

KITSCHKE, Mr Brad, Director of Public Policy, Australia and New Zealand, Uber Australia Pty Ltd

MCDONAGH, Mr Sam, Country Manager, Australia and New Zealand, Airbnb Australia Pty Ltd

[13:26]

CHAIR: My apologies for a slightly later start this afternoon. I now welcome Mr Brad Kitschke, from Uber, and Mr Sam McDonagh, from Airbnb. Thank you for appearing before the committee today. I invite you to make a brief opening statement should you wish to do so.

Mr Kitschke: Thank you, Chair and senators. We appreciate the opportunity to appear today and thank the committee both for its invitation to provide a written submission and for the invitation to appear and assist committee with its deliberations. We are a technology company that provides a software application that connects drivers and riders in over 64 countries and 354 markets around the world, enabling people to push a button and get a safe and reliable ride within minutes. For drivers, Uber fits around people's existing commitments, in particular child care. These new opportunities help get the unemployed back to work. For cities, services like Uber can improve everyone's quality of life. For example, people are less likely to drink and drive if they know that they can get a ride home late at night, quickly and easily. And then there is congestion. In cities like New York and Paris, Uber is so popular that we have a ton of passengers wanting to get to the same place at the same time. With UberPool, they can share a ride and cut congestion over time.

The company was founded five years ago in the United States. While we have expanded quickly in that time, we are very much still a start-up and our focus remains on investment to allow us to grow and deliver more services to more people. In Australia, we operate in Sydney, Melbourne, Geelong, Brisbane, the Gold Coast, Perth, Adelaide and now Canberra. The Uber platform first became available in Australia three years ago, and we are proud of the positive local impact we have already been able to have. For example, 18 months ago, we launched our ride-sharing product, UberX, which is a new and different mode of point-to-point transport in Australia. Since that time, Uber has created more than 15,000 economic opportunities across the country for those who partner with the platform. We fully expect that by the end of this year we would have met our commitment to create 20,000 new flexible work opportunities in Australia. In each of the Australian cities where Uber operates we have a local office, employ local staff and become part of the local community. By year's end we are on track to have created more than 100 jobs across Australia.

Much has been said of the Uber model locally and globally in the press. However, it is important to get some facts on the table. We are unlike other more mature US tech companies. Firstly, and very simply, we are not yet a profitable company. We are a young business investing heavily to bring the service to more people, which means we are not yet profitable, and as you would be aware companies are taxed on profit not revenue.

Secondly, the lion's share of all revenue generated goes to the driver partner and stays local. Of every dollar spent by a rider at least 75 per cent of the fare is kept by the partner, contributing to the prosperity of their local communities, and many of these communities are areas of high unemployment and high underemployment.

Because it is important, I really want to stress that the vast majority of the money stays local. Uber is still a private unlisted company in the early stages of investment, and unlike listed companies we do not provide public detailed accounts. We are a global business and our structure reflects that. For example, we have designed the platform to operate globally. So a rider can sign up in Australia, use the app and get rides in Sydney or Melbourne; then, without having to make changes, they can travel to markets like the Philippines, Mexico, Europe, United States, Singapore or Canada, turn on their phone and use the app, without any adding new information or making any changes. In other words, the app—our platform—has a universality to its operations and function, and this is reflected in the way we have structured our business.

For several years the OECD has been leading an intergovernmental effort to understand multinational corporation structures and the impact these have on corporation taxes paid in different countries. The committee's deliberations, as I have come to understand them, have focused on the global nature of many businesses in Australia. These issues are obviously global issues with global ramifications, and affect more than just domestic policy.

I would also like to touch on a couple of other issues which I am sure the committee is interested in and aware of which relate to taxation. The committee would be aware that Uber is in a dispute with the Australian Taxation Office about its tax guidance, which requires people who undertake ride sharing to be treated differently to any other taxpayer in Australia, and they are not entitled to the GST threshold. The interpretation of a 1999 law means that anyone who even wants to try ride sharing must register for an ABN and submit to ongoing administration of quarterly business activity statements before they have even taken a single trip. This treats ride sharing participants differently to any other participant in the economy.

We do not agree with the ATO's guidance which they agree is an uncertain area of the law, and we are working to have this matter resolved by the Federal Court. Secondly, we believe there are serious and unanswered questions that remain about the ATO's process and actions in relation to their decision to issue this guidance. I hope that we will be afforded the opportunity to properly explain to the committee and clarify some misinformation and misreporting about these issues.

The sharing or collaborative economy is something that, when compared with most established businesses and business models, is very new. It is challenging both government and business and traditional regulatory and policy approaches. Where possible, Uber wants to work with government and cooperate with them to develop an approach that meets the needs of the economy and allows business to grow.

The best example of this is the recent decision of the Australian Capital Territory to create sensible regulations for ride sharing that open up choice for consumers and economic opportunity for citizens of the ACT. We hope we can have a similar kind of collaborative approach with the federal government in its policy considerations. The federal government is in a unique place to play a role in the incubation of new business, and to embrace technology, innovation and change.

Once again, we thank the committee for the opportunity, and we hope we can assist you in your deliberations.

CHAIR: Thank you, Mr Kitschke. Mr MacDonagh.

Mr McDonagh: Thank you. And thank you for the opportunity to address this committee. Airbnb was founded in 2008 in San Francisco and is a trusted community marketplace for people to list, discover and book unique accommodation all over the world. We are proud to have a robust community of hosts and guests in Australia and we are committed to being good neighbours and partners with community leaders and governments.

I am not sure how many of the senators here have had the opportunity here to use Airbnb to share their homes, or stayed in homes shared on Airbnb before, but perhaps I could begin with a brief explanation of the ecosystem that Airbnb operates in, before we then discuss our contribution to Australia's economy.

There are two terms that we will use often today. The first is 'hosts', the everyday Australians who choose to list their homes on Airbnb, and the second is 'guests', the people from Australia and all around the world who stay in the homes of our hosts both here and abroad. From the empty-nesters whose kids have left home to the first-home buyers for whom every penny counts, Airbnb lets people turn their greatest expense, their home, into an asset to generate additional income. Our hosts tell us that the ability to rent out their properties and earn an average of \$7,100 per year makes a huge difference in paying bills and reducing their mortgage. In Sydney, for example, 84 per cent of those hosts are listing their primary residence, the home they live in every day.

We also take great pride in the contribution we make to local communities across the country. An overwhelming majority of our listings are outside central business district locations, enabling our guests to live like a local and spend money at cafes, shops and restaurants not normally visited by travellers. In fact our single fastest-growing areas in Australia are the western suburbs of Sydney and the outer suburbs of Melbourne. While the number of Australian properties listed on Airbnb is generally doubling year on year, the western suburbs are growing at a rate of about 300 per cent. Blacktown and Parramatta are standouts, growing at 450 per cent.

Airbnb has a large community of hosts across Australia for whom sharing their home is now part of their life. We have over 50,000 properties available in Australia and in just seven years over 60 million guests have spent the night in an Airbnb listing around the world. This is great for cities, businesses and the community.

Airbnb has a small team here in Sydney that performs local marketing and promotional activities. All of the functions are administered by Airbnb Ireland and physically based outside of Australia. We comply with Australian tax laws and pay all required taxes. We also encourage our hosts to do the same.

For hosts, the economic benefit of Airbnb is often life changing and is revitalising for cities, communities and small businesses alike. For one middle-aged host in Western Sydney, Margaret, being able to rent her granny flat on Airbnb has meant that she does not have to rely on Centrelink payments when she attends TAFE to reskill after suddenly needing to get back into the workforce.

Airbnb attracts new visitors who stay longer than traditional tourists, spend more at local businesses and are more likely to return as a result of their experience. Airbnb guests stay 2.1 times longer and spend 1.8 times more than typical visitors, and 35 per cent of Airbnb guests report that without Airbnb they would not have made the travel at all. This is indicative of the economic contribution that Airbnb helps to facilitate in Australia. This additional travel and spending has happened while travel in traditional accommodations has also continued to grow. Hotel occupancy rates in Australia continue to soar as gains made nationally over the last five years are now double the loss that occurred during the global financial crisis, with both occupancies and room rates at levels never previously recorded. Airbnb is fundamentally strengthening our community and creating additional

opportunities for growth without requiring new investment or infrastructure on the part of government. We believe Airbnb is good for Australians.

Senator DASTYARI: You gave us some really fascinating figures. I just have one or two questions on them. Tell me what you can give me and what you cannot—I think some of these figures may be new and I do not want to put you in an uncomfortable position, although I doubt they would be commercial-in-confidence. How many unique properties are there on Airbnb?

Mr McDonagh: On Airbnb there are more than two million unique listings globally. In Australia there are just over 50,000 listings.

Senator DASTYARI: There are 50,000 unique listings—that is 50,000 different properties?

Mr McDonagh: That is right.

Senator DASTYARI: Obviously this would vary from week to week, but do you have a number for how many people use your service in an average week?

Mr McDonagh: As we are a private company, that is not something I would usually share.

Senator DASTYARI: Mr Kitschke, do you have a figure for how many Australians use Uber? Do you calculate that for a given period of time?

Mr Kitschke: As I have said, we have 15,000 drivers on the road. I think we have made some figures publicly available which I can get back to you with. I think we talked about a million rides earlier this year, but we have not broken it down over any other time period.

Senator DASTYARI: You have 15,000 drivers. Do you have a rough idea of how many Australians use Uber?

Mr Kitschke: We have about a million people signed up to the platform.

Senator DASTYARI: You have about a million Australians signed up to the platform and there have been a million unique rides?

Mr Kitschke: There have been a million unique rides in New South Wales and about a million in Victoria. I think we have done nearly 10 million rides in Australia. I will get back to you on that.

Senator DASTYARI: It is fascinating.

Senator DI NATALE: What proportion of the market do you occupy?

Mr Kitschke: I do not have those particular figures. IPART, in New South Wales, said around 11 per cent of people in New South Wales were using Uber. The difference between a ride sharing service and a taxi is that someone may do ride sharing for one or two hours a week or a month whereas it is assumed that a taxi is on the road for two 12-hour shifts every single day.

Senator DI NATALE: So you do not have a sense of the proportion of trips that are done—

Mr Kitschke: No.

Senator DASTYARI: This inquiry has been looking at some larger established Australian companies, and some of the tech companies that we are looking at are fairly well-established companies that have been here for a period of time. With new and innovative companies such as yours, we are interested in what can be done around getting the tax settings right for Australia. There are issues to do with state regulations and other things, but that is not our focus of interest. Our interest is around taxation. Mr Kitschke, I want to get to you about the ATO matter. I have to say that you are a braver man than I am. I have sparred with Chris Jordan in the past. He is very good. It takes a brave man to take on Chris Jordan! Firstly, Mr McDonagh, you are the CEO of Airbnb Australia?

Mr McDonagh: I am the country manager of Airbnb Australia.

Senator DASTYARI: That is wholly owned by Airbnb Ireland?

Mr McDonagh: Yes.

Senator DASTYARI: If I am staying the night in Parramatta and I book accommodation through Airbnb, that transaction takes place in Ireland?

Mr McDonagh: That is correct. Airbnb is a global platform and all of those operations are managed out of Ireland.

Senator DASTYARI: And it is the same for Uber except that it is in the Netherlands?

Mr Kitschke: That is correct. The platform services 64 countries. It needs to be global to do that.

Senator DASTYARI: To put that into perspective, when I book an ad on Google, the transaction takes place in Singapore. For tax purposes none of the transaction happens in Australia even though I am getting in a car in Australia? The global partner directly pays the driver or the accommodation?

Mr Kitschke: That is correct.

Senator DASTYARI: So the money does not ever come through your company?

Mr McDonagh: That is correct.

Senator DASTYARI: If I put my house in south-western Sydney on Airbnb and someone chooses to stay there, I will get a payment from Airbnb Ireland?

Mr McDonagh: That is correct.

Senator DASTYARI: And if I was doing the same thing with my car, for Uber, I would be getting a payment from Uber in the Netherlands?

Mr Kitschke: That is right. The platform facilitates the payment but essentially the relationship is between the driver and the rider. But the payment will come through Uber in the Netherlands.

Senator DASTYARI: So I am paying the Netherlands and the Netherlands is paying my driver or I am paying Airbnb Ireland and Airbnb Ireland is paying my accommodation?

Mr Kitschke: Yes.

Mr McDonagh: Yes.

Senator DASTYARI: There is no point harping on this. I think this is a significant tax area that we have to look at internationally. I think some of the BEPS process is looking at some of this. I am not going to blame you guys for this but frankly our tax structure is built on a very 1970s model of what is permanent. I do not dispute that you are not doing any different from what others such as Google have done in the past. But you can understand why we are saying this is something that should be looked at internationally if these transactions are officially not taking place on Australian soil for tax purposes.

Mr Kitschke: As I said in my opening statement, 75 per cent of the revenue from any dollar that anyone spends goes directly back to the partner that is resident in Australia.

Senator DASTYARI: But that is their money and they are entitled to it. They have driven for it. You are not just paying them off!

Mr Kitschke: That is right. But that is a contribution to the Australian economy.

Senator DASTYARI: Sure. But you can be a business that contributes to the Australian economy and pays tax. Those things are not mutually exclusive; in fact, we encourage you to do both. No comment?

Mr Kitschke: I did not think it was a question.

Senator DASTYARI: Mr Kitschke, I want to ask you about the dispute you are currently having with the ATO. A lot was said at Senate estimates. The ATO put forward their case as to why they believed they were in the right. I understand they have made a ruling. You are challenging that ruling in the Federal Court?

Mr Kitschke: That is correct.

Senator DASTYARI: The ruling they have made relates to GST collection?

Mr Kitschke: That is correct.

Senator DASTYARI: You are disputing them on two bases, one of which is the interpretation of the law?

Mr Kitschke: That is correct.

Senator DASTYARI: Secondly, you would like to make a point about what you feel was an inappropriate consultation process?

Mr Kitschke: That is right.

Senator DASTYARI: I will give you the opportunity to do that now.

Mr Kitschke: Thank you very much. The first thing that we would like to put on record is that we believe that people who participate on our platform should be captured by the tax system like anyone else. I think it has been misreported that, in some way, there is an attempt by us to dodge tax or not have people pay tax. Participating in a ride sharing activity is no different than having someone come and mow your lawn on weekends. When you pay that person \$50 you assume that they are collecting GST and that, if they reach the \$75,000 threshold, they will remit and get an ABN and do all the other things that are required under the tax system. We do not think it is appropriate that the tax office has essentially applied a 1999 law to a brand-new business model that did not

envisage this type of activity and treats people who do ride sharing fundamentally differently than other participants in the tax system. It treats someone who wants to try ride sharing for one hour or two hours a week differently than someone who wants to set up a lawn mowing business or be a courier or be an independent contractor as a truck driver. Given the changing nature of the economy, we do not think these decisions should be dealt with by a regulator; these are decisions that government should look at. We dispute the interpretation that ride sharing is a taxi service. We believe it is not a taxi service. In fact, most recently, in the Australian Capital Territory, where we have a regulated outcome, the territory government has recognised that ride sharing is not a taxi service but something fundamentally different. So we dispute the tax office's ruling in that respect.

Senator, in relation to consultation—and I take your point in relation to being brave and taking on the Australian Taxation Office—

Senator DASTYARI: It was a playful comment. Chris Jordan is a great guy and, for the purposes of this inquiry, he has been incredible.

Mr Kitschke: We would not be expressing our concerns so strongly if we did not believe there was a basis for them, and we would not do so lightly. We lodged a series of freedom of information applications to determine the level of consultation that the Australian Taxation Office undertook with bodies other than us for the purposes of making this decision. That information revealed that the ATO essentially had a hierarchy of criteria. They listed the Australian Taxi Industry Association, state and territory governments and our financial advisers as primary stakeholders at the same level. Airbnb was listed as only a minor stakeholder despite the fact that they were part of this sharing economy guidance.

The Commissioner for Taxation, Mr Jordan, said at the estimates committee—I think in response to a question from you, senator, and also in response to a question from Senator Leyonhjelm—that the consultation that occurred with the Australian Taxi Industry Association, a body that is essentially lobbying to have Uber shut down, was essentially 'typical'. He described it as being typical, normal and justified because it was the same level of consultation that occurred with other industry organisations that were part of this sharing economy guidance note. He specifically mentioned the Australian Hotels Association. We sought freedom-of-information documentation about this to demonstrate that the commissioner had in fact undertaken that consultation. There was no evidence provided in a specific freedom-of-information application to show that the AHA was consulted in any way.

The consultation that was afforded to the Australian Taxi Industry Association was providing them with an opportunity to mark up in red a draft guidance note about the tax affairs of an industry and of a group of people that it does not represent. There was coordination with the Australian Taxi Industry Association's media and PR agency about the announcement which was not afforded to any other organisation. We think these are things that need to be investigated, and we think that the commissioner has not answered these questions properly and has not provided the information.

It has been misreported that we have said that Uber did not receive an appropriate level of consultation with the ATO. We have never said that. We consulted with the ATO and we had a lot of contact with the ATO. In fact, we worked with them for months and tried to be cooperative, and we offered many meaningful suggestions about how to appropriately capture the tax affairs of Uber partners. We do believe that the level of consultation afforded to the ATIA was not typical.

In relation to the decision, we are also concerned. The ATO, after it made its decision, wrote to us. The Deputy Commissioner of Taxation, Mr James O'Halloran, said that the ATO still believed that their decision was an uncertain area of the law. So we would question why they would make a decision if they were uncertain. He also said that this issue was not about revenue. If the ATO is doing something that is not about revenue I do not understand what its job is. Thirdly, he said that the issue was about levelling the playing field. Our view is that it should be about the appropriate application of the law. So we believe that there should be some level of independent oversight of the process and some independent oversight of the decision.

We think it is disappointing—once again—that a new business model, like ours, has to litigate in order to survive. For start-up businesses and entrepreneurs in this country, the only time and the first time that they have contact and connection with government agencies—and this is at both the state and federal level—is never with the policy makers or the forward thinkers; it is always with the policemen. It is always with those people that enforce the regulatory frameworks as they have been established for the past 10 or 20 years, and they try to shove you in a box that does not fit you. We do not think it is appropriate that businesses such as ours or any other start-up have to litigate just to survive. We think there needs to be a conversation at the federal government level which the federal government should lead.

Senator EDWARDS: Mr Kitschke, if I book a car on Uber and I go from my home town in Clare—if there were an Uber driver there—

Mr Kitschke: We hope that one day there will be.

Senator EDWARDS: If I go to Adelaide it might cost me \$100, say. Where do I pay that \$100? Where does that \$100 land? It gets debited from my credit card, which is registered with you.

Mr Kitschke: That is right. As I described before, your contract is with the company in the Netherlands which operates the platform. That is the same for every rider around the world.

Senator EDWARDS: And the driver gets paid when?

Mr Kitschke: The driver usually gets paid every Monday.

Senator EDWARDS: And if it is \$100, how much does he get?

Mr Kitschke: \$75 at a minimum.

Senator EDWARDS: So that is repatriated to him. How do we collect the tax on the \$75?

Mr Kitschke: The same way you would collect tax on any other small business or any independent operator. That individual is required to declare that income as part of their income tax.

Senator EDWARDS: Self-assessment.

Mr Kitschke: That is right.

Senator EDWARDS: So he would have to table his receipts—

Senator DI NATALE: He or she.

Senator EDWARDS: He or she—quite right, Senator Di Natale. Or, in the age of driverless cars, the driverless car will have to table its receipts. That is where you are heading. Uber is spending a lot of money on driverless cars. That would cut out the 75 per cent, wouldn't it?

Mr Kitschke: Probably not. Driverless cars are a long way away, but I think the key point to make—

Senator EDWARDS: Well, they were driving down the freeways in Adelaide last weekend.

Mr Kitschke: I think they are hitting kangaroos in Adelaide.

Unidentified speaker: It was an inflatable kangaroo.

Mr Kitschke: A small mistake by the minister in Adelaide. The key point with that is that we are not a cash business. Unlike the incumbent industry, we are not a cash business. You cannot jump into one of our cars and slip someone \$20 that is not declared.

Senator EDWARDS: If it is \$75 and if they have registered as a company, they will have the ticket clipped for 30 per cent in this country. Who clips the ticket for the 25 per cent in the Netherlands?

Mr Kitschke: The Netherlands do.

Senator EDWARDS: But it was earned in Australia.

Mr Kitschke: The transaction has occurred between the driver and the rider with an overseas company, but the lion's share remains—

Senator EDWARDS: So 25 per cent of the fare earned goes off into the internet ether or the app ether or whatever and that revenue is never to be seen again by the Australian tax office, is it?

Mr Kitschke: That revenue is—

Senator EDWARDS: Is that \$25 ever to be seen by the Australian tax office again?

Mr Kitschke: Indirectly, yes. Uber Australia is paid a fee by the Dutch entity to conduct activities in this jurisdiction.

Senator EDWARDS: How much of that \$100?

Mr Kitschke: Costs plus 8.5 per cent.

Senator EDWARDS: What is your cost?

Mr Kitschke: I am not aware of the specific exact costs.

Senator EDWARDS: If it is a \$100 fare, to keep it simple, what would your cost be that you would levy the Netherlands—

Mr Kitschke: The role of the organisation in Australia is to provide support activities for the business to the platform.

Senator EDWARDS: When you get paid, you get paid to run Uber Australia.

Mr Kitschke: I get paid to work for Uber Australia. I get paid to provide a specific function for Uber Australia.

Senator EDWARDS: You do not get paid in corn chips, so it generates revenue. It is paid by what company?

Mr Kitschke: Uber Australia does not generate revenue. The Dutch company generates revenue. The platform generates the revenue.

Senator EDWARDS: The mythical platform. The platform has got to be fair for the Australian division. You generate your money through the offshore based company. They pay you. They send money over every week to pay your wages.

Mr Kitschke: That is correct.

Senator EDWARDS: How much is it on a \$100 fare?

Mr Kitschke: I am not aware of the specifics of that. I would have to get back to you. But, as I have said, what I can say is that Uber Australia—the entity that is incorporated in this country—pays tax in this country. We pay all appropriate taxes that we are required to.

Senator EDWARDS: Yadda yadda yadda.

Senator DI NATALE: What are those taxes?

Mr Kitschke: We pay corporation tax. We pay every other tax that is required of us.

Senator DI NATALE: Can you give us an outline?

Senator DASTYARI: But you are not making a profit?

Mr Kitschke: Yes, but Uber Australia—the entity—is provided a sum of money by the Dutch entity to provide support services in this jurisdiction, plus an additional amount. We are taxed on that. We pay corporation tax on that. We have done so for the last couple of years. You can check that with the Australian Taxation Office.

Senator DI NATALE: How much is that? How much have you paid?

Mr Kitschke: I do not have the specifics.

Senator EDWARDS: We have \$25 that has gone off into the ether, right? You get repatriated. You say to your offshore parent company, 'It's cost us 100 grand this month to operate the business. Here are our expenses.' They say, 'Okay, here is a cheque for 100 grand. Keep going, boys. You are doing a great job.' Do they repatriate your costs? Where does the \$25 which you pay tax on finish up in your operation?

Mr Kitschke: As I have advised you, Uber Australia is established to provide support functions for the Netherlands entity. We are provided a fee at cost to do that which is determine by external accountants. On top of that there is an additional 8.5 per cent. We pay tax on that 8.5 per cent. I cannot explain it any more—

Senator DASTYARI: So the Dutch parent company decides what your level of profitability is allowed to be in your Australian operation?

Mr Kitschke: That is right.

Senator DASTYARI: So that is determine in the Netherlands? So you get given an amount every month—

Mr Kitschke: Which is determine by external accountants.

Senator DASTYARI: Do you get that on a Monday as well, just out of interest?

Mr Kitschke: I get paid monthly. When do you get paid?

Senator DASTYARI: I get paid monthly as well.

Senator EDWARDS: On the last day of the month.

Senator DASTYARI: Last day of the month, but who is counting? And MyPay is all public by the way. Mr Kitschke, so the 25 per cent goes to the parent operation. Is that the same rate globally—everywhere? Is that a flat rate?

Mr Kitschke: It depends on the product. You would be aware we have ride share and Uber BLACK.

Senator DASTYARI: The answer is no.

Mr Kitschke: The average is around 25 per cent.

Senator DASTYARI: Let's say it is 25 per cent—we will use that figure. That goes to the Netherlands. The Dutch parent company separate to that on a separate basis determines how much money they are going to float to the Australian operation for the funding of your business. How many people work for Uber Australia?

Mr Kitschke: As I said, in the opening statement, I think by the end of this year we will have around 100.

Senator DASTYARI: That is not including drivers; that is separate. Uber Australia—so you have got about 100 people. They then fund that. You pay tax on that.

Mr Kitschke: That is correct.

Senator DASTYARI: You do not know how much tax you paid last year.

Mr Kitschke: No.

Senator DASTYARI: You came to a Senate corporate tax inquiry and did not work out how much tax you paid last year.

Mr Kitschke: I can find out the specifics for you and get back to you in a very short period of time.

Senator EDWARDS: It would be easy to suggest that the repatriation of the 25 per cent is manipulated on the way back to you guys in Uber Australia. You are repatriating expenses only plus 8½ per cent and you are keeping whatever the balance of the 25 per cent over there? Is that fair?

Mr Kitschke: As I said, the platform—the software—is based in the Netherlands. It needs to service 64 countries, and that is the reason why it is based there. It is the same for every other jurisdiction.

Senator DI NATALE: What is the company tax rate in the Netherlands?

Mr Kitschke: I am not aware of that.

Senator DI NATALE: Following on from Senator Dastyari, it is a corporate tax inquiry. These are pretty basic bits of information.

Mr Kitschke: I am more than happy to follow that up for you.

Senator EDWARDS: You can talk about the platform all day.

Senator DI NATALE: Do you see the public policy issue here?

Senator EDWARDS: Which we are all in agreement with.

Senator DI NATALE: A lot of people, I suspect, some—

Senator DASTYARI: Mr McDonagh is dying for us to ask what the tax rate is in Ireland.

Mr McDonagh: It is 12 per cent.

Senator EDWARDS: I even know that one.

Senator DI NATALE: The public policy problem is obvious here. I know that it is being tested at the moment about whether the service you provide is fundamentally different from the service provided by the taxi industry. You are in competition. You are offering what is broadly similar—and I know that will be tested. Obviously, the concern is that we have got one industry paying tax here in Australia and another that is not. The public policy problem is, if other businesses see the opportunities to do what you have done, we are going to start eroding our tax base. Do you acknowledge that that is an issue at least?

Mr Kitschke: That is an issue for governments, as I said before. We comply with all of the appropriate laws. It is not for me to make the judgement about whether or not that is appropriate. That is an issue for you as legislators.

Senator EDWARDS: You are the one arguing with Mr Jordan.

Mr Kitschke: I think that is a different issue. I think that the issue that we are arguing with Mr Jordan about is the application of the goods and services tax. I thought Senator Di Natale's question was about the issue around corporate taxation. Am I incorrect?

Senator DI NATALE: No. I am using corporate taxation but I think there are other taxes involved. I suppose the public policy question is that, as businesses like yours are emerging and providing a valuable service and are very popular, it presents a huge challenge to legislators. Because of the business model that you both have adopted, if that trend continues, it will lead to the erosion of the revenue base in Australia and, obviously, that has direct consequences for how we fund hospitals and schools and so on. I put to both of you: do you see that that is a challenge for legislators and that, in the end, without any concrete suggestions from either of you, it may be that you end up with a solution that is something both of you do not support. I am looking for options as to how you think a fairer way of leaving taxes from your industry and what that might look like. Perhaps Mr McDonagh, you have got off scot-free so far.

Mr McDonagh: I am very happy to answer any questions that are directed at me for sure. I think Airbnb provides a significant economic contribution to Australia and Australians—

Senator DI NATALE: Let's park the economics, because we have heard that from a number of contributors so far and we acknowledge it is an important economic contributor.

Senator EDWARDS: Hear! Hear!

Senator DI NATALE: But, as I think Senator Dastyari said, employing people and providing a source of economic activity is a good thing but it does not exclude the other side of that equation, which is paying tax. At least focus on that bit.

Mr McDonagh: One of the things that is at the core of Airbnb as a company is being a good corporate citizen. That applies in Australia and applies in the 191 countries all around the world that Airbnb has listings in, as well as in the 34,000 cities that we would like to make a positive contribution in. Just last week I was in Paris at the Airbnb Open, where we had 5,000 Airbnb hosts from all around the world who were in Paris to learn more about how they can make positive contributions to their community. That included a number of Australians. There is limited information that we are able to share with you all today, but the one thing I certainly can share with you as it relates to corporate tax in Australia is that Airbnb in Australia does make a profit. In 2014, our effective corporate tax rate was 37 per cent.

Senator DI NATALE: What was the profit?

Mr McDonagh: Our profit in Australia was derived from the marketing services that we provide. The costs that we incurred—

Senator DI NATALE: Sorry, can you explain that?

Mr McDonagh: Airbnb in Australia provides marketing and promotional services to Airbnb Ireland. That is the role that we play. We have a small team here and that is what we do.

Senator DI NATALE: What was the profit, and what was the taxable income?

Mr McDonagh: As we are a private company, I am unable to disclose the amount of profit that we reported in 2014, but I can say that our effective corporate tax rate was 37 per cent on that.

Senator DASTYARI: That would be in the ASIC lodgements, would it not? If I paid \$37, I would be able to get that straight from ASIC.

Mr McDonagh: I am sorry?

Senator DASTYARI: I know you are saying you are choosing not to give that to us, but that would be part of what you lodge with ASIC?

Mr McDonagh: That is correct, yes.

Senator DASTYARI: So it is publicly available.

Mr McDonagh: It could be publicly available.

Senator DASTYARI: It is publicly available. You make ASIC lodgements, right?

Mr McDonagh: We do.

Senator McALLISTER: I wonder if you might provide it to the committee in confidence—in writing? We could just ask Mr McDonagh to provide it to the committee in writing in confidence, Chair.

Senator EDWARDS: Mr Kitschke, your company—I love the innovation, I love the ease of use, I love all that; do not get me wrong. But Senator Di Natale quite rightly talks about public policy. I think all this innovation is fantastic, but you create value by providing transport services to Australians, for Australians. It just so happens that your web-based administration is based in the Netherlands. With your parent or master—whatever you like to call it—why do you not collect all the money here and repatriate what they tell you you owe them?

Mr Kitschke: The contractual relationship is with the Netherlands company, and that is the company that creates the value. The value is created by the platform, by the software, that has to service 64 different countries and 354 markets. When the platform was created and when our organisational structure was created, it was not created with just Australia in mind. It was created with the need to service that diverse number of different markets and different countries.

Senator EDWARDS: So cost plus 8½ per cent—does that equal 25 per cent normally?

Mr Kitschke: I would have to dig into that further. I do not know the answer to that question.

Senator EDWARDS: If cost plus 8½ per cent does not equal the \$25 in my \$100 fare from Clare to Adelaide, what happens to the balance of that money?

Mr Kitschke: It resides with the entity that is providing the service. The entity that is providing the service is the Dutch entity.

Senator EDWARDS: Of my \$25 that goes to the Netherlands, does any of that money ever come back to have tax paid on it? Just say we have enough to cover costs plus the 8½ per cent.

Mr Kitschke: As I said, we are funded by our parent organisation to provide support services for the platform for the Dutch entity in this jurisdiction.

ACTING CHAIR: What if the cost of providing that service is ten bucks and another 8½ per cent. Is that on the fare, or is that on the cost of service?

Mr Kitschke: No, it is on the cost of running the Australian business. The Netherlands entity pays the Australian business a fee that is determined by external accountants that is evaluated on what it costs to provide the specific support services that is the role of the Australian entity. We do not operate the platform.

ACTING CHAIR: Mr Jordan at the ATO does not have any transparency on that to know whether—

Mr Kitschke: I am sure Mr Jordan is acutely aware of our tax affairs.

ACTING CHAIR: No, he is not acutely aware of your operating costs, which is what the whole transfer pricing argument is all about—an IP and everything like that. I was in this room with Google, Microsoft and Apple talking about how much they charge their Australian operations for an iPad. So we do not have any transparency—and I presume you are the same Mr McDonagh—in how much your administration fee is or whether it happens to miraculously equal the \$25 of a \$100 fare. Is that right?

Mr Kitschke: Sorry, what was the question?

ACTING CHAIR: I am a bit confused myself! There is \$75 which goes to the poor lady or man who drives the car.

Mr Kitschke: I would not say it is a poor lady.

ACTING CHAIR: Or to the person gainfully employed and being very entrepreneurial. How is that? Is that a better characterisation?

Mr Kitschke: That probably sounds better.

ACTING CHAIR: There is \$25 which is domiciled, by virtue of the transaction, in Holland.

Mr Kitschke: It is paid to the organisation—to the business—that is actually providing the service, and the service is the platform. It is the software and the software is based in the Netherlands.

Senator DASTYARI: That is ridiculous. The idea that you cannot collect the money is ridiculous. What they are doing—and Labor et us be clear about what is going on here—

ACTING CHAIR: I thought I was going alright, but anyway—

Senator DASTYARI: The part of the business model we have—and we are in agreement here which frightens me as much as it frightens you. I appreciate you are here representing Uber Australia and you are here representing Airbnb Australia. They are both completely owned subsidiary companies of your parent organisation. These decisions get made at a parent level. I appreciate that. I understand and respect the fact that there is only so much you can disagree on and if you want to give your parent company a bash feel free to do so. You are protected by parliamentary privilege.

Let us be clear what the issue is—and I think Senator Edwards made this very clear: this is a transaction, for all intents and purposes, that has occurred in Australia by appearance. Yet, because of the way in which your platform is structured, it is a transaction that has occurred in your parent jurisdiction, both of which happen to be lower-tax jurisdictions. The idea, for the average Australian, that my transaction, when I decide that I am going to book an Uber car to pick me up from my house or that I am going to stay in a Western Sydney or South Western Sydney property or wherever, that has gone on between the driver and me or the owner of a property and me—and it is not a revelation because I think it is information that is already out there that surprises and concerns people and concerns us from a policy level—is with companies that are structured in such a way that the transactions are actually taking place in places around the world where these people have not visited and are unlikely to ever visit.

The concern from a policy level is what we can do or what we should do to make sure we are actually capturing those transactions in Australia and making sure that the tax is paid in Australia. I appreciate that Uber Netherlands and Airbnb Ireland are doing fantastically, and I wish the best of luck to them. We just want to make sure that we are getting our fair share of the tax dollars here. I think from what you are saying, the policy settings have to be changed for us to be able to do that.

ACTING CHAIR: So that we do not discriminate against the companies that operate in Australia and that pay tax on 100 per cent of their net profit.

Senator DI NATALE: I want to ask a little bit about the history of both organisations. Where did Uber start?

Mr Kitschke: We started in San Francisco. That was our first market. Then the business expanded to Europe and to the rest of the world.

Senator DI NATALE: And Airbnb?

Mr McDonagh: Airbnb was established in 2008 in San Francisco.

Senator DI NATALE: Doesn't it tell you something that you both happen to have landed in low-taxing jurisdictions?

Mr McDonagh: I would certainly be happy to share some of the background in relation to our use of Ireland as an international hub. We grew—

Senator DI NATALE: You are not going to tell me it is like Bermuda, which has a great safety record and all the rest of it?

Senator DASTYARI: Bermuda as a place for ship safety is something that goes against everything I was taught as a small child!

Senator DI NATALE: We are not suggesting that anything illegal is going on. But they are businesses that were generated in the US and they happen to have landed in jurisdictions that are low-taxing jurisdictions.

Mr McDonagh: I certainly appreciate that. Airbnb, as part of its global expansion that it undertook in 2012, found itself establishing offices all through Europe, and that was a really important part of Airbnb's expansion. We are on the record as saying that the biggest part of Airbnb's business is in Europe. We had offices and people spread all through Europe in different cities. We subsequently made changes to that in terms of the number of people and offices and where they are located.

Senator EDWARDS: You closed those offices?

Mr McDonagh: We closed some of those offices because one of our core values at Airbnb is to simplify. It just was not effective to have all of those offices and all of those people.

Senator EDWARDS: Why Ireland?

Mr McDonagh: I think Ireland is important for a number of reasons.

Senator EDWARDS: What is the No. 1 reason?

Mr McDonagh: I would say that the No. 1 reason we located ourselves in Ireland was for access to great talent.

Senator EDWARDS: Come on!

Mr McDonagh: It is generally the head of our global operations.

Senator DI NATALE: And the corporate tax rate in Ireland had nothing to do with it?

Mr McDonagh: We do not make any long-term decisions for the business based on tax rates.

Senator EDWARDS: What is the tax rate in Ireland?

Mr McDonagh: I think you set out what the tax rate was earlier. I am here to answer questions as they relate to Airbnb in Australia.

Senator DI NATALE: I am not saying there is anything illegal or wrong about it. It is just a reality here, and I would just love to hear someone name it. Mr Kitschke, would you like to take the opportunity to tell me why you settled on the Netherlands?

Mr Kitschke: As I said, our business started in San Francisco, and the steps that we took next were to go to Europe and the rest of the world. The Netherlands was chosen as a base because it has a highly skilled workforce and it was a place that businesses could—

Senator EDWARDS: Good beaches!

Mr Kitschke: launch effectively to the rest of the world. Similarly we make decisions based on the need to service six continents, 64 countries and 354 cities. If people in this room think that we have deliberately constructed our entire corporate structure with just Australia in mind, I think that is a little bit naive.

Senator EDWARDS: Nobody said that, and—

Senator DI NATALE: No-one is suggesting that.

Senator EDWARDS: to frame it that way is being a little bit precious.

Senator DI NATALE: No-one is suggesting that. Obviously there are advantages to being in Ireland over Bermuda. But Ireland has a low corporate tax rate, and I am assuming the Netherlands has a low corporate tax rate too. I am looking forward to getting that information from the witnesses. But it would help us in this discussion if you were a little bit more frank about some of the reasons behind the way the organisation has developed, grown and landed in these low-tax jurisdictions. It is providing a very good service. No-one is arguing against that. But the question again comes back to whether we are capturing the appropriate level of revenue from the activities that are undertaken here in Australia by both of your operations.

Senator EDWARDS: Who set the rate of 25 per cent for your company as the clip the ticket for the Netherlands?

Mr Kitschke: The Netherlands company that runs the platform.

Senator EDWARDS: Based on what?

Mr Kitschke: Based on decisions about how much it costs to invest in the IP and maintain the technology. It is obviously a fairly sophisticated piece of technology that a fair amount of investment has gone into.

Senator EDWARDS: Mr Kitschke, I will pose the question on notice to you: are you a transport company, or are you a software company?

Mr Kitschke: We are a tech company.

CHAIR: You are not a ride-sharing company?

Mr Kitschke: Our partners provide the ride-sharing services. We, as in the Uber group of companies—

CHAIR: It has nothing to do with—

Mr Kitschke: provide the platform.

Senator EDWARDS: So, when I book an Uber, I am booking a tech company?

Mr Kitschke: No, you are using a piece of technology, and that is what we provide.

Senator EDWARDS: What?

Mr Kitschke: The technology.

Senator EDWARDS: To do what?

Mr Kitschke: To connect you with the person who wants to take you for a lift.

Senator EDWARDS: Mr McDonagh, what are you? Are you a software company, or are you a company which provides accommodation services like every other hotel based here in Australia?

Mr McDonagh: Airbnb are certainly a technology company. For the use of that technology and that platform we charge various fees, which we have not touched on yet, but I think it is important in terms of the context.

Senator EDWARDS: How much do you charge?

Mr McDonagh: It is free to list on Airbnb, and we charge a three per cent fee to hosts. So, if you were to go and book a \$100 room or a home for \$100—

Senator EDWARDS: It is three bucks to you.

Mr McDonagh: in Surry Hills, the host will receive \$97 from that \$100 booking.

Senator BACK: They would only pay tax if they got to the \$18,000-a-year tax threshold?

Mr McDonagh: We do not look at individuals in terms of whether they are lodging tax returns and so on, but we certainly encourage all of our hosts in Australia and around the world to declare the income that they make from Airbnb, and we provide them with a reminder which relates to the amount of money that they have earned in any year to help facilitate that.

Senator BACK: Do you encourage them to have a stated GST component on the tax invoice that goes to the guest?

Mr McDonagh: The ATO does not require Airbnb hosts in Australia to charge GST.

Senator BACK: So, unlike Uber, there is no dispute between you and the tax office about the definition or the nature of the host? There is no automatic scenario as you have explained to us, Mr Kitschke, and that is that, in the case of Uber, a person is expected to have an ABN; they are expected to produce a quarterly BAS whether or not they get anywhere near a taxable income—

Mr Kitschke: That is correct.

Senator BACK: the tax-free threshold. Is that correct?

CHAIR: I am going to have to ask people to start winding up because we have—

Senator EDWARDS: I am just winding up. No worries.

Mr Kitschke: Can I just say in relation to Senator Back's comment and following from Sam's comment that similarly we have complied with requests from the Australian Taxation Office to provide their information, so in fact notices of the ATO. Our platform has provided that information out to all of our partners to advise them of the ATO's ruling, of their tax requirements and the position of the Australian Taxation Office, and we have been extremely cooperative in that.

Senator EDWARDS: You told me that you are a tech company. And you are a tech company. But your opening page on your app says what, Mr Kitschke? What does that say? You should be familiar with that, even though you probably cannot see it from there.

Mr Kitschke: I cannot see it from there. I will have to open it up on my phone. I have a conversion.

Senator EDWARDS: So what does it say?

Mr Kitschke: It says, 'Uber, everyone's private driver.'

Senator EDWARDS: Of tech?

Mr Kitschke: No, as I said, our platform facilitates the connection between someone who wants a ride—

Senator EDWARDS: So what are you, a tech company or a transport company?

Mr Kitschke: I have answered that question a number of times. We are a tech company. We do not own the vehicles. We do not operate the vehicles.

Senator EDWARDS: It repatriates 25 per cent of its revenue to an offshore destination, and then it goes all murky about what your costs are, and none of the money ever comes back apart from your wages and your overheads for your office.

Mr Kitschke: And the corporate tax we pay in Australia.

Senator EDWARDS: Which is whatever they decide to pay on whatever that 25 per cent is and repatriate—

CHAIR: Plus 8.5 per cent.

Mr Kitschke: That is correct. My understanding is that the ATO uses 7.5 per cent as a safe harbour, so we are actually above what is required in that particular respect and above OECD guidelines.

Senator EDWARDS: I am going to finish up, Chair. I love the technology. I think it is great. We just want to get level playing fields and no disadvantage. We all understand that this threat with technology is coming at us, and it provides a lot of great services for people, but we just have to try to keep pace.

CHAIR: I understand that Senator McAllister has a couple of questions before we finish up.

Senator McALLISTER: Yes. I just want to ask you, Mr Kitschke, about your submission. You conclude your written submission with a section that is headed 'Tax Policy Generally'. I am not really sure what point you are trying to make there. Perhaps you could elaborate for us?

Mr Kitschke: I think that the key point we are trying to make today is that we are a global business that operates in many jurisdictions, and I made the point in my opening statement that, if there are changes to be made, they are changes that need to be made at a global level as opposed to a domestic level.

Senator McALLISTER: Are you saying that the work of this committee is unimportant?

Mr Kitschke: No, not at all. I am saying it is very important work, but it needs to form part of a global activity, which I understand is being pursued through the OECD at the moment.

Senator McALLISTER: In that part of the submission, you say:

... if the laws being suggested here in Australia were imposed on Australian companies operating abroad—for example in China—the taxes paid by those companies overseas would rise and the tax paid locally would fall.

It seems to me that that is a little misleading because in fact China is not a tax haven. It is not a low-tax country. This committee's interest really is about people artificially constructing arrangements so that business activity appears to occur in a low-tax jurisdiction. I am just wondering what point you really are trying to make here by using the example of China.

Mr Kitschke: Again, I think it was the indication of the fact that this is a global issue—that, if global companies that are established elsewhere are going to be taxed in different ways and the rules are going to be changed, that will also affect the way that Australian companies which provide services or undertake activities in other jurisdictions are dealt with as well.

Senator McALLISTER: I think you will find that here on this committee there is agreement that, wherever economic activity occurs, that is the jurisdiction in which it ought to be taxed, but we might just have to agree to disagree on this approach. Thank you.

CHAIR: Thank you very much, gentlemen, for coming before us today.