

Is Uber's Woke Makeover for Real?

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“Amid all the questions about where #MeToo goes next, there’s at least one answer that everyone should support,” **Susan Fowler**, who laid bare the sexist environment at Uber, wrote in a *New York Times* op-ed last month. “We need to end the practice of forced arbitration, a legal loophole companies use to cover up their illegal treatment of employees.” Arbitration clauses are fairly standard—they’re included in the employment contracts of an estimated 60 million Americans. And in the midst of the #MeToo movement, advocates have singled out these stipulations as tools used to stifle women’s stories of sexual harassment and assault. At the end of last year, Microsoft became one of the first and only tech companies to abolish its forced-arbitration clause. But on Tuesday, it gained an unanticipated bedfellow: Fowler’s original employer, Uber.

In a blog post, Uber announced that it will let sexual assault, rape, and harassment victims pursue their claims as they see fit, rather than forcing them into mandatory, private arbitration, which was previously required by Uber’s terms of service. Riders, passengers, and employees in the U.S. will now have the option of taking the company to court, or going through a mediator where confidentiality is optional. (The new rule is largely for riders; both employees and drivers have been able to opt out for several years.) “We have learned it’s important to give sexual assault and harassment survivors control of how they pursue their claims,” Uber’s post read. “Whatever they decide, they will be free to tell their story wherever and however they see fit.” The company said it also plans to release data on sexual violence and other incidents that occur on its platform.

On its face, the ride-hailing giant’s announcement seems uncharacteristically progressive for a company that’s been riddled with allegations of ethical malfeasance. But as the tech sector digested the news, several loopholes came to light. “This is a small step in the right direction, but an important step nonetheless,” Fowler tweeted. “There is still much work to do: this doesn’t protect victims of other forms of discrimination, like racial and wage discrimination, and it doesn’t allow victims to pursue class actions in open court.” **Jeanne M. Christensen**, a partner at Wigdor LLP, the firm representing 14 women who allege they were raped or sexually assaulted by Uber drivers, called the move a “critical first step,” but noted that the company will still bar victims from bringing class-action lawsuits against it. “Preventing victims from proceeding together, on a class basis, shows that Uber is not fully committed to meaningful change,” Christensen told me in a statement. “Victims are more likely to come forward knowing they can proceed as a group. This is the beginning of a longer process needed to meaningfully improve safety.”

In addition to restricting class-action suits, Uber will still force users to keep certain settlement terms—for example, how much money they may or may not receive from Uber—confidential. In a statement, **Tony West**, a top-ranking official in the Obama-era Justice Department and Uber's chief legal officer, said Tuesday's announcement was "not to suggest we shouldn't, at some point, consider including other types of legal claims under this new policy—we should—or that by making this announcement, we think that arbitration is bad—we don't." It was simply, he added, "the first step we wanted to take . . . to return some of the control and agency that had been stripped away from survivors."

Indeed, Tuesday's change seems tied to a larger, concerted campaign by **Dara Khosrowshahi** to at least superficially reform the historically troubled company. In recent weeks, Uber has announced plans to stop giving drivers a log of people's exact pickup and drop-off locations, which for years has perturbed female riders. (I deleted the app last year, after a driver found my phone number—through his trip history, I assumed—and repeatedly texted and called me.) Last month, Uber implemented a host of long-delayed safety features, such as an emergency-call button that connects a rider to a 911 operator and features real-time location data from the moving car. Tuesday's announcement also lines up rather conspicuously with an advertising campaign Uber launched this week, in which it promises to be "moving forward."

In a fiercely competitive market, Uber's announcement has already triggered a bandwagon effect—hours later, Lyft also decided to scrap its forced arbitration and confidentiality agreements for assault victims. "Today, 48 hours prior to an impending lawsuit against their company, Uber made the good decision to adjust their policies," Lyft said, not exactly taking the high road. "We agree with the changes and have removed the confidentiality requirement for sexual assault victims, as well as ended mandatory arbitration for those individuals so that they can choose which venue is best for them." ("We were very gratified to see Lyft making changes to their own arbitration policy in the wake of Uber's announcement, and we applaud them—you always hope others will follow when staking out a leadership position," West told me in response.) Uber had a good incentive to do what other tech companies hadn't—it was already in the doghouse, the subject of its own hashtag and a boycott campaign that kicked off a cascade of near-catastrophic woes. (Were it not for its own sexual harassment issues and pressure from people like Fowler, whether Uber would have done away with the clause is anyone's guess.) But if Uber continues to reform, even if only on a surface level, it could effectively kick off an optics arms race, compelling other Silicon Valley companies to bow to social pressure by following suit.