

Uber arbitration move helps sexual assault victims, but goes only so far

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Uber has become the unlikely leader of transparency when it comes to sexual assault.

Throughout the year, women have accused powerful men -- from Harvey Weinstein, Bill Cosby and Matt Lauer to their bosses and managers -- of sexual assault. The movement has gathered such momentum that it's generated its own hashtags: #MeToo and #TimesUp.

And ride-hailing giant Uber got caught in the middle of it.

The startup was outed in February 2017 by former engineer Susan Fowler, who [wrote a scathing blog](#) detailing a toxic company that OK'd sexual harassment. Then it was [sued by nine women](#) alleging sexual assault by Uber drivers. Earlier this month a CNN report found that [more than 100 Uber drivers](#) had reportedly raped, forcibly touched or kidnapped passengers.

Now Uber is trying to change course. In a major reversal of its policy, the company said Tuesday that it's [dropping all arbitration agreements](#) it had with riders, drivers and employees over individual claims of sexual assault or harassment. Uber also ended confidentiality provisions that prevented victims from speaking out.

And Uber promised to release -- for the first time -- data on sexual assaults that happen with its drivers.

"The last 18 months have exposed a silent epidemic of sexual assault and harassment that haunts every industry and every community," Tony West, Uber's chief legal officer, wrote in a [blog post](#) Tuesday. "Uber is not immune to this deeply rooted problem, and we believe that it is up to us to be a big part of the solution."

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The move was widely seen as a step, or at least a half-step, in the right direction. The reason for reservation: The company is still preventing people from joining together in class-action lawsuits, which is one of the ways those without resources can pursue legal actions on their own and hold companies accountable.

"Dropping the [arbitration] clause is a showing of good faith, but it is certainly not enough," said Bryant Greening, of law firm [LegalRideshare](#), which isn't associated with the Uber lawsuit. "We want to make sure victims aren't limited in any capacity regardless of the claims that are brought."

With Uber, all riders agree to arbitration

The pressure began to mount for Uber after two women [filed a lawsuit](#) against the company in November. They alleged they were sexually assaulted by Uber drivers, in separate incidents.

Seven more women [have since signed on](#) to the suit, but none of them has been able to fully pursue a case against Uber through the court system. That's because they unwittingly accepted arbitration agreements when they first used the app.

Millions of people worldwide now use the Uber app. The ride-hailing service is one of the largest on Earth, operating in 73 countries and covering most all of the US. Its drivers give 15 million rides a day.

When people first download the Uber app, they have to click on and agree to the company's terms of service. Those terms say riders agree that legal disputes with the company have to be handled through private arbitration, and not public court. It also means they can't be part of a class-action lawsuit with others who've gone through similar experiences.

The big change for now is that individual claims of sexual assault or harassment can be argued in public court. But Uber is still mandating that all class actions take place in private arbitration.

Arbitration agreements are common in Silicon Valley. Companies including Google and Facebook have similar arbitration clauses in their contracts with employees. Many apps also require users to agree to arbitration when they sign up.

But times are changing. In December, Microsoft was the first major tech company to end such agreements with its employees. And Uber is the first tech company to extend the offer to customers.

Uber's main rival, Lyft, said Tuesday that it will also toss out arbitration agreements for passengers, drivers and employees around sexual assault and harassment claims (although, like Uber, Lyft isn't allowing for class action suits). Lyft additionally said it will join Uber and release data on sexual assaults that happen with its drivers.

"The #MeToo movement has brought to life important issues that must be addressed by society," a Lyft spokesman said in an email.

"Uber made the good decision to adjust their policies," he added. "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."

What about class action?

Uber's board of directors received a plea last month. It was a [letter from 14 women](#) who all say they were sexually assaulted by the company's drivers. They asked the board to release them from their private arbitration agreements.

In the letter, several of the women detailed their personal experiences with Uber drivers. They range from allegations of rape to being locked in a car and forcibly groped to the driver masturbating during the ride. The alleged assaults took place across the US, including in Pennsylvania, Florida, California, Michigan, New York, New Jersey and Iowa.

"Silencing our stories deprives customers and potential investors from the knowledge that our horrific experiences are part of a widespread problem at Uber," the women warned in their letter.

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Days later, Sen. Richard Blumenthal, a Democrat from Connecticut, [wrote a letter to Uber CEO Dara Khosrowshahi](#) echoing the womens' petition.

"I challenge you to finally demonstrate how seriously you take the issue of sexual harassment and assault," Blumenthal [wrote](#). "Your company must lead by example and show that it values transparency and your users' safety more than your company's bottom line."

Nine of the women who wrote the letter to Uber's board are the same women who brought the lawsuit against the company. Jeanne M. Christensen, a partner at law firm [Wigdor](#), is representing the women and said she's pleased with Uber's first "critical steps."

But not allowing for a class-action suit is a problem.

"Preventing victims from proceeding together, on a class basis, shows that Uber is not fully committed to meaningful change," Christensen said. "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."

Because these women can bring claims only individually, at least for now, they'll have to file nine separate lawsuits and have nine separate trials. If it gets to that point.

Uber says the case involving these women is the only pending class-action suit against the company on sexual assault claims -- all others are individual claims, it says. The company wouldn't say how many individual claims have been brought against it.

But class-action suits are one of the ways real change to company safety standards happens, said Michael Rubin, a California lawyer with [Altshuler Berzon](#), who focuses on class-action cases and isn't involved with the Uber lawsuit. That's because not only are individual claims more expensive for plaintiffs, they also run the risk of isolating victims.

"If you're limited to individual relief, you can't effectively remedy the wrong," Rubin said. "It will have a chilling effect on the women's ability to effectively vindicate their statutory right to be free from sexual abuse."

That's what this case boils down to, the nine women say. It isn't about collecting monetary damages for themselves, but about spreading awareness and making Uber a safer platform for everyone else.