

Uber's arbitration clause is taking people for a ride

Uber is the German word for 'better than a taxi'. Thanks to Uber, the taxi industry may just fade into obscurity like Jarryd Hayne's NFL career (too soon?). Well, Uber updated their T&Cs last week and we've noticed a sneaky arbitration clause that could see you end up in Amsterdam.

Uber chose the day after the Melbourne Cup as a good time to force something new on its users. No, not a free delivery of Messina gelato, but an email saying they had updated their T&Cs.

Uber's T&Cs form the basis of a contract between consumers and Uber. The T&Cs are governed by Dutch law and make it mandatory for the parties to take any dispute first to mediation and, if that fails, to a private arbitration, both of which are required to take place 16,000kms away in Amsterdam. This is hardly practical or fair for Australians.

We are great supporters of arbitration and it can be a really useful process for resolving disputes between businesses undertaking international trade and commerce. But consumer disputes?

It's another example of a foreign [business](#) attempting to force onerous and often expensive arbitration obligations on to consumers in an effort to avoid being sued in foreign jurisdictions. Arbitration clauses are also being used in the US by Uber to prevent its drivers from joining class action suits.

The main idea here is to deprive Australian consumers of protection under the Australian Consumer Law (ACL). The ACL protects consumers from 'unfair' terms which place a burden on consumers that go beyond protecting the company's legitimate interests. It's pretty obviously unfair of Uber to make consumers sue it in the Netherlands, when all the transactions with its customers happen here.

We think Australian courts will agree and declare Uber's sneaky arbitration clause unfair and void. That's zero stars, in Uber-speak.

Questions? Give us a call.



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