

Testimony of Mark MacGann to the Employment and Social Affairs Committee

(EMPL) of the European Parliament

October 25, 2022

I.

I would like to thank Chairperson Dragos Pislaru and the members of the Committee on Employment and Social Affairs for inviting me here to answer the Committee's questions.

Members of the European Parliament: I have been at the nexus of industry and government for nearly thirty years, persuading successive generations of governments, legislators and regulators to enact or modify laws in order to facilitate business and economic growth.

I lobbied governments around the world to get Uber what it wanted in order to succeed.

Today I'm here to call on the European Parliament to defend the interests of drivers and platform workers everywhere. I hope that my testimony today will help you better understand why giving disproportionate power in legislation to huge tech platforms risks shattering the social justice this body fought hard to

establish and defend. If, to paraphrase Vaclav Havel, democracy is about protecting the powerless from the powerful, then it is time to rebalance the scales in the debate.

II.

Platforms such as Uber were and remain a fantastic idea, harnessing telecommunications and software technologies to make life in cities and towns more efficient. In terms of getting around with affordable, clean, safe transport, Uber brought about changes that were long overdue. By forcing its way into cities, it's true that Uber helped bring about competition, consumer choice and quality of service.

In the early days of Uber, we were inebriated with the thrill of the mission, funded by unprecedented amounts of investor money. We believed in the mission and felt there was something quite noble in what we were doing. We were sincere when we told drivers that they were the backbone of the company and central to its success. We treated drivers like heroes because they were our heroes.

In those days, we also shared the wealth. We gave them expensive iPhones, showered them with hundreds, sometimes thousands, of euros in bonuses. If they couldn't afford to buy or lease a car, we negotiated preferential deals with banks and car manufacturers. We did the same with insurance companies. We gave drivers a status that most hadn't experienced before. We told them that they were part of the team.

As taxi drivers took to the streets to defend their incomes, we told drivers to ignore them, just "Uber on". When politicians tried to stop us or slow us down, we co-opted democracy itself by leveraging consumers political power... putting very public pressure on elected officials to back off.... drowning them in millions of rider petitions. We told politicians that we would agree to stop the controversial, illegal uberPOP service, if they changed the law in the way we wanted.

We weaponized our drivers and we weaponized our customers.

They were ours to use in service of the mission. Governments and politicians just needed to get out of the way – our driving mantra was "do whatever it takes". Even in those days, we had disproportionate power.

III.

The dream started to sour in 2015. The company was growing at breakneck speed and we just didn't have time to deal with drivers in person anymore. We opened huge back-office centres to handle drivers' concerns by messaging via the app. We grew wary of the very drivers that ensured the platform's success. When we found out that drivers were seeking to organize among themselves, the company used fake identities to infiltrate their Facebook and WhatsApp groups to monitor what they were planning. We constantly revised and improved the algorithms that were increasingly directing drivers, removing most human interaction.

From early 2014, we faced class-action lawsuits from drivers who challenged their self-employed status. Those lawsuits forced Uber into exhausting linguistic and semantic gymnastics internally: the legal team instructed everyone to use the term 'partner drivers' instead of 'our drivers'. The policy team was ordered to talk about creating 'economic opportunities'. On no account should the word 'jobs' ever be spoken or written. We promised the French government that we would create "70,000 entrepreneurs" in Paris alone if they would radically simplify the rules for professional drivers.

Uber didn't create a new type of worker as much as find new ways to avoid the costs and responsibilities that employers have towards their workforce. If it walked like a duck and quacked like a duck, our instinct was to call it a duck – but the directive from management in San Francisco was: no, no, it's a hamster!!, you must call it a hamster!!

We told everyone what we knew they wanted to hear. To investors, we guaranteed unprecedented profits over a very short timescale. We told customers that they could get brilliant private transport service at the push of a button, no waiting, no hassle, cheaper than any alternative. We told drivers they could make a very decent living, thousands of euros per month, with the status of being their own boss. Everybody wins. But that was never going to happen. For the business model to succeed, someone would have to lose for the others to succeed. It turned out, we had sold people a lie. Governments. The media. And especially – drivers.

In those days, Uber was permeated by a sense of entitlement – We were right, everyone else was wrong. The response to every problem was to “uber on”. Don't ask for permission, just launch. Local resistance? Uber on. Drivers getting fined? Uber on. Their cars getting impounded? Uber on. Drivers arrested?

Get them a lawyer, and Uber on. Violent resistance from taxi drivers? Call the media, and Uber on. Lawsuits against drivers? Hire more lawyers, and Uber on. Our employees are uncomfortable with our appetite for risk? Don't let the door hit you on the way out.

It was always a given that we would increase the commission Uber took from each trip. It was always a given that we would totally withdraw the so-called driver incentives, which allowed Uber to undercut the price of taxis and other competition. Once a city had been successfully launched, managers were instructed to quickly reduce spending on subsidies, in a company-wide campaign entitled "burn the burn!". It was the definition of price dumping.

When we had stopped the incentives, we then looked for new revenue streams, such as adding a "safe rides" fee that customers would pay for rides that we said were safe anyway; a "service fee" for what was already sold as the best service in town. None of these new revenues went to drivers.

IV.

For a long time after leaving Uber, I struggled with how life for drivers and delivery workers appeared to be changing, for the worse. The tipping point for me – and the reason I'm here today – was an Uber trip in Spring 2021.

During a trip to Malaga, I started chatting to the driver, Omar. A second-generation Moroccan, Omar explained it was difficult to find regular work via the platform, and he spent most of the day waiting in his car for the app to connect him with a ride. He was positive about Uber but missed the early days when he was treated as part of the team and made to feel part of the company's success. These days, he said, there was no human interaction, and he had a lot of difficulty getting anyone to respond to his concerns.

I spent almost an hour driving with Omar. The trip cost €32. I asked Omar about his earnings – how much would he actually make from the trip? Omar said Uber would take a commission of 25%, and then pay VAT to the Spanish government on the remainder of the fee. Once he paid for leasing of the car, insurance, parking, petrol, and cleaning, Omar calculated he would earn around seven euros net for the ride. Not even minimum wage.

When the Uber Files were published in July, Uber said that “driver earnings in the US, UK, Italy, France and Spain are at or near all-time highs”. I would encourage the Members of this Committee to ask for the source data on which these claims are based. I know better than anyone how easy it is to produce and manipulate data that supports your messaging. While at Uber, we paid academics to use skewed data sets to produce numbers that favoured Uber’s position. Data that would show high earnings because it wouldn’t take account of wait times. Data that would show drivers wanted to be independent, but based on carefully designed driver surveys. As Mark Twain famously wrote, there are *“lies, damned lies and statistics”*.

V.

For so many platform workers around the world, like Omar, the dream has soured. Despite being applauded as heroes during the pandemic, drivers and delivery workers are insufficiently heroic to receive a decent living wage, health insurance and paid leave, minimum protections once considered sacrosanct in the European Union.

Platform companies that deny their workforce basic labour and human rights in the name of a zealous, stubborn, libertarian belief that “flexibility” is what workers value most, are being dishonest with governments, misleading with investors and in the harsh economic context we live in, are being cruel to the millions of women and men on whose backs their businesses were built. When human capital is central to your commercial success, you’d better find a way to ensure you can make your business model works for all your stakeholders, including your workers. Otherwise, sooner or later, your stock price will plummet.

This committee is currently debating legislation on improving working conditions in platform work. Central to the draft directive’s provisions is the presumption of employment – a presumption that would aim to reset the balance between the powerful and the powerless by putting the burden on companies to show an employee is truly independent. This is the right balance. It is a balance that still allows for those who want flexibility to have it, while shifting the cost of that flexibility to the entity that benefits the most – the company.

In the legislative debate on the rights and protections of platform workers, power and influence are disproportionately skewed towards the interests of the big tech platforms. I know better than anyone. I was part of that powerful lobbying machinery. And I still believe that well-organised, transparent lobbying is a fundamental component of parliamentary democracy. It should be of concern to any democrat, though, when we reach a point where the balance of power is so heavily tipped in favour of one side over the other, as seems to be the case in this debate. When tech companies have disproportionate financial resources to push their message, at the expense of the far less powerful workers upon whom their model is built - there is something truly undemocratic happening.

That is why I'm here today. I have a voice and thus a responsibility to help fix what I helped to break. Disruption can be creative, but it doesn't have to be destructive. Human decency is not a zero-sum game.

Margaret Atwood once wrote: *better never means better for everyone. It always means worse for some.* It falls to this Parliament and the Member States to ensure that technological innovation and entrepreneurship mean better for all. Thank you for allowing me to contribute to your work.