

COVINGTON

BEIJING BRUSSELS DUBAI FRANKFURT JOHANNESBURG
LONDON LOS ANGELES NEW YORK PALO ALTO
SAN FRANCISCO SEOUL SHANGHAI WASHINGTON

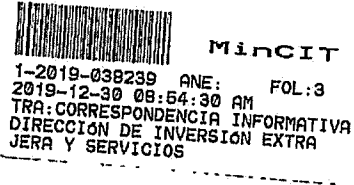
Miguel López Forastier

Covington & Burling LLP
One CityCenter
850 Tenth Street, NW
Washington, DC 20001-4956
T +1 202 662 5185
mlopezforastier@cov.com

Via Courier Service

December 30, 2019

His Excellency
the President of the Republic of Colombia
Mr. Iván Duque Martínez
Calle 7 No. 6-54
111711
Bogotá, Colombia



CC:

His Excellency
the Minister of Commerce, Industry and
Tourism of the Republic of Colombia
José Manuel Restrepo Abondano
and the Director of Foreign Investment,
Services, and Intellectual Property
María Paula Arenas
Ministerio de Comercio, Industria y Turismo
Calle 28 No. 13 A-15
Correspondencia Piso 1
110311
Bogotá, Colombia

Her Excellency
the Minister of Foreign Affairs
of the Republic of Colombia
Mrs. Claudia Blum de Barberi
Ministerio de Relaciones Exteriores
Palacio de San Carlos
Carrera 5 No. 9-03
111711
Bogotá, Colombia

Re: Notice of Dispute under the United States-Colombia Trade Promotion Agreement

Dear Mr. President:

With respect and great reluctance, I write on behalf of Uber Technologies, Inc. ("Uber") and Uber Colombia, S.A.S. ("Uber Colombia") to inform you that an investment dispute has arisen under Chapter Ten of the United States-Colombia Trade Promotion Agreement (the "Treaty") as a result of measures adopted by the Republic of Colombia (the "Republic"), some of which are described below, which are in violation of the Treaty.

Uber is a company organized under the laws of the State of Delaware, United States, that has made several investments in Colombia. Uber Colombia, organized under the laws of Colombia, is a subsidiary of Uber. Accordingly, Uber is a protected investor of the United States and Uber Colombia is a protected enterprise under the Treaty.

Uber develops, supports, and owns a technology platform that, *inter alia*, enables independent providers of ridesharing services ("Driver Partners") to enter into transportation contracts with riders in Colombia (the "Uber Platform"). Through a subsidiary, Uber licenses the use of the Uber Platform to Driver Partners and riders in Colombia. Uber also acts as a collection

COVINGTON

His Excellency
the President of the Republic of Colombia
Mr. Iván Duque Martínez
December 30, 2019
Page 2

agent for the Driver Partners by collecting the fees that they charge to riders for their ridesharing services. In compensation for the use of the Uber Platform, Uber receives an intermediation fee.

Both Uber and Uber Colombia own protected investments under the Treaty. Uber's protected investments in Colombia include, without limitation: (i) Uber Colombia, an "enterprise" that provides marketing and other support services to Uber's operations; (ii) "equity participation" in Uber Colombia through one of its subsidiaries; (iii) "intellectual property rights," including the right to license the use of the Uber Platform, including the Uber applications, websites, content, and products, as well as the Uber trademark and associated goodwill, in Colombia; and (iv) "intangible . . . property rights," including the network of contracts between Uber (through a subsidiary) and Uber riders and Driver Partners, as applicable, to access and use the Uber Platform in Colombia.

Uber and Uber Colombia, including its more than 230 employees in Colombia, have contributed to the growth of Colombia's economy since 2013. They intend to continue to do so. However, a number of recent measures by the Republic have had a serious adverse impact on Uber's investments in Colombia and the viability of its operations in the country.

On December 20, 2019, for example, through the *Superintendencia de Industria y Comercio* ("SIC"), the Republic ordered Uber, Uber Colombia, and another Uber subsidiary to practically cease making the Uber Platform available to Driver Partners and riders in Colombia. The order also required telecommunication companies in Colombia to suspend transmissions, data storage, and access to the Uber Platform in Colombia.

The Republic's order — issued under questionable circumstances in the context of a legal action that is time barred — was published on the last day of the judicial calendar in Colombia with the apparent intention of precluding its immediate review on appeal. Because the order was given immediate effect, it has substantially thwarted Uber's business operations in Colombia. Additionally, — in an apparent concerted effort against Uber — the SIC's order was preceded by a fine that the *Superintendencia de Transporte* imposed on Uber Colombia in record time a few days earlier, without even affording Uber Colombia the opportunity to review the very complaints that purportedly led to the sanction.

In contrast, other companies from Colombia and third countries that offer similar platforms in Colombia have not been subject to the same treatment and continue to operate in Colombia without similar interference from the Republic. The Republic's arbitrary and discriminatory measures against Uber have been taken in the face of political pressure by domestic interests for the Republic to ban Uber in Colombia and to nullify Uber's investments there.

These and other measures aimed at Uber or its investments in Colombia are in breach of the Treaty, including the Republic's obligations, *inter alia*, (i) not to subject investments of U.S. investors to expropriations or nationalizations, or any other measures equivalent to expropriation or nationalization, except for a public purpose, in accordance with due process, in a non-discriminatory manner, and against compensation to the investor (Article 10.7); (ii) to accord investments of U.S. investors fair and equitable treatment and full protection and security (Article 10.5); and (iii) to treat U.S. investors not less favorably than Colombian investors or investors of third States (Articles 10.3 and 10.4).

COVINGTON


His Excellency
the President of the Republic of Colombia
Mr. Iván Duque Martínez
December 30, 2019
Page 3

The Republic's wrongful order to block the Uber Platform in Colombia also constitutes an act of censorship in contravention of international human rights instruments protecting net neutrality, freedom of expression on the internet, and the freedom of internet use.

Without prejudice to their rights under the Treaty (including provisions of other investment treaties that are incorporated by reference under the most-favored-nation clause of the Treaty) and under general international law, Uber and Uber Colombia seek a resolution of the dispute through consultation and negotiation and, to that effect, request a meeting with you, or the high Government official that you may wish to designate, to pursue such consultation and negotiation at the Republic's earliest convenience.

Uber and Uber Colombia further inform the Republic that, in the event that the dispute cannot be settled amicably or the Republic refuses to negotiate or fails to negotiate in good faith, it is Uber's intention to submit the dispute for resolution by binding arbitration under Articles 10.15 and 10.16 of the Treaty. Uber and Uber Colombia reserve the right to deliver a notice of intent pursuant to Article 10.16.2 of the Treaty before or in the course of any consultation or negotiation. Any and all consultations and negotiations that have taken place or may take place regarding the dispute are not intended to be, and should not be taken as, a waiver of Uber and Uber Colombia's right to proceed with arbitration under the Treaty or to assert their claims and rights before other fora.

Yours most respectfully,



Miguel López Forastier