that it cannot be established that the alleged hypothetical UberX Driver Partner would have been found guilty of an offence.

Complicity by Uber Entities in the commission of offences by UberX Driver Partners in New South Wales

~~84.~~86. The Defendants deny paragraph 86 and repeat paragraphs 82, 83 and 85 above.

~~85.~~87. The Defendants deny paragraph 87 and repeat paragraphs 82, 83 and 85 above.

~~86.~~88. The Defendants deny paragraph 88 and repeat paragraphs 82, 83 and 85 above.

Conspiracy by unlawful means - New South Wales

~~86A.~~88A. The Defendants deny paragraph 88A and further repeat paragraphs 82, 83 and 85 above and refer to and repeat paragraph 89 below.

~~87.~~89. The Defendants deny paragraph 89 and:

a. repeat paragraph 49 above; and

~~b. say the particulars, as set out at paragraph 89(2) of the 2FASOC4FASOC, including the allegation of unlawful competition, are incapable of supporting the allegation of an agreement or combination "with the common intention of injury" and that is an incorrect formulation of the intentional aspect of the tort or, is otherwise insufficient to make out the alleged tort; and~~

~~c.~~b. say that further or alternatively, as a matter of fact and law, the alleged intention cannot be founded upon the alleged actions by the Uber Entities other than Rasier Pacific as companies in the same group, since the taking of those actions does not evidence, was not founded upon, and cannot establish any agreement or any agreed combination between them that was arrived at with the intention of injuring the Plaintiff and/or each Industry Member; and consequently those actions do not give rise to any tortious conspiracy.

89A. The Defendants deny paragraph 89A.

~~88.~~90. The Defendants deny paragraph 90 and repeat paragraph 89 above.

Commission of offences by Uber Entities and UberX Driver Partners in Queensland

Offences against s 15 of the Queensland Transport Act

~~89.~~91. The Defendants admit paragraph 91 and refer to Schedule 3.

~~90.~~92. The Defendants deny paragraph 92.

~~91.~~93. The Defendants deny paragraph 93 and refer to Schedule 3.

~~92.~~94. The Defendants:

a. deny paragraph 94;

b. refer to Schedule 3;

c. say that the allegation is embarrassing in that:

i. it is hypothetical and refers to matters which are said to be "typical"; and

ii. it does not plead an alleged offence that actually occurred or any facts, matters or circumstances referable to any specific event or specific conduct in respect of any named "driver" (as that term is used in 15(b) of the Queensland Transport Act).

~~93.~~95. The Defendants:

a. deny paragraph 95;

b. refer to Schedule 3;

c. say that the allegation is embarrassing in that:

i. it is hypothetical and refers to matters which are said to be "typical";

ii. it does not plead an alleged offence that actually occurred or any facts, matters or circumstances referable to any specific event or specific conduct in respect of any UberX Driver Partner; and

d. by reason of subparagraph (c), it is not possible to determine whether or not certain of the defences which would have been available to any named UberX Driver Partner may have been engaged such that it cannot be established that the alleged hypothetical UberX Driver Partner would have been found guilty of an offence.

~~94.~~96. The Defendants:

a. deny paragraph 96;

b. refer to Schedule 3;

c. say that the allegation is embarrassing in that:

i. it is hypothetical and refers to matters which are said to be "typical";

ii. it does not plead an alleged offence that actually occurred or any facts, matters or circumstances referable to any specific event or specific conduct in respect of any UberX Driver Partner; and

d. by reason of subparagraph (c), it is not possible to determine whether or not certain of the defences which would have been available to any named UberX Driver Partner may have been engaged such that it cannot be established that the alleged hypothetical UberX Driver Partner would have been found guilty of an offence.

Offences against s 27 of the Queensland Transport Act

~~95.~~97. The Defendants admit paragraph 97 and refer to Schedule 3.

~~96.~~98. The Defendants:

a. deny paragraph 98;

b. refer to Schedule 3;

c. say that the allegation is embarrassing in that:

i. it is hypothetical and refers to matters which are said to be "typical";

ii. it does not plead an alleged offence that actually occurred or any facts, matters or circumstances referable to any specific event or specific conduct in respect of any UberX Driver Partner; and

d. by reason of subparagraph (c), it is not possible to determine whether or not certain of the defences which would have been available to any named UberX Driver Partner may have been engaged such that it cannot be established that the alleged hypothetical UberX Driver Partner would have been found guilty of an offence.

Offences against s 70 of the Queensland Transport Act

~~97.~~99. The Defendants admit paragraph 99 and refer to Schedule 3.

~~98.~~100. The Defendants admit paragraph 100 and refer to Schedule 3.

~~99.~~101. The Defendants:

a. deny paragraph 101;

b. refer to Schedule 3;

c. say that the allegation is embarrassing in that:

i. it is hypothetical and refers to matters which are said to be "typical";

ii. it does not plead an alleged offence that actually occurred or any facts, matters or circumstances referable to any specific event or specific conduct in respect of any UberX Driver Partner; and

d. by reason of subparagraph (c), it is not possible to determine whether or not certain of the defences which would have been available to any named UberX Driver Partner may have been engaged such that it cannot be established that the alleged hypothetical UberX Driver Partner would have been found guilty of an offence.

~~100.~~102. The Defendants:

a. deny paragraph 102;

b. refer to Schedule 3;

c. say that the allegation is embarrassing in that:

i. it is hypothetical and refers to matters which are said to be "typical";

ii. it does not plead an alleged offence that actually occurred or any facts, matters or circumstances referable to any specific event or specific conduct in respect of any UberX Driver Partner; and

d. by reason of subparagraph (c), it is not possible to determine whether or not certain of the defences which would have been available to any named UberX Driver Partner may have been engaged such that it cannot be established that the alleged hypothetical UberX Driver Partner would have been found guilty of an offence.

Complicity by Uber Entities in the commission of offences by UberX Driver Partners in Queensland

~~101.~~103. The Defendants deny paragraph 103 and repeat paragraphs 95, 96, 98, 101 and 102 above.

~~102.~~104. The Defendants deny paragraph 104 and repeat paragraphs 95, 96, 98, 101 and 102 above.

~~103.~~105. The Defendants deny paragraph 105 and repeat paragraphs 95, 96, 98, 101 and 102 above.

~~104.~~106. The Defendants deny paragraph 106 and repeat paragraphs 95, 96, 98, 101 and 102 above.

Conspiracy by unlawful means - Queensland

~~104A.~~106A. The Defendants deny paragraph 106A and further repeat paragraphs 95, 96, 98, 101 and 102 above and refer to and repeat paragraph 107 below.

~~105.~~107. The Defendants deny paragraph 107 and:

a. repeat paragraph 49 above; and

~~b. say the particulars, as set out at paragraph 107(2) of the 2FASOC4FASOC, including the allegation of unlawful competition, are incapable of supporting the allegation of an agreement or combination "with the common intention of injury" and that is an incorrect formulation of the intentional aspect of the tort or, is otherwise insufficient to make out the alleged tort; and~~

~~c.~~b. say that further or alternatively, as a matter of fact and law, the alleged intention cannot be founded upon the alleged actions by the Uber Entities other than Rasier Pacific as companies in the same group, since the taking of those actions does not evidence, was not founded upon, and cannot establish any agreement or any agreed combination between them that was arrived at with the intention of injuring the Plaintiff and/or each Industry Member; and consequently those actions do not give rise to any tortious conspiracy.

107A. The Defendants deny paragraph 107A.

~~106.~~108. The Defendants deny paragraph 108 and repeat paragraph 107 above.

~~107.~~109. The Defendants deny paragraph 109 and repeat paragraph 107 above.

Commission of offences by Uber Entities and UberX Driver Partners in Western Australia

Offences against section 15 of the Taxi Act (WA)

~~108.~~110. The Defendants admit paragraph 110 and refer to Schedule 3.

~~109.~~111. The Defendants admit paragraph 111 and refer to Schedule 3.

~~110.~~112. The Defendants:

a. deny paragraph 112;

b. refer to Schedule 3;

c. further say the allegation is embarrassing in that:

i. it is hypothetical and refers to matters which are said to be "typical";

ii. it does not plead an alleged offence that actually occurred or any facts, matters or circumstances referable to any specific event or specific conduct in respect of any named UberX Driver Partner; and

d. by reason of subparagraph (c), it is not possible to determine whether or not certain of the defences which would have been available to any named UberX Driver Partner may have been engaged such that it cannot be established that the alleged hypothetical UberX Driver Partner would have been found guilty of an offence.

~~111.~~113. The Defendants deny paragraph 113.

~~112.~~114. The Defendants deny paragraph 114 and refer to Schedule 3.

Offences against section 26 of the Taxi Act (WA)

~~113.~~115. The Defendants admit paragraph 115 and refer to Schedule 3.

~~114.~~116. The Defendants deny paragraph 116.

~~115.~~117. The Defendants deny paragraph 117 and refer to Schedule 3.

Offences against section 50 of the Transport Co-ordination Act (WA)

~~116.~~118. The Defendants admit paragraph 118 and refer to Schedule 3.

~~117.~~119. The Defendants admit paragraph 119.

~~118.~~120. The Defendants:

a. deny paragraph 120;

b. refer to Schedule 3;

c. further say the allegation is embarrassing in that:

i. it is hypothetical and refers to matters which are said to be "typical";

ii. it does not plead an alleged offence that actually occurred or any facts, matters or circumstances referable to any specific event or specific conduct in respect of any named UberX Driver Partner; and

d. by reason of subparagraph (c), it is not possible to determine whether or not certain of the defences which would have been available to any named UberX Driver Partner may have been engaged such that it cannot be established that the alleged hypothetical UberX Driver Partner would have been found guilty of an offence.

~~119.~~121. The Defendants deny paragraph 121 and refer to Schedule 3.

Offences against section 47ZD of the Transport Co-ordination Act (WA)

~~120.~~122. The Defendants admit paragraph 122 and refer to Schedule 3.

~~121.~~123. The Defendants admit paragraph 123 and refer to Schedule 3.

~~122.~~124. The Defendants:

a. deny paragraph 124;

b. refer to Schedule 3;

c. further say the allegation is embarrassing in that:

i. it is hypothetical and refers to matters which are said to be "typical";

ii. it does not plead an alleged offence that actually occurred or any facts, matters or circumstances referable to any specific event or specific conduct in respect of any named UberX Driver Partner; and

d. by reason of subparagraph (c), it is not possible to determine whether or not certain of the defences which would have been available to any named UberX Driver Partner may have been engaged such that it cannot be established that the alleged hypothetical UberX Driver Partner would have been found guilty of an offence.

~~123.~~125. The Defendants deny paragraph 125.

~~124.~~126. The Defendants deny paragraph 126 and refer to Schedule 3.

~~125.~~127. The Defendants deny paragraph 127 and refer to Schedule 3.

Offences against section 47ZE of the Transport Co-ordination Act (WA)

~~126.~~128. The Defendants admit paragraph 128 and refer to Schedule 3.

~~127.~~129. The Defendants admit paragraph 129 and refer to Schedule 3.

~~128.~~130. The Defendants:

a. deny paragraph 130;

b. refer to Schedule 3;

c. further say the allegation is embarrassing in that:

i. it is hypothetical and refers to matters which are said to be "typical";

ii. it does not plead an alleged offence that actually occurred or any facts, matters or circumstances referable to any specific event or specific conduct in respect of any named UberX Driver Partner; and

d. by reason of subparagraph (c), it is not possible to determine whether or not certain of the defences which would have been available to any named UberX Driver Partner may have been engaged such that it cannot be established that the alleged hypothetical UberX Driver Partner would have been found guilty of an offence.

~~129.~~131. The Defendants:

a. deny paragraph 131;

b. refer to Schedule 3;

c. further say the allegation is embarrassing in that:

i. it is hypothetical and refers to matters which are said to be "typical";

ii. it does not plead an alleged offence that actually occurred or any facts, matters or circumstances referable to any specific event or specific conduct in respect of any named UberX Driver Partner; and

d. by reason of subparagraph (c), it is not possible to determine whether or not certain of the defences which would have been available to any named UberX Driver Partner may have been engaged such that it cannot be established that the alleged hypothetical UberX Driver Partner would have been found guilty of an offence.

Offences against section 49 of the Road Traffic Act (WA)

~~130.~~132. The Defendants admit paragraph 132 and refer to Schedule 3.

~~131.~~133. The Defendants admit paragraph 133 and refer to Schedule 3.

~~132.~~134. The Defendants:

a. deny paragraph 134;

b. refer to Schedule 3;

c. further say the allegation is embarrassing in that:

i. it is hypothetical and refers to matters which are said to be "typical";

ii. it does not plead an alleged offence that actually occurred or any facts, matters or circumstances referable to any specific event or specific conduct in respect of any named UberX Driver Partner; and

d. by reason of subparagraph (c), it is not possible to determine whether or not certain of the defences which would have been available to any named UberX Driver Partner may have been engaged such that it cannot be established that the alleged hypothetical UberX Driver Partner would have been found guilty of an offence.

~~133.~~135. The Defendants:

a. deny paragraph 135;

b. refer to Schedule 3;

c. further say the allegation is embarrassing in that:

i. it is hypothetical and refers to matters which are said to be "typical";

ii. it does not plead an alleged offence that actually occurred or any facts, matters or circumstances referable to any specific event or specific conduct in respect of any named UberX Driver Partner; and

d. by reason of subparagraph (c), it is not possible to determine whether or not certain of the defences which would have been available to any named UberX Driver

Partner may have been engaged such that it cannot be established that the alleged hypothetical UberX Driver Partner would have been found guilty of an offence.

Complicity by Uber Entities in the commission of offences by UberX Driver Partners in Western Australia

~~134.~~136. The Defendants deny paragraph 136 and repeat paragraphs 112, 120, 124, 130, 131, 134 and 135 above.

~~135.~~137. The Defendants deny paragraph 137 and repeat paragraphs 112, 120, 124, 130, 131, 134 and 135 above.

~~136.~~138. The Defendants deny paragraph 138 and repeat paragraphs 112, 120, 124, 130, 131, 134 and 135 above.

~~137.~~139. The Defendants deny paragraph 139 and repeat paragraphs 112, 120, 124, 130, 131, 134 and 135 above.

Conspiracy by unlawful means - Western Australia

~~137A.~~139A. The Defendants deny paragraph 139A and further repeat paragraphs 112, 120, 124, 130, 131, 134 and 135 above and refer to and repeat paragraph 140 below.

~~138.~~140. The Defendants deny paragraph 140 and:

a. repeat paragraph 49 above; and

~~b. say the particulars, as set out at paragraph 140(2) of the 2FASOC4FASOC, including the allegation of unlawful competition, are incapable of supporting the allegation of an agreement or combination "with the common intention of injury" and that is an incorrect formulation of the intentional aspect of the tort or, is otherwise insufficient to make out the alleged tort; and~~

~~c.~~b. say that further or alternatively, as a matter of fact and law, the alleged intention cannot be founded upon the alleged actions by the Uber Entities other than Rasier Pacific as companies in the same group, since the taking of those actions does not evidence, was not founded upon, and cannot establish any agreement or any agreed combination between them that was arrived at with the intention of injuring the Plaintiff and/or each Industry Member; and consequently those actions do not give rise to any tortious conspiracy.

140A. The Defendants deny paragraph 140A.

~~139.~~141. The Defendants deny paragraph 141 and repeat paragraph 140 above.

~~140.~~142. The Defendants deny paragraph 142 and repeat paragraph 140 above.

PART F - LOSS AND DAMAGE

~~140A.~~142A. The Defendants deny paragraph 142A and further say:

a. the loss and damage alleged to have been suffered by the Plaintiff and Industry Members was not caused by the Uber Entities in circumstances where:

i. any loss and damage to the Plaintiff and Industry Members was caused by the change to legislation and/or regulations made in each of the Australian States;

ii. the licence values and revenues of the Plaintiff and Industry Members began declining before the UberX Product was available in the Relevant Locations;

iii. the licence values and revenues of the Plaintiff and Industry Members would have continued to decline in the Relevant Locations in the absence of the UberX Product becoming available;

Particulars

The Defendants rely on the following facts, matters and circumstances, in relation to paragraphs subparagraphs (a)(ii) and (a)(iii):

1. *Customers First: Service, Safety, Choice* (Final Report, December 2012, Professor Allan Fels AO) (proposing taxi industry reforms in Victoria);
2. *Competition Policy Review* (Final Report, March 2015, Professor Ian Harper) (proposing reforms nationally);
3. broader economic conditions (*Economic Effects of Ridesharing in Australia* (2016, Deloitte Access Economics));
4. legislative and regulatory uncertainty following recommendations for law reform;
5. law reforms ultimately introduced in each Australian State;
6. other regulatory reform, including lockout laws; and
7. further particulars may be provided prior to trial.

b. in the events that have happened, the introduction of the UberX Product in the Relevant Locations:

i. has expanded the market for point to point transportation;

ii. has increased the potential revenue of the Plaintiff and Industry Members;

iii. has led to other efficiencies and better performance in the market or markets in which the Plaintiff and Industry Members were operating;

c. in the events that have happened, significant compensation schemes as set out in Schedule 4 have been made available to the Plaintiff and certain of the Industry Members; and

d. to the extent that UberX Driver Partners committed any offences (which is denied), further or alternatively, that the claim made against any of the Uber Entities is established (which is denied), any loss or damage caused to the Plaintiff or Industry Members was caused by the regulators or law enforcement bodies in each of the Relevant Locations either expressly or tacitly not enforcing the relevant regulations or bringing any enforcement action against any of the Uber Entities, or alternatively expressly or implicitly encouraging the operation of UberX Driver Partners in the Relevant Locations, and thereby allowing or otherwise tacitly allowing UberX Driver Partners to operate in the Relevant Locations.

~~141.~~143. The Defendants deny paragraph 143 and repeat paragraph 142A above.

143A. The Defendants deny paragraph 143A.

PART G – COMMON QUESTIONS OF LAW OR FACT

~~142.~~144. The Defendants deny paragraph 144 and further say:

a. the Plaintiff's claim does not satisfy the requirements of section 33C(1)(b) or (c) of the *Supreme Court Act 1986* (Vic) insofar as these proceedings concern claims of non-Victorian Derivative Group Members and therefore these proceedings are (and always have been) incorrectly constituted as representative proceedings under the *Supreme Court Act 1986* (Vic);

b. by reason of subparagraph (a), at the conclusion of the hearing of the Plaintiff's claim, the Court should determine, in the context of addressing any common questions, that the requirements of section 33C(1)(b) or (c) are not satisfied insofar as these proceedings concern non-Victorian Derivative Group Members;

c. further or alternatively to subparagraph (b), by reason of subparagraph (a) and in the circumstances, these proceedings should be de-classed pursuant to section 33N of the *Supreme Court Act 1986* (Vic);

d. as to paragraph 144(c), no offence is alleged in respect of any particular UberX Driver Partner and repeats paragraphs 69, 71, 82, 83, 85, 95, 96, 98, 101, 102, 112, 120, 124, 130, 131, 134 and 135 above;

e. as to paragraph 144(d) and (g), the Plaintiff is not and cannot be representative of any claim made by all of the Derivative Group Members; and

f. as to paragraph 144(h), the Plaintiff's alleged loss and the principles relevant for identifying and measuring that loss is not and cannot be representative of any claim made by all of the Derivative Group Members.

PART H – LIMITATION DEFENCES

145. In further answer to the whole of the ~~2FASOC~~4FASOC, if (which is denied) the Defendants are liable to the Plaintiff and the Derivative Group Members as alleged:

aa. insofar as the launch date in the Relevant Location to which a Derivative Group Member's claim relates (as set out in Schedule 1) is more than six years before

i. the date these proceedings were commenced; or

ii. the date the amendment (if any) by which the person or entity became a Derivative Group Member in these proceedings took effect;

any claim or cause of action by that Derivative Group Member is not maintainable and is otherwise time barred;

a. the filing of these proceedings did not have the effect of suspending the limitation periods that applied in the case of non-Victorian Derivative Group Members;

bb. in the circumstances of subparagraph (aa) above, in the case of the Plaintiff and/or the Victoria Industry Members any claim or cause of action by one or more of the Derivative Group Members is not maintainable and is otherwise time barred by operation of s 5 of the *Limitation of Actions Act 1958* (Vic);

b. in the circumstances of subparagraph (aa) and/or (a) above, in the case of the New South Wales Industry Members any claim or cause of action by one or more of the respective Derivative Group Members is not maintainable and is otherwise time barred by operation of s 14 of the *Limitation Act 1969* (NSW);

c. in the circumstances of subparagraph (aa) and/or (a) above, in the case of Queensland Industry Members any claim or cause of action by one or more of the respective Derivative Group Members is not maintainable and is otherwise time barred by operation of s 10 of the *Limitation of Actions Act 1974* (Qld); and

d. in the circumstances of subparagraph (aa) and/or (a) above, in the case of Western Australian Industry Members any claim or cause of action by one or more of the

respective Derivative Group Members is not maintainable and is otherwise time barred by operation of s 13 of the *Limitation Act 2005* (WA).

Dated: ~~9 AUGUST 2022~~8 SEPTEMBER 2023

Signed: Cameron Hanson

This pleading was prepared by ~~N J Young~~, D Sulan SC, A Campbell and M Ellicott of Counsel and Herbert Smith Freehills.

SCHEDULE 1

Relevant Locations

Relevant Location	Launch date	Claim period end date
Victoria		
Melbourne	On or about 1 April 2014	23 August 2017
Geelong	On or about 15 August 2014	
Mornington Peninsula	On or about 26 December 2014	
New South Wales		
Sydney	On or about 7 April 2014	18 December 2015
Queensland		
Brisbane	On or about 16 April 2014	~~9 June 2017~~5 September 2016
Gold Coast	On or about 21 October 2014	
Sunshine Coast	On or about 11 February 2015	
Toowoomba	On or about 2 June 2016	
Cairns	On or about 16 March 2017	
Townsville	On or about 16 March 2017	
Western Australia		
Perth	On or about 10 October 2014	4 July 2016

SCHEDULE 2

Compliance Requirements

Where the Defendants seek to qualify the Compliance Requirements set out in Schedule B to the ~~2FASOC~~4FASOC and relied upon by the Plaintiff, the Defendants' explanation of that qualification is set out in the third column of the table below.

Schedule B para	~~Second~~ Fourth Further Amended Statement of Claim filed on ~~1 July 2022~~19 June 2023	Defendants' qualifications to Compliance Requirements
1	As to the Vehicle Compliance Requirements[1] the Plaintiff refers to: (a) in the case of Victoria, the Victorian Transport Act s 139; (b) in the case of New South Wales, the NSW Transport Act ss 32 and 39; (c) in the case of Queensland, the Queensland Transport Act ss 70, 80D and 83; and (d) in the case of Western Australia: (i) the Taxi Act (WA) s 15; and (ii) the Transport Co-ordination Act (WA) ss 20, 24, 47ZD.	(c) From 28 April 2016,[2] s 70 of the Queensland Transport Act provided: *(1) A person must not provide a taxi service using a motor vehicle that is not a taxi.* *Maximum penalty—200 penalty units.* *(2) In a prosecution for an offence against subsection (1), proof that a service—* *(a) was for the carriage of passengers for a journey; and* *(b) was provided by the hire of a motor vehicle, and a person to drive the motor vehicle, for the journey;* *is taken to be sufficient proof that the service was a taxi service.* *(3) However, it is a defence to a prosecution for an offence against subsection (1) for a person to prove the service provided by the person was—* *(a) a cross-border taxi service; or*

[1] Regulations in relation to the vehicles that could lawfully be used in the provision of such services (see ~~2FASOC~~4FASOC [50(a)(i)]).

[2] Section 70 was amended by the *Transport Legislation (Taxi Services) Amendment Act 2016*, which came into operation on 28 April 2016.

Schedule B para	~~Second~~ Fourth Further Amended Statement of Claim filed on ~~1 July 2022~~19 June 2023	Defendants' qualifications to Compliance Requirements
		(b) an excluded public passenger service. ***(4) Subsection (1) does not apply to a person providing a taxi service prescribed under a regulation as a taxi service to which this section does not apply.*** *(5) To remove any doubt, it is declared for subsection* *(1) that a person who provides a taxi service using a motor vehicle includes a person who drives the motor vehicle.* *(emphasis added)* *From 5 September 2016, s 52A of the Transport Operations (Passenger Transport) Regulation 2005 provided:* *(1) For section 70(4) of the Act, this section prescribes taxi services to which section 70 of the Act does not apply.* ***(2) A taxi service provided in a way other than as a rank and hail service is prescribed.*** *(3) However, a taxi service mentioned in subsection (2) is prescribed only if the driver of the motor vehicle providing the service is not over the no alcohol limit under the Transport Operations (Road Use Management) Act 1995, section 79A.* *(emphasis added)* From 5 September 2016, the dictionary in Schedule 11 to the *Transport Operations (Passenger Transport) Regulation 2005 (Qld)* provided: ***rank and hail service** means a public passenger*

Schedule B para	~~Second~~ Fourth Further Amended Statement of Claim filed on ~~1 July 2022~~19 June 2023	Defendants' qualifications to Compliance Requirements
		service, provided by a motor vehicle, under which the vehicle— *(a) is able, when not hired, to be hailed for hire by members of the public; or* *(b) plies or stands for hire on a road.*
2	As to the Driver Compliance Requirements[3] the Plaintiff refers to: (a) in the case of Victoria, the Victorian Transport Act s 166; (b) in the case of New South Wales, the NSW Transport Act ss 33 and 40; (c) in the case of Queensland, the Queensland Transport Act s 24; and (d) in the case of Western Australia: (i) the Road Traffic Act (WA) s 49; (ii) the Transport Coordination Act (WA) s 47ZE. (iii) the Road Traffic (Authorisation to Drive) Regulations 2008 (WA) r 11-12; (iv) the Road Traffic (Authorisation to Drive) Regulations 2014 (WA) r 11-12.	
3	In the case of the Operator Compliance Requirements, the Plaintiff[4] refers to: (a) in the case of Victoria, the Victorian Transport Act s 131;	(c) In the lead up to and during the Queensland Claim Period, s 12 of the Queensland Transport Act provided:

[3] Regulations in relation to the persons who could lawfully be engaged in driving such vehicles (see ~~2FASOC~~4FASOC [50(a)(ii)]).
[4] Regulations in relation to the persons who could lawfully operate such services (see ~~2FASOC~~4FASOC [50(a)(iii)]).

Schedule B para	~~Second~~ Fourth Further Amended Statement of Claim filed on ~~1 July 2022~~19 June 2023	Defendants' qualifications to Compliance Requirements
	(b) in the case of New South Wales, the NSW Transport Act ss 31 and 38; (c) in the case of Queensland, the Queensland Transport Act s 12; and (d) in the case of Western Australia: (i) the Taxi Act (WA) ss 15; and (ii) the Transport Co-ordination Act (WA) ss 20, 24, 47ZD.	*(1) Operator accreditation is a qualification an operator of a public passenger service must attain and maintain to provide the service.* *(2) However, subsection (1) does not apply to the operator of any of the following public passenger services—* *(a) a service using a fixed track vehicle provided by—* *(i)a railway operator; or* *(ii)a light rail operator for a light rail;* *(b) an air service;* ***(c) a service prescribed under a regulation as a service to which this section does not apply.*** (emphasis added) From 5 September 2016, s 17 of the *Transport Operations (Passenger Transport) Regulation 2005* provided: *Section 12 of the Act does not apply to—* *(a) a ferry service; or* *(b) a community transport service or courtesy transport service, but only if—* *(i) no more than 2 vehicles are available, at any time, to provide the service, and each of the vehicles may be driven under a class C driver licence under the Transport Operations (Road Use*

Schedule B para	~~Second~~ Fourth Further Amended Statement of Claim filed on ~~1 July 2022~~19 June 2023	Defendants' qualifications to Compliance Requirements
		Management—Driver Licensing) Regulation 2010; or *(ii) the service is not a service that is available to the general community; or* *Example of a service that is available to the general community—* *Membership of a bowls club is open to the general community.* *The club provides a courtesy transport service but only to club members. The service is available to the general community.* *(iii) the service is a locally significant event service; or* *(c) a locally significant event service other than the service mentioned in paragraph (b)(iii); or* *(d) a cableway service; or* *(e) a monorail service; or* ***(f) a driver operator booked hire service.*** (emphasis added) From 5 September 2016, the dictionary in Schedule 11 to the *Transport Operations (Passenger Transport) Regulation 2005 (Qld)* provided: ***driver operator booked hire service** means a booked hire service provided by an individual who is the operator and the only driver providing the service.*

Schedule B para	~~Second~~ Fourth Further Amended Statement of Claim filed on ~~1 July 2022~~19 June 2023	Defendants' qualifications to Compliance Requirements
4	In the case of the Network Services Compliance Requirements[5], the Plaintiff refers to: (a) in the case of Victoria, the Victorian Transport Act s 131A; (b) in the case of New South Wales, the NSW Transport Act s 34; (c) in the case of Queensland, the Queensland Transport Act ss 64-66; and (d) in the case of Western Australia, the Taxi Act (WA) ss 26.	
5	In Victoria, the Plaintiff refers to the requirements and restrictions contained in: (a) the Victorian Transport Act: (i) Part VI – Licensing of certain vehicles and driver accreditation; and (ii) Part VII – Prosecutions, Enforcement and Penalties and Other Matters; (b) Transport (Buses, Taxi-Cabs and Other Commercial Passenger Vehicles) Regulations 2005 (Vic): (i) Part 2 – Driver accreditation, photo cards, licences and records; (ii) Part 3 – Vehicles; (iii) Part 5 – Vehicle operations; (iv) Part 5A – Taxi non-cash payment surcharges; and	(d) There is no legislation titled the "*Traffic Accident Act 1986* (Vic)". The Defendants say this should read *Transport Accident Act 1986* (Vic). (f) The Defendants say this should refer to the *Transport Accident Charges Order (No.1) 2015*.

[5] Regulations in relation to the lawful dispatch of vehicles providing taxi services (howsoever called) (see ~~2FASOC~~4FASOC [50(a)(iv)]).

Schedule B para	~~Second~~ Fourth Further Amended Statement of Claim filed on ~~1 July 2022~~19 June 2023	Defendants' qualifications to Compliance Requirements
	(v) Part 5B – Trading in taxi-cab licences; (c) Transport (Buses, Taxi-Cabs and Other Commercial Passenger Vehicles) Regulations 2016 (Vic): (i) Part 2 – Driver Accreditation, photo cards, licences and records; (ii) Part 3 – Vehicles; (iii) Part 4 – Livery, lamps, signs etc; (iv) Part 5 – Vehicle operations; (v) Part 6 – Taxi non-cash surcharges; and (vi) Part 7 – Trading in taxi-cab licences; (d) Traffic Accident Act 1986 (Vic) s 109, 110; (e) Transport Accident Charges Order (No.1) 2014; and (f) Transport Accident Charges Order (No.2) 2015.	
6	In New South Wales, the Plaintiff refers to the requirements and restrictions contained in: (a) the NSW Transport Act: (i) Part 4 – Taxi-cabs; (ii) Part 4A – Private hire vehicles; and (iii) Part 4B – Taxi-cabs and private hire vehicles: transfer tax; (b) Passenger Transport Regulation 2007 (NSW):	(c) Section 125 of the Passenger Transport Act 2014 (NSW) came into operation on 12 December 2014 and therefore did not apply for the entirety of the NSW Claim Period.[6] (e) The *Motor Accidents Compensation Act 1999* (NSW) was amended such that from 1 September 2015, references to the 'MAA Premiums Determination Guidelines' was replaced with references to 'Motor Accidents Premiums Determination Guidelines'.[7] The Motor Accidents Premiums Determination Guidelines therefore did not apply for the entirety of the NSW Claim Period.

[6] See Commencement Proclamation dated 26 November 2014 <http://classic.austlii.edu.au/au/legis/nsw/num_reg/pta2014cp2014749l28n2014603.pdf>.

[7] *Motor Accidents Compensation Act 1999* (NSW) was amended by *State Insurance and Care Governance Act 2015* (NSW), which came into operation on 21 September 2015.

Schedule B para	~~Second~~ Fourth Further Amended Statement of Claim filed on ~~1 July 2022~~19 June 2023	Defendants' qualifications to Compliance Requirements
	(i) Part 1 - Preliminary; (ii) Part 2 – Accreditation to carry on public passenger services; (iii) Part 3 – Authorities for drivers of public passenger vehicles; (iv) Part 4 – General obligations of drivers of public passenger vehicles; (v) Part 8 – Special provisions relating to taxicabs; and (vi) Part 9 – Special provisions relating to private hire vehicles; (c) Passenger Transport Act 2014 (NSW) s 125; (d) Motor Accidents Compensation Act 1999 (NSW) s 8, 24; and (e) Motor Accident Premiums Determination Guidelines.	
7	In Queensland, the Plaintiff refers to the requirements and restrictions contained in: (a) the Queensland Transport Act: (i) Chapter 3 – Operator accreditation; (ii) Chapter 4 – Driver authorisation; (iii) Chapter 4A – Taxi service bailment agreements; (iv) Chapter 5 – Market entry restrictions; (v) Chapter 6, Part 3 – Administration of taxi services; (vi) Chapter 7 – Taxi service licences;	From 5 September 2016: • s 17 of the *Transport Operations (Passenger Transport) Regulation 2005* provided: *Section 12 of the Act does not apply to—* *(a) a ferry service; or* *(b) a community transport service or courtesy transport service, but only if—* *(i) no more than 2 vehicles are available, at any time, to provide* *the service, and each of the vehicles may be driven under a*

Schedule B para	~~Second~~ Fourth Further Amended Statement of Claim filed on ~~1 July 2022~~19 June 2023	Defendants' qualifications to Compliance Requirements
	(vii) Chapter 7A – Peak demand taxi permits; (viii) Chapter 8 – Limousine service licences; and (ix) Chapter 9 – Standards; (b) Transport Operations (Passenger Transport) Regulation 2005 (Qld): (i) Part 2 – Operator accreditation; (ii) Part 3 – Driver authorisation; (iii) Part 4 – Market entry restrictions; (iv) Part 5 – Service contracts (s 50); (v) Part 6 – Taxi services provided under a taxi service licence; (vi) Part 7 – Limousine services; (vii) Part 8 – Obligations of operators; (viii) Part 9 – Rights and obligations of passengers and drivers; and (ix) Part 11 – General; (c) Motor Accident Insurance Act 1994 (Qld) ss 20, 25; and (d) Motor Accident Insurance Regulation 2004 (Qld) ss 4, 9.	*class C driver licence under the Transport Operations (Road Use Management—Driver Licensing) Regulation 2010; or* *(ii) the service is not a service that is available to the general community; or* *Example of a service that is available to the general community—* *Membership of a bowls club is open to the general community. The club provides a courtesy transport service but only to club members. The service is available to the general community.* *(iii) the service is a locally significant event service; or* *(c) a locally significant event service other than the service mentioned in paragraph (b)(iii); or* *(d) a cableway service; or* *(e) a monorail service; or* ***(f) a driver operator booked hire service.*** *(emphasis added)* *This had the effect that s 12 of the Queensland Transport Act does not apply to a "driver operator booked hire service" from 5 September 2016.*

Schedule B para	~~Second~~ Fourth Further Amended Statement of Claim filed on ~~1 July 2022~~19 June 2023	Defendants' qualifications to Compliance Requirements
		• s 52A of the *Transport Operations (Passenger Transport) Regulation 2005* provided: *(1) For section 70(4) of the Act, this section prescribes taxi services to which section 70 of the Act does not apply.* ***(2) A taxi service provided in a way other than as a rank and hail service is prescribed.*** *(3) However, a taxi service mentioned in subsection (2) is prescribed only if the driver of the motor vehicle providing the service is not over the no alcohol limit under the Transport Operations (Road Use Management) Act 1995, section 79A.* (emphasis added) This had the effect that s 70(4) of the Queensland Transport Act does not apply to a "rank and hail service" from 5 September 2016.
8	In Western Australia, the Plaintiff refers to the requirements and restrictions contained in: (a) the Taxi Act (WA), Part 3 – Operation of taxis; (b) the Taxi Regulations 1995 (WA), r 7-8; (c) the Transport Co-ordination Act (WA): (i) Part III – Licences; (ii) Part IIIB – Taxi-cars in country districts; (iii) Part IV – Miscellaneous; (d) the Road Traffic Act (WA):	

Schedule B para	~~Second~~ Fourth Further Amended Statement of Claim filed on ~~1 July 2022~~19 June 2023	Defendants' qualifications to Compliance Requirements
	(i) Part III – Licensing of vehicles; (ii) Part IVA – Authorisation to drive; (e) Road Traffic (Authorisation to Drive) Act 2008 (WA): (i) Part II – Authorisation to drive; (f) Road Traffic (Authorisation to Drive) Regulations 2008 (WA): (i) Part 2 – Driver licensing; (g) Road Traffic (Authorisation to Drive) Regulations 2014 (WA): (i) Part 2 – Driver licensing; (h) Road Traffic (Vehicles) Act 2012 (WA) ss 5, 7; (i) Motor Vehicle (Third Party Insurance) Act 1943 (WA) ss 3T, 4; and (j) Motor Vehicle (Third Party Insurance) Regulations 2009 (WA) ss 4, 8.	

SCHEDULE 3

Relevant Legislation

Victoria

Section 158(1) of the Victorian Transport Act

1. During the Victorian Claim Period, s 158(1) of the Victorian Transport Act provided:

> *Subject to subsection (2), the driver and the owner of any commercial passenger vehicle which operates as a commercial passenger vehicle on any highway without being authorized to so operate by a license, permit or other authority required by or under this Division shall be severally guilty of an offence against this division.*

2. Whether or not the hypothetical UberX Driver Partner in Victoria throughout the Victorian Claim Period committed an offence against s 158(1) of the Victorian Transport Act would depend on the outcome of a number of matters, including whether:

   a. throughout the Victorian Claim Period, the UberX Driver Partner operated motor vehicles as "commercial passenger vehicles" within the meaning of ss 86, 87 and 158(1) of the Victorian Transport Act;

   b. throughout the Victorian Claim Period, the UberX Driver Partner made out any of his or her available defences pursuant to ss 158(2) and 158(4) of the Victorian Transport Act; and

   c. prior to 16 June 2016, the UberX Driver Partner made out a defence pursuant to s 159 of the Victorian Transport Act, in accordance with the decision in *Brenner v Taxi Services Commissioner* (unreported, County Court of Victoria, Judge Chettle, 18 May 2016).

Section 165 of the Victorian Transport Act

3. During the Victorian Claim Period, s 165(1) of the Victorian Transport Act provided:

> *A person must not drive—*
>
> *(a) a commercial passenger vehicle; or*
>
> *(b) a bus used to provide a commercial bus service, a commercial minibus service or a local bus service—*
>
> *unless that person holds a driver accreditation.*

4. Whether or not the hypothetical UberX Driver Partner in Victoria throughout the Victorian Claim Period committed an offence against s 165(1) of the Victorian Transport Act would depend on the outcome of a number of matters, including whether:

   a. throughout the Victorian Claim Period, the UberX Driver Partner drove a "commercial passenger vehicle" within the meaning of ss 86, 87 and 165(1) of the Victorian Transport Act;

   b. throughout the Victorian Claim Period, the UberX Driver Partner made out any of the exceptions to s 165(1) contained in ss 165(2) and 165(4) of the Victorian Transport Act; and

   c. prior to 16 June 2016, the UberX Driver Partner made out any of a defence pursuant to s 159 of the Victorian Transport Act, in accordance with the decision in *Brenner v Taxi Services Commissioner* (unreported, County Court of Victoria, Judge Chettle, 18 May 2016).

New South Wales

Section 37(1) of the NSW Transport Act

5. During the New South Wales Claim Period, s 37(1) of the NSW Transport Act provided:

> *A person who carries on a private hire vehicle service, being a service operating wholly or partly within New South Wales, by means of a private hire vehicle is guilty of an offence if:*
>
> *(a) the person is not accredited for the purpose of carrying on the service under Division 3, or*
>
> *(b) the private hire vehicle is not licensed under Division 4.*

6. Whether or not Uber BV and/or Rasier Operations committed an offence against s 37(1) of the NSW Transport Act would depend on the outcome of a number of matters, including whether throughout the New South Wales Claim Period, Uber BV and/or Rasier Operations carried on a "private hire vehicle service" within the meaning of ss 3, 36A and 37(1) of the NSW Transport Act.

7. Whether or not the hypothetical UberX Driver Partner in New South Wales throughout the New South Wales Claim Period committed an offence against s 37(1) of the NSW Transport Act would depend on the outcome of a number of matters, including whether throughout the New South Wales Claim Period, the UberX Driver Partner carried on a "private hire vehicle service" within the meaning of ss 3, 36A and 37(1) of the NSW Transport Act.

Section 40(2) of the NSW Transport Act

8. During the New South Wales Claim Period, s 40(2) of the NSW Transport Act provided:

> *A person who drives a private hire vehicle is guilty of an offence unless the person is an authorised private hire vehicle driver.*

9. Whether or not the hypothetical UberX Driver Partner in New South Wales throughout the New South Wales Claim Period committed an offence against s 40(2) of the NSW Transport Act would depend on the outcome of a number of matters, including whether throughout the New South Wales Claim Period, the UberX Driver Partner did drive a "private hire vehicle" within the meaning of ss 3, 36A and 40(2) of the NSW Transport Act.

Queensland

Section 15 of the Queensland Transport Act

10. During the Queensland Claim Period, s 15 of the Queensland Transport Act provided:

> *A person must not provide a public passenger service for which operator accreditation is required under this Act unless—*
>
> *(a) the person is accredited to operate the service; and*
>
> *(b) the person uses appropriately authorised drivers.*

11. Whether or not Uber B.V and/or Rasier Operations and/or from about 21 December 2015 Rasier Pacific committed an offence against s 15 of the Queensland Transport Act would depend on the outcome of a number of matters, including whether:

a. throughout the Queensland Claim Period, Uber BV and/or Rasier Operations and/or from about 21 December 2015 Rasier Pacific provided a "public passenger service" for which operator accreditation was required within the meaning of Schedule 3 and ss 12 and 15 of the Queensland Transport Act and reg 136 of the *Transport Operations (Passenger Transport) Regulation 2005* (Qld);

b. throughout the Queensland Claim Period, Uber BV and/or Rasier Operations and/or from about 21 December 2015 Rasier Pacific provided a "public passenger service" for which driver authorisation is required within the meaning of Schedule 3 and s 15 of the Queensland Transport Act and reg 136 of the *Transport Operations (Passenger Transport) Regulation 2005* (Qld);

c. throughout the claim period from 5 September 2016, Uber BV and/or Rasier Operations and/or from about 21 December 2015 Rasier Pacific provided a "driver operator booked hire service" within the meaning of ss 12 and 15 of the Queensland

Transport Act and reg 17 of the *Transport Operations (Passenger Transport) Regulation 2005* (Qld) for which operator accreditation was not required; and

d. throughout the Queensland Claim Period from 5 September 2016, the hypothetical UberX Driver Partner was an appropriately authorised driver within the meaning of s 27 of the Queensland Transport Act and regs 42A and 158K of the *Transport Operations (Passenger Transport) Regulation 2005* (Qld).

12. Whether or not the hypothetical UberX Driver Partner in Queensland throughout the Queensland Claim Period committed an offence against s 15 of the Queensland Transport Act would depend on the outcome of a number of matters, including whether:

a. throughout the Queensland Claim Period, the UberX Driver Partner provided a "public passenger service" for which operator accreditation is required within the meaning of Schedule 3 and ss 12 and 15 of the Queensland Transport Act and reg 136 of the *Transport Operations (Passenger Transport) Regulation 2005* (Qld);

b. throughout the Queensland Claim Period, the UberX Driver Partner provided a "public passenger service" for which driver authorisation is required within the meaning of Schedule 3 and s 15 of the Queensland Transport Act and reg 136 of the *Transport Operations (Passenger Transport) Regulation 2005* (Qld);

c. throughout the Queensland Claim Period from 5 September 2016, the UberX Driver Partner provided a "driver operator booked hire service" within the meaning of ss 12 and 15 of the Queensland Transport Act and reg 17 of the *Transport Operations (Passenger Transport) Regulation 2005* (Qld) for which operator accreditation was not required; and

d. throughout the Queensland Claim Period from 5 September 2016, the hypothetical UberX Driver Partner providing the UberX Product was an appropriately authorised driver within the meaning of s 27 of the Queensland Transport Act and regs 42A and 158K of the *Transport Operations (Passenger Transport) Regulation 2005* (Qld).

Section 27 of the Queensland Transport Act

13. During the Queensland Claim Period, s 27 of the Queensland Transport Act provided:

> *A person must not operate a public passenger vehicle providing a public passenger service for which driver authorisation is required unless the person is an appropriately authorised driver.*

14. Whether or not the hypothetical UberX Driver Partner in Queensland throughout the Queensland Claim Period committed an offence against s 27 of the Queensland Transport Act would depend on the outcome of a number of matters, including whether:

a. throughout the Queensland Claim Period, the UberX Driver Partner operated a vehicle as a "public passenger vehicle" within the meaning of Schedule 3 and s 27 of the Queensland Transport Act and Schedule 8 and regs 136 and 137 of the *Transport Operations (Passenger Transport) Regulation 2005* (Qld);

b. throughout the Queensland Claim Period, the UberX Driver Partner operated the public passenger vehicle to provide a "public passenger service" for which driver authorisation is required within the meaning of Schedule 3 and s 27 of the Queensland Transport Act and reg 136 of the *Transport Operations (Passenger Transport) Regulation 2005* (Qld); and

c. throughout the Queensland Claim Period from 5 September 2016, the UberX Driver Partner was an appropriately authorised driver within the meaning of s 27 of the Queensland Transport Act and regs 42A and 158K of the *Transport Operations (Passenger Transport) Regulation 2005* (Qld).

Section 70 of the Queensland Transport Act

15. During the Queensland Claim Period until 27 April 2016, s 70(1) of the Queensland Transport Act provided:

> *A person must not provide a taxi service using a vehicle unless—*
>
> *(a) the person has a taxi service licence to provide the service with the vehicle; or*
>
> *(b) the person has a peak demand taxi permit to provide the service with the vehicle.*

16. Whether or not the hypothetical UberX Driver Partner in Queensland throughout the Queensland Claim Period until 27 April 2016 committed an offence against s 70(1) of the Queensland Transport Act would depend on the outcome of a number of matters, including whether:

a. throughout the Queensland Claim Period until 27 April 2016, the UberX Driver Partner provided a "taxi service" within the meaning of Schedule 3 and s 70(1) of the Queensland Transport Act and Schedule 8 and regs 136 and 137 of the *Transport Operations (Passenger Transport) Regulation 2005* (Qld); and

b. throughout the Queensland Claim Period until 27 April 2016, the UberX Driver Partner provided a prescribed taxi service to which s 70(1) of the Queensland Transport Act does not apply within the meaning of s 70(4) of the Queensland Transport Act and regs 96A of the *Transport Operations (Passenger Transport) Regulation 2005* (Qld).

17. During the Queensland Claim Period from 28 April 2016, s 70(1) of the Queensland Transport Act provided:

> *A person must not provide a taxi service using a motor vehicle that is not a taxi.*

18. Whether or not the hypothetical UberX Driver Partner in Queensland throughout the Queensland Claim Period from 28 April 2016 committed an offence against s 70(1) of the Queensland Transport Act would depend on the outcome of a number of matters, including whether:

a. throughout the Queensland Claim Period from 28 April 2016, the UberX Driver Partner provided a "taxi service" within the meaning of Schedule 3 and s 70(1) of the Queensland Transport Act and Schedule 8 to and regs 136 and 137 of the *Transport Operations (Passenger Transport) Regulation 2005* (Qld);

b. throughout the Queensland Claim Period from 28 April 2016, the UberX Driver Partner used a motor vehicle that is not a "taxi" within the meaning of Schedule 3 and s 70(1) of the Queensland Transport Act;

c. throughout the Queensland Claim Period from 28 April 2016 until 4 September 2016, the UberX Driver Partner provided a prescribed taxi service to which s 70(1) of the Queensland Transport Act does not apply within the meaning of s 70(4) of the Queensland Transport Act and regs 96A of the *Transport Operations (Passenger Transport) Regulation 2005* (Qld);

d. throughout the Queensland Claim Period from 5 September 2016, the UberX Driver Partner provided a prescribed taxi service to which s 70(1) of the Queensland Transport Act does not apply within the meaning of s 70(4) of the Queensland Transport Act and reg 52A of the *Transport Operations (Passenger Transport) Regulation 2005* (Qld); and

e. throughout the Queensland Claim Period from 28 April 2016, the UberX Driver Partner made out any of his or her available defences pursuant to s 70(3) of the Queensland Transport Act.

Western Australia

Section 15 of the Taxi Act (WA)

19. During the Western Australian Claim Period, s 15 of the Taxi Act (WA) provided:

> *(1) A vehicle may not be operated as a taxi within a control area unless that vehicle is operated-*
>
> *(a) using taxi plates; and*

(b) in accordance with this Act

(2) Where a vehicle is operated as a taxi contrary to subsection (1) an offence is committed by-

(a) the owner of the vehicle; and

(b) the driver of the vehicle; and

(c) the operator of the vehicle as a taxi; and

(d) the provider of the taxi dispatch service involved, if any

and where the vehicle is owned or operated by more than one person each of those persons commits an offence.

20. Whether or not the hypothetical UberX Driver Partner in a control area in Western Australia throughout the Western Australian Claim Period committed an offence against s 15 of the Taxi Act (WA) would depend on the outcome of a number of matters, including whether:

a. throughout the Western Australian Claim Period, the UberX Driver Partner owned, drove or operated a vehicle as a "taxi" within the meaning of ss 3 and 15 of the Taxi Act (WA); and

b. throughout the Western Australian Claim Period, the UberX Driver Partner owned, drove or operated the vehicle as a taxi in a "control area" as prescribed by s 3 of the Taxi Act (WA) and reg 4 of the *Taxi Regulations 1995* (WA) and Department of Land Administration Miscellaneous Plan No 850.

21. Whether or not one or more of Uber Inc, Uber BV and Rasier Operations, and, from about 21 December 2015, Rasier Pacific committed an offence against s 15 of the Taxi Act (WA) would depend on the outcome of a number of matters, including whether:

a. throughout the Western Australian Claim Period, one or more of Uber Inc, Uber BV and Rasier Operations, and from about 21 December 2015 Rasier Pacific provided a "taxi dispatch service" within the meaning of ss 3 and 15 of the Taxi Act (WA);

b. throughout the Western Australian Claim Period, one or more of Uber Inc, Uber BV and Rasier Operations, and from about 21 December 2015 Rasier Pacific provided a taxi dispatch service for vehicles operated as "taxis" within the meaning of ss 3 and 15 of the Taxi Act (WA); and

c. throughout the Western Australian Claim Period, one or more of Uber Inc, Uber BV and Rasier Operations, and from about 21 December 2015 Rasier Pacific provided a taxi dispatch service for vehicles operated as taxis within a "control area" as

prescribed by s 3 of the Taxi Act (WA) and reg 4 of the *Taxi Regulations 1995* (WA) and Department of Land Administration Miscellaneous Plan No 850.

Section 26 of the Taxi Act (WA)

22. During the Western Australian Claim Period, s 26 of the Taxi Act (WA) provided:

> *A person shall not–*
>
> > *(a) provide or advertise that he or she provides or is willing to provide, a taxi dispatch service; or*
> >
> > *(b) co-operate, in any manner which is not approved by the Director General with another person to provide a taxi dispatch service,*
>
> *within a control area unless that person is registered as the provider of a taxi dispatch service.*

23. Whether or not one or more of the Uber entities committed an offence against s 26 of the Taxi Act (WA) would depend on the outcome of a number of matters, including whether:

a. throughout the Western Australian Claim Period, one or more of the Uber Entities provided and/or advertised that it provided, and was willing to provide, a "taxi dispatch service" within the meaning of ss 3 and 15 of the Taxi Act (WA);

b. throughout the Western Australian Claim Period, one or more of the Uber Entities co-operated with one or other of the remaining Uber Entities to provide, a "taxi dispatch service" within the meaning of ss 3 and 15 of the Taxi Act (WA); and

c. throughout the Western Australian Claim Period, one or more of the Uber Entities provided and/or advertised that it provided, and was willing to provide, or co-operated with one or other of the remaining Uber Entities to provide, a taxi dispatch service within a "control area" as prescribed by s 3 of the Taxi Act (WA) and reg 4 of the *Taxi Regulations 1995* (WA) and Department of Land Administration Miscellaneous Plan No 850.

Section 50 of the Transport Co-ordination Act (WA)

24. During the Western Australian Claim Period, s 50(1) of the Transport Co-ordination Act (WA) provided:

> *The driver and the owner of a public vehicle, and any person who consigns or sends or causes to be consigned, sent or conveyed, or offers or agrees to consign, send or convey, any goods or passenger by a public vehicle that is operated where –*
>
> > *(a) the vehicle is not appropriately licensed as such under this Act;*

(b) the vehicle being licensed, is carrying goods not authorised, or otherwise than authorised, by the licence; or

(c) an appropriate Certificate of Authority issued under section 42C is not in force,

are subject to subsection (2), severally guilty of an offence.

25. Whether or not the hypothetical UberX Driver Partner in Western Australia throughout the Western Australian Claim Period committed an offence against s 50(1)(a) of the Transport Co-ordination Act (WA) would depend on the outcome of a number of matters, including whether:

a. throughout the Western Australian Claim Period, the UberX Driver Partner conveyed passengers by "public vehicles" within the meaning of ss 4 and 50(1) of the Transport Co-ordination Act (WA) that were not appropriately licensed as "omnibuses" under s 24 of the Transport Co-ordination Act (WA); and

b. throughout the Western Australian Claim Period, the UberX Driver Partner made out his or her available defences pursuant to ss 50(2) and 55 of the Transport Co-ordination Act (WA).

26. Whether or not one or more of Uber Inc, Uber BV and Rasier Operations, and from about 21 December 2015 Rasier Pacific committed an offence against s 50(1)(a) of the Transport Co-ordination Act (WA) would depend on the outcome of a number of matters, including whether:

a. throughout the Western Australian Claim Period, one or more of Uber Inc, Uber BV and Rasier Operations, and from about 21 December 2015 Rasier Pacific caused to be conveyed, or offered to convey, passengers by "public vehicles" within the meaning of ss 4 and 50(1) of the Transport Co-ordination Act (WA) that were not appropriately licensed as "omnibuses" under s 24 of the Transport Co-ordination Act (WA); and

b. throughout the Western Australian Claim Period, one or more of Uber Inc, Uber BV and Rasier Operations, and from about 21 December 2015 Rasier Pacific made out the available defences pursuant to ss 50(2) and 55 of the Transport Co-ordination Act (WA).

Section 47ZD of the Transport Co-ordination Act (WA)

27. During the Western Australian Claim Period, s 47ZD of the Transport Co-ordination Act (WA) provided:

(1) No taxi-car shall be operated within a district unless the owner is the holder of a taxi-car licence under this Part issued in respect of that vehicle for that district.

...

(6) Any person who contravenes, or who permits or suffers another person to contravene, this section commits an offence.

28. Whether or not the hypothetical UberX Driver Partner in Western Australia in one or more districts throughout the Western Australian Claim Period committed an offence against s 47ZD of the Transport Co-ordination Act (WA) would depend on the outcome of a number of matters, including whether:

    a. throughout the Western Australian Claim Period, the UberX Driver Partner "owned" and/or "drove" a vehicle as a "taxi-car" within the meaning of ss 47Z and 47ZD of the Transport Co-ordination Act (WA); and

    b. throughout the Western Australian Claim Period, the UberX Driver Partner operated the vehicle within a "district" within the meaning of ss 47Z and 47ZD of the Transport Co-ordination Act (WA) and which was declared to be a district under the *Local Government Act 1995* (WA).

29. Whether or not one or more of the Uber Entities committed an offence against s 47ZD of the Transport Co-ordination Act (WA) would depend on the outcome of a number of matters, including whether:

    a. throughout the Western Australian Claim Period, one or more of the Uber Entities "operated" vehicles as a "taxi-car" within the meaning of ss 47Z and 47ZD of the Transport Co-ordination Act (WA);

    b. throughout the Western Australian Claim Period, one or more of the Uber Entities operated the vehicle in one or more "districts" in Western Australia within the meaning of ss 47Z and 47ZD of the Transport Co-ordination Act (WA) and declared to be a district under the *Local Government Act 1995* (WA); and

    c. throughout the Western Australian Claim Period, one or more of the Uber Entities "permitted or suffered" UberX Driver Partners to provide UberX in Western Australia without the vehicles they used being licenced as taxi-cars.

Section 47ZE of the Transport Co-ordination Act (WA)

30. During the Western Australian Claim Period until 26 April 2015, s 47ZE of the Transport Co-ordination Act (WA) provided:

    A person shall not drive a taxi-car within a district unless he or she is licensed to drive a taxi-car under the Road Traffic Act 1974.

31. Whether or not the hypothetical UberX Driver Partner within a district in Western Australia throughout the Western Australian Claim Period until 26 April 2015 committed an offence

against s 47ZE of the Transport Co-ordination Act (WA) would depend on the outcome of a number of matters, including whether:

a. throughout the Western Australian Claim Period until 26 April 2015, the UberX Driver Partner drove a vehicle as a "taxi-car" within the meaning of ss 47Z and 47ZE of the Transport Co-ordination Act (WA);

b. throughout the Western Australian Claim Period until 26 April 2015, the UberX Driver Partner drove the vehicle within a "district" within the meaning of ss 47Z and 47ZE of the Transport Co-ordination Act (WA) and which was declared to be a district under the *Local Government Act 1995* (WA); and

c. throughout the Western Australian Claim Period until 26 April 2015, the UberX Driver Partner was licensed to drive a taxi-car pursuant to the applicable driver licensing scheme contained in regs 11 and 12 of the *Road Traffic (Authorisation to Drive) Regulations 2008* (WA).

32. During the Western Australian Claim Period from 27 April 2015, s 47ZE of the Transport Co-ordination Act (WA) provided:

> *A person shall not drive a taxi-car within a district unless he or she holds a driver's licence under the Road Traffic (Authorisation to Drive) Act 2008 (WA) that authorises that person to drive a taxi-car.*

33. Whether or not the hypothetical UberX Driver Partner within a district in Western Australia throughout the Western Australian Claim Period from 27 April 2015 committed an offence against s 47ZE of the Transport Co-ordination Act (WA) would depend on the outcome of a number of matters, including whether:

a. throughout the Western Australian Claim Period from 27 April 2015, the UberX Driver Partner drove a vehicle as a "taxi-car" within the meaning of ss 47Z and 47ZE of the Transport Co-ordination Act (WA);

b. throughout the Western Australian Claim Period from 27 April 2015, the UberX Driver Partner drove the vehicle within a "district" within the meaning of ss 47Z and 47ZE of the Transport Co-ordination Act (WA) and which was declared to be a district under the *Local Government Act 1995* (WA); and

c. throughout the Western Australian Claim Period from 27 April 2015, the UberX Driver Partner was licensed to drive a taxi-car pursuant to the applicable driver licensing scheme contained in regs 11 and 12 of the *Road Traffic (Authorisation to Drive) Regulations 2014* (WA).

Section 49 of the Road Traffic Act (WA)

34. During the Western Australian Claim Period until 26 April 2015, s 49 of the Road Traffic Act (WA) provided:

> *A person who –*
>
> *(a) drives a motor vehicle on a road while not authorised under Part IVA to do so; or*
>
> *(b) employs or permits a person to drive a motor vehicle as described in paragraph (a),*
>
> *commits an offence.*

35. Whether or not the hypothetical UberX Driver Partner in Western Australia throughout the Western Australian Claim Period until 26 April 2015 committed an offence against s 49 of the Road Traffic Act would depend on the outcome of a number of matters, including whether:

a. throughout the Western Australian Claim Period until 26 April 2015, the UberX Driver Partner drove a motor vehicle on a road while not authorised under Part IVA and the applicable driver licensing scheme contained in regs 11 and 12 of the *Road Traffic (Authorisation to Drive) Regulations 2008* (WA) to do so; and

b. throughout the Western Australian Claim Period until 26 April 2015, the UberX Driver Partner made out any of his or her available defences pursuant to ss 44(1), 49(2) and 49A of the Road Traffic Act (WA) and reg 56 of the *Road Traffic (Authorisation to Drive) Regulations 2008* (WA).

36. During the Western Australian Claim Period from 27 April 2015, s 49 of the Road Traffic Act (WA) provided:

> *A person who –*
>
> *(a) drives a motor vehicle on a road while not authorised under the Road Traffic (Authorisation to Drive) Act 2008 Part 2 to do so; or*
>
> *(b) employs or permits another person to drive a motor vehicle as described in paragraph (a),*
>
> *commits an offence.*

37. Whether or not the hypothetical UberX Driver Partner in Western Australia throughout the Western Australian Claim Period from 27 April 2015 committed an offence against s 49 of the Road Traffic Act would depend on the outcome of a number of matters, including whether:

a. throughout the Western Australian Claim Period from 27 April 2015, the UberX Driver Partner drove a motor vehicle on a road while not authorised under Part 2 of the Road

Traffic Act (WA) and the applicable driver licensing scheme contained in regs 11 and 12 of the *Road Traffic (Authorisation to Drive) Regulations 2014* (WA) to do so; and

b. throughout the Western Australian Claim Period from 27 April 2015, the UberX Driver Partner made out any of his or her available defences pursuant to ss 11(1), 49(2) and 49A of the Road Traffic Act (WA) and reg 55 of the *Road Traffic (Authorisation to Drive) Regulations 2014* (WA).

SCHEDULE 4

Compensation Schemes

Compensation Scheme	Available to	Amount Paid	Particulars
Victoria			
Transition Assistance Payments	Persons who retained ownership of a taxi or hire car licence between 15 August 2016 and 14 July 2017.	$329,461,250	(a) Parliament of Victoria Legislative Council Economy and Infrastructure Committee report titled "*Inquiry into the Commercial Passenger Vehicle Industry Bill 2017*". (b) Commercial Passenger Vehicle Victoria's Submission No 312 to Parliament of Victoria Economy and Infrastructure Committee, Inquiry into the *Commercial Passenger Vehicle Industry Act 2017* Reforms, dated 1 July 2019. (c) Commercial Passenger Vehicles Association of Australia, Submission No 189 to Parliament of Victoria Economy and Infrastructure Committee, Inquiry into the *Commercial Passenger Vehicle Industry Act 2017* Reforms, dated 1 May 2019.
Fairness Fund Discretionary Payments	Persons who had an ownership interest in a taxi licence between 1 January 2016 and 23 August 2016.	$55,000,000	
New South Wales			
Transitional Assistance Payments Scheme	Persons who held a taxi licence between 1 July 2015 and 13 January 2017 (or were a beneficiary of such licence between 1 July 2015 and 13 January 2017) or registered training schools which included taxi training courses accredited	$93,174,000	(a) Transport for NSW, *Transitional Assistance Payments Scheme and Additional Assistance Hire Vehicles Payments Scheme* <https://www.transport.nsw.gov.au/projects/point-to-point-industry-assistance/transitional-assistance-payments-scheme-and-additional>. (b) Transport for NSW, *Transitional Assistance Payment Phase 2 (TAP-P2) Scheme*

Compensation Scheme	Available to	Amount Paid	Particulars
	by Transport for NSW as at 18 December 2015.		<https://www.transport.nsw.gov.au/projects/point-to-point-industry-assistance/transitional-assistance-payment-phase-2-tap-p2-scheme>.
Additional Assistance Hire Vehicle Payment Scheme	Persons who held a private hire vehicle licence from 1 July 2015 until 1 November 2017 or transferred the licence on or before 18 December 2015.	$8,300,000	(c) Transport for NSW, *Transitional Assistance Payments Scheme and Additional Assistance Hire Vehicles Payments Scheme* https://www.transport.nsw.gov.au/projects/point-to-point-industry-assistance/transitional-assistance-payments-scheme-and-additional
Additional Assistance Payment Scheme	Persons who are/were involved in or connected with the taxi or passenger hire vehicle industry as at 28 June 2016.	$32,800,000	(d) Transport for NSW, Additional Assistance Payment Scheme https://www.transport.nsw.gov.au/projects/point-to-point-industry-assistance/additional-assistance-payment-scheme (e) NSW Budget Estimates Supplementary hearings on Monday, 28 October 2019 https://www.parliament.nsw.gov.au/lcdocs/other/12845/Supplementary%20hearing%20-%20QONS%20-Transport%20and%20Roads%20combined%20-%20Constance%20and%20Toole.pdf
Queensland			
Transitional Assistance Payments	Persons who had a taxi or limousine service licence in force immediately before 11 August 2016.	$59,780,000	(a) Minister for Main Roads, Road Safety and Ports and Minister for Energy, Biofuels and Water Supply, '$60m in support helps licence owners transition' (Media Release, 12 April 2017) http://statements.qld.gov.au/Statement/2017/4/12/60m-in-support-helps-licence-owners-transition (b) Queensland Rural and Industry Development Authority Annual Report 2017 – 2017, available at
Industry Hardship Assistance Payments	(a) Persons who held a taxi or limousine service licence immediately before 11 August 2016 and were listed on the relevant licence register as the	$26,775,000	

Compensation Scheme	Available to	Amount Paid	Particulars
	holder immediately before 9 March 2017. (b) Persons who were the accredited operator of a taxi or limousine service licence and listed on the relevant licence register as the ultimate lessee of the licence immediately before 11 August 2016.		https://www.qrida.qld.gov.au/annual-report
Western Australia			
Hardship Fund	Persons who held an ownership interest in a Perth metropolitan taxi plate between 1 July 2014 and 18 December 2015 and were experiencing a reduced income and an inability to liquidate assets due to taxi industry reform.	Up to $6,000,000	(a) Minister for Agriculture and Food, Transport, 'Hardship fund now available to taxi industry' (Media Release, 13 September 2016) <https://www.mediastatements.wa.gov.au/Pages/Barnett/2016/09/Hardship-fund-now-available-to-taxi-industry.aspx>
Buyback Payments	Persons who owned or had an interest in the ownership of taxi plates on 2 November 2017.	$117,483,837.20	(b) *Transport (Road Passenger Services) Act 2018* (WA) ss 229, 226(1), 230
Net Loss Payments	Persons who owned or had an interest in the ownership of taxi plates on or after 1 January 2016 until 2 November 2017.	$631,950	

SCHEDULE OF PARTIES

JAMAL SALEM in her capacity as executor for the estate of ANWAR SALEM

Plaintiff

- and -

UBER TECHNOLOGIES INCORPORATED (4849283)

First Defendant

UBER INTERNATIONAL HOLDING B.V. (RSIN 851 929 357)

Second Defendant

UBER B.V. (RSIN 852 071 589)

Third Defendant

UBER AUSTRALIA PTY LTD (ACN 160 299 865)

Fourth Defendant

RASIER OPERATIONS B.V. (RSIN 853 682 318)

Fifth Defendant

UBER PACIFIC HOLDINGS B.V. (RSIN 855 779 330)

Sixth Defendant

UBER PACIFIC HOLDINGS PTY LTD (ACN 609 590 463)

Seventh Defendant

CONFIDENTIALITY UNDERTAKING

Definitions

In-house Legal Counsel means:

(a) a lawyer instructing Herbert Smith Freehills in relation to the conduct of the Proceedings by the Fourth or Seventh Defendants who holds a current Australian practising certificate issued under legislation directed at regulating the legal profession in Australia and which is not subject to any conditions; or

(b) a paralegal supervised by a lawyer identified in subparagraph (a).

Proceedings means the proceedings between Nicos Andrianakis and Uber Technologies Incorporated and others, proceeding number SCI 2019 01926.

Undertaking

I Cameron Joe Loughlin of Uber Australia Pty Ltd, 580 George St, Sydney NSW 2000 undertake to the Essential Services Commission (***ESC***) and the Court that:

1. I will:

   (a) keep absolutely confidential; and

   (b) use only for the purposes of the Proceedings,

   the information contained in:

   (i) Category 2 of the Schedule to the Subpoena to Produce dated 26 November 2019 addressed to the ESC, being documents containing the network service provider data collected and used in the course of drafting the Taxi Fare Review 2013-2014; and

   (ii) Category 3 of the Schedule to the Subpoena to Produce dated 26 November 2019 addressed to the ESC, being documents containing the data provided to the Centre for International Economics for the purposes of drafting the report *Costs of Providing Taxi Services* dated March 2014

   (together, the ***Confidential Information***).

2. I will not permit:

   (a) any Defendant in the Proceedings, including any officer, employee or contractor of a Defendant, other than In-house Legal Counsel who has given the same confidentiality undertaking;

   (b) the Plaintiff in the Proceedings; or

   (c) any other person, other than:

   (i) a solicitor or legal support staff of Herbert Smith Freehills or Maurice Blackburn (**External Legal Representatives**), or any barrister briefed in the Proceedings, who has given the same confidentiality undertaking; or

   (ii) any external service provider for the purpose of copying or archiving documents containing the Confidential Information, provided that the external service provider

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is informed of the confidential nature of any such documents and agrees to keep such documents confidential and not disclose such documents (or their content) to any other person,

to have access to or to sight the Confidential Information or any document containing the Confidential Information.

3. I will keep any notes, records, memoranda or other documents incorporating or referring to the Confidential Information, and any other information derived from the Confidential Information, in a manner which will preserve the confidentiality of the Confidential Information at all times.

4. I will promptly notify the solicitors for the ESC, Allens, and the solicitors for the other parties to the Proceedings, if I become aware of any unauthorised use or disclosure of the Confidential Information.

5. This undertaking is subject to any further agreement between the parties or until further order by the Court.

Date: 7 September 2023

Signed: _____

Name: Cameron Joe Loughlin