

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934

November 9, 2020
Date of Report (Date of earliest event reported)

Uber Technologies, Inc.
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation)

001-38902
(Commission File Number)

45-2647441
(I.R.S. Employer Identification Number)

1455 Market Street, 4th Floor
San Francisco, California 94103
(Address of principal executive offices, including zip code)

(415) 612-8582
(Registrant's telephone number, including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligations of the registrant under any of the following provisions:

- ☒ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.00001 per share	UBER	New York Stock Exchange

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Item 7.01. Regulation FD Disclosure.

On November 9, 2020, the Antitrust Division of the United States Department of Justice (the “DOJ”) granted early termination of the HSR waiting period for Uber Technologies, Inc.’s (“Uber’s”) acquisition of Postmates Inc. (“Postmates”). We now expect to close this transaction in the fourth quarter of 2020, subject to the approval of Postmates stockholders and other customary closing conditions.

On November 6, 2020, the Company sent a letter to the DOJ indicating that, subject to and upon the closing of the transaction, Uber will waive exclusivity provisions between Postmates and approximately 800 restaurants in certain geographic areas across the United States and, for a period of six months after closing, Uber will not enter into exclusivity agreements with those restaurants. The details are outlined in the attached letter to the DOJ.

The information set forth under this Item 7.01 and in the accompanying Exhibit 99.1 is being furnished and shall not be deemed “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”) or otherwise subject to the liabilities of that section, nor shall it be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended, or the Exchange Act, regardless of any general incorporation language in such filing, except as otherwise expressly stated in such filing..

This Form 8-K contains forward-looking statements regarding our future business expectations which involve risks and uncertainties. Actual results may differ materially from the results predicted, and reported results should not be considered as an indication of future performance. Forward-looking statements include all statements that are not historical facts and can be identified by terms such as “anticipate,” “expect,” “will,” or “would” or similar expressions and the negatives of those terms. Forward-looking statements involve known and unknown risks, uncertainties and other factors that may cause our actual results, performance or achievements to be materially different from any future results, performance or achievements expressed or implied by the forward-looking statements. These risks, uncertainties and other factors relate to, among others: risks and uncertainties related to our pending acquisition of Postmates, including the costs, expenses or difficulties related to the acquisition of Postmates, including the integration of the Postmates’ business; failure to realize the expected benefits and synergies of the proposed transaction in the expected timeframes or at all; the potential impact of the announcement, pendency or consummation of the proposed transaction on relationships with our and Postmates’ employees, customers, suppliers and other business partners; the risk of litigation or regulatory actions to us and Postmates; inability to retain key personnel; changes in legislation or government regulations affecting us or Postmates; and economic, financial, social or political conditions that could adversely affect us, Postmates or the proposed transaction; developments in the COVID-19 pandemic and the resulting impact on our business and operations, our strategy, competition, managing our growth and corporate culture, financial performance, investments in new products or offerings, our ability to attract drivers, consumers and other partners to our platform, our brand and reputation and other legal and regulatory developments. In addition, other potential risks and uncertainties that could cause actual results to differ from the results predicted include, among others, those risks and uncertainties included under the captions “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” in our Annual Report on Form 10-K, filed with the Securities and Exchange Commission on March 2, 2020 and in any subsequent Form 10-Qs and Form 8-Ks filed with the Securities and Exchange Commission. All information provided in this Form 8-K is as of the date hereof and any forward-looking statements contained herein are based on assumptions that we believe to be reasonable as of this date. Undue reliance should not be placed on the forward-looking statements in this Form 8-K, which are based on information available to us on the date hereof. We undertake no duty to update this information unless required by law.

No Offer or Solicitation

This communication shall not constitute an offer to sell or the solicitation of an offer to buy any securities, nor shall there be any sale of securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction. No offering of securities shall be made except by means of a prospectus meeting the requirements of Section 10 of the U.S. Securities Act of 1933, as amended.

Important Additional Information Filed with the SEC

Uber has filed with the SEC a registration statement on Form S-4, which includes a prospectus of Uber. INVESTORS ARE URGED TO CAREFULLY READ THE REGISTRATION STATEMENT AND OTHER RELEVANT DOCUMENTS TO BE FILED WITH THE SEC IN THEIR ENTIRETY WHEN THEY BECOME AVAILABLE BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION ABOUT UBER, POSTMATES, THE PROPOSED TRANSACTION AND RELATED MATTERS. Investors can obtain free copies of the registration statement and other documents filed with the SEC through the website maintained by the SEC at www.sec.gov and on Uber’s website at investor.uber.com.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

<u>Exhibit Number</u>	<u>Description</u>
99.1	Letter to the Antitrust Division

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Uber Technologies, Inc.

Date: November 10, 2020

By: /s/ Dara Khosrowshahi

Name: Dara Khosrowshahi

Title: Chief Executive Officer



Tony West
Senior Vice President
Chief Legal Officer and Corporate Secretary

November 6, 2020
By Email

Hon. Makan Delrahim Assistant Attorney General
United States Department of Justice, Antitrust Division Robert F. Kennedy Main Justice Building
950 Pennsylvania Avenue, N.W. Washington, DC 20530-00001

RE: File No. 60-492210-0001
Uber Technologies, Inc.'s Proposed Acquisition of Postmates, Inc.

RE: File No. 60-492210-0001
Uber Technologies, Inc.'s Proposed Acquisition of Postmates, Inc.

Dear Mr. Delrahim:

In connection with the proposed acquisition by Uber Technologies, Inc. ("Uber") of Postmates, Inc. ("Postmates"), Uber irrevocably commits to do each of the following effective immediately upon consummation of the transaction (the "Closing"):

- 1) Uber will waive the enforceability of all Exclusivity Provisions in effect at Closing in any agreements between Postmates and any restaurant operating in the zip codes set forth in Attachment A ("Covered Restaurants") to the full extent that those Exclusivity Provisions apply to the Covered Restaurant's locations operating in those zip codes.¹
- 2) With regard to any Covered Restaurant's locations operating in the zip codes set forth in Attachment A, Uber will waive the enforceability of all contractual penalty provisions in any agreements between Postmates and any Covered Restaurants relating to the breach or violation of any Exclusivity Provisions in effect as of the Closing, and, thereafter, Uber will not seek to collect any such penalty.
- 3) For a period of six (6) months following the Closing, Uber will not enter into any agreement with a Covered Restaurant that contains an Exclusivity Provision.
- 4) Immediately upon Closing, Uber will send a copy of this letter to a responsible person at each Covered Restaurant that is operating in one or more of the zip codes set forth in Attachment A and as to which there is an Exclusivity Provision with Postmates in effect at Closing.

¹ For the purposes of this letter, an "Exclusivity Provision" is any provision in any contract with a Covered Restaurant that requires the Covered Restaurant to use Postmates or Uber exclusively as its third party provider of online food ordering and/or delivery services.

Please do not hesitate to contact me if you have any questions regarding the foregoing.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony West", with a horizontal line extending from the end of the signature.

Tony West

cc: Taylor M. Owings, Esq.

Attachment A

Bellingham: 98220, 98221, 98225, 98226, 98229, 98230, 98232, 98233, 98235, 98236, 98237, 98238, 98239, 98240, 98241, 98244, 98247, 98248, 98249, 98253, 98255, 98257, 98260, 98262, 98263, 98264, 98266, 98267, 98273, 98274, 98276, 98277, 98278, 98281, 98282, 98283, 98284, 98292, 98295, 98862

Charleston: 29003, 29018, 29042, 29059, 29081, 29082, 29401, 29403, 29404, 29405, 29406, 29407, 29409, 29410, 29412, 29414, 29418, 29420, 29423, 29424, 29426, 29429, 29431, 29434, 29435, 29436, 29437, 29438, 29439, 29432, 29445, 29446, 29448, 29449, 29450, 29451, 29452, 29453, 29455, 29456, 29458, 29461, 29464, 29466, 29468, 29469, 29470, 29471, 29472, 29474, 29475, 29477, 29479, 29481, 29482, 29483, 29485, 29487, 29488, 29492, 29493, 29810, 29812, 29817, 29826, 29827, 29836, 29843, 29849, 29853, 29911, 29916, 29918, 29921, 29922, 29923, 29924, 29929, 29932, 29934, 29939, 29944, 29945

El Paso: 79821, 79835, 79836, 79837, 79838, 79839, 79847, 79849, 79851, 79853, 79855, 79901, 79902, 79903, 79904, 79905, 79906, 79907, 79908, 79911, 79912, 79915, 79916, 79920, 79922, 79924, 79925, 79927, 79928, 79930, 79932, 79934, 79935, 79936, 79938

Las Vegas: 89002, 89004, 89005, 89007, 89011, 89012, 89014, 89015, 89018, 89019, 89021, 89025, 89026, 89027, 89029, 89030, 89031, 89032, 89039, 89040, 89044, 89046, 89052, 89054, 89074, 89081, 89084, 89085, 89086, 89101, 89102, 89103, 89104, 89106, 89107, 89108, 89109, 89110, 89113, 89115, 89117, 89118, 89119, 89120, 89121, 89122, 89123, 89124, 89128, 89129, 89130, 89131, 89134, 89135, 89138, 89139, 89141, 89142, 89143, 89144, 89145, 89146, 89147, 89148, 89149, 89156, 89161, 89166, 89169, 89178, 89179, 89183, 89191

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Miami: 33004, 33009, 33010, 33012, 33013, 33014, 33015, 33016, 33018, 33019, 33020, 33021, 33023, 33024, 33025, 33026, 33027, 33028, 33029, 33030, 33031, 33032, 33033, 33034, 33035, 33039, 33054, 33055, 33056, 33060, 33062, 33063, 33064, 33065, 33066, 33067, 33068, 33069, 33071, 33073, 33076, 33101, 33109, 33122, 33125, 33126, 33127, 33128, 33129, 33130, 33131, 33132, 33133, 33134, 33135, 33136, 33137, 33138, 33139, 33140, 33141, 33142, 33143, 33144, 33145, 33146, 33147, 33149, 33150, 33154, 33155, 33156, 33157, 33158, 33160, 33161, 33162, 33165, 33166, 33167, 33168, 33169, 33170, 33172, 33173, 33174, 33175, 33176, 33177, 33178, 33179, 33180, 33181, 33182, 33183, 33184, 33185, 33186, 33187, 33189, 33190, 33193, 33194, 33196, 33301, 33304, 33305, 33306, 33308, 33309, 33311, 33312, 33313, 33314, 33315, 33316, 33317, 33319, 33321, 33322, 33323, 33324, 33325, 33326, 33327, 33328, 33330, 33331, 33332, 33334, 33351, 33401, 33403, 33404, 33405, 33406, 33407, 33408, 33409, 33410, 33411, 33412, 33413, 33414, 33415, 33417, 33418, 33426, 33428, 33430, 33431, 33432, 33433, 33434, 33435, 33436, 33437, 33438, 33440, 33441, 33442, 33444, 33445, 33446, 33449, 33455, 33458, 33460, 33461, 33462, 33463, 33467, 33469, 33470, 33472, 33473, 33476, 33477, 33478, 33480, 33483, 33484, 33486, 33487, 33493, 33496, 33498, 34956, 34957, 34974, 34990, 34994, 34996, 34997

Nashville: 37010, 37012, 37013, 37014, 37015, 37016, 37018, 37020, 37022, 37023, 37025, 37026, 37027, 37028, 37029, 37030, 37031, 37032, 37033, 37035, 37036, 37037, 37040, 37042, 37043, 37046, 37048, 37049, 37050, 37051, 37052, 37055, 37057, 37058, 37059, 37060, 37061, 37062, 37064, 37066, 37067, 37069, 37072, 37073, 37074, 37075, 37076, 37078, 37079, 37080, 37082, 37083, 37085, 37086, 37087, 37090, 37095, 37098, 37101, 37110, 37115, 37118, 37122, 37127, 37128, 37129, 37130, 37132, 37134, 37135, 37137, 37138, 37140, 37141, 37142, 37143, 37145, 37146, 37148, 37149, 37150, 37151, 37153, 37165, 37166, 37167, 37171, 37172, 37174, 37175, 37178, 37179, 37181, 37183, 37184, 37185, 37186, 37187, 37188, 37189, 37190, 37191, 37201, 37203, 37204, 37205, 37206, 37207, 37208, 37209, 37210, 37211, 37212, 37213, 37214, 37215, 37216, 37217, 37218, 37219, 37220, 37221, 37228, 37240, 37243, 37246, 37330, 37342, 37355, 37357, 37360, 37388, 38401, 38454, 38462, 38476, 38487, 38544, 38548, 38547, 38552, 38560, 38563, 38567, 38569, 38582, 38583, 42223

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Western Arizona: 85325, 85328, 85334, 85344, 85346, 85348, 85357, 85360, 85371, 86021, 86022, 86401, 86403, 86404, 86406, 86409, 86411, 86413, 86426, 86429, 86431, 86432, 86433, 86434, 86436, 86437, 86438, 86440, 86441, 86442, 86443, 86444, 86445