Consumer and Worker Protection

To: Mayor Eric Adams, Speaker Adrienne E. Adams

From: Department of Consumer and Worker Protection

Date: November 27, 2023

Re: Third-party food delivery services fee caps report

I. Introduction

The Department of Consumer and Worker Protection (DCWP) submits this report to Mayor Eric Adams and New York City Council Speaker Adrienne E. Adams pursuant to title 20, section 20-563.3(d) of the NYC Administrative Code (NYC Code). The NYC Code tasks DCWP with submitting this report every two years with specific information, including recommendations on the maintenance or adjustment of the delivery fee caps that apply to third-party food delivery services.

II. Licensing of Third-Party Food Delivery Services and the Fee Caps

Licensing and Gratuities

On January 25, 2022, a package of new laws took effect, creating a licensing regime for third-party food delivery services, more commonly known as "restaurant apps" or "restaurant delivery apps."[1] In addition to requiring all restaurant apps to receive a license to operate, the new laws require restaurant apps to disclose the amount of each gratuity that is distributed to app delivery workers and how the distribution is made, to notify app delivery workers of the amount paid by customers as a gratuity, and to disclose to app delivery workers the aggregate amount of compensation and tips earned in a given day.

As of the date of this report, DCWP licenses 32 restaurant delivery apps.

Protections for Restaurants

The new laws prohibit restaurant apps from charging any fee to a restaurant for a telephone order if the call did not result in an actual transaction. The new laws also prohibit restaurant apps from listing or selling a restaurant's products without having a written agreement

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[1] *See* Local Law 100 of 2021, Local Law 103 of 2021, Local Law 110 of 2021, Local Law 113 of 2021, Local Law 117 of 2021, and Local Law 118 of 2021.

with the restaurant to offer such services. A restaurant app must also, upon request, share customer data with a restaurant for orders from that restaurant unless the customer requests that such data not be shared.[2]

Fee Caps

The new laws also impose caps on the various fees that restaurant apps may charge to restaurants for services:

- 15% to deliver the order;
- 5% to provide services other than delivery and payment processing; and
- 3% to process electronic payment.[3]

DCWP Rulemaking

To implement the new laws, DCWP engaged in rulemaking, publishing proposed rules in 2021 that became effective on February 18, 2022. These new rules clarified requirements for restaurant app license applications and clarified recordkeeping requirements for the apps. The rules also clarify disclosures that restaurant apps must make relating to worker gratuities, telephone listings, and sharing customer data.[4]

III. Recent Proposed Legislation

On March 29, 2023, the New York City Council held a hearing on a proposed new bill that would amend the fee caps that apply to restaurant apps. Introduction 813 of 2022 would create an exemption from the fee caps for certain restaurant apps if the app provides restaurants with marketing services on the app's platform.

This proposed bill generated strong advocacy from many stakeholders on all sides of the issue. The hearing testimony lasted over five hours and the Council received almost 600 pages of written testimony.[5]

Council has not taken any action on Introduction 813 since the hearing.

IV. Minimum Pay for Restaurant Delivery Workers

Local Law has also tasked DCWP with enforcing certain rights for the independent contractors restaurant apps engage to perform deliveries (app delivery workers). Under these laws, which became effective April 22, 2022, workers have the right to, among other things:

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[2] This is a brief overview of the legal requirements created in this industry. For complete information, please visit nyc.gov/dcwp.

[3] The law provides for an exception to the 3% cap on electronic payments if the restaurant app can show proof it pays a higher transaction fee. *See* NYC Code § 20-563.3(c).

[4] *See* Rules of the City of New York (RCNY), title 6, section 2-461 *et seq*.

[5] A copy of the bill text, the comments submitted, and a transcript of the hearing are available on Legistar, https://legistar.council.nyc.gov/Legislation.aspx.

- Set limits in the app interface to reflect which bridges and tunnels the worker will use and the maximum distance between a restaurant and a customer;
- Receive trip details before a worker accepts a delivery, such as pickup address, estimated time and distance, tip, and pay;
- Receive payment for their work at least once a week; and
- Receive free insulated delivery bags from their app.[6]

These laws also require DCWP to study the working conditions of app delivery workers, including "consideration of the pay food delivery workers receive and the methods by which such pay is determined, the total income food delivery workers earn, the expenses of such workers, the equipment required to perform their work, the hours of such workers, the average mileage of a trip, the mode of travel used by such workers, [and] the safety conditions of such workers."[7] Based on the results of this study, DCWP was required to set, by rule, the minimum payments that must be made to app delivery workers by restaurant apps.[8]

In November 2022, DCWP published a report titled "A Minimum Pay Rate for App-Based Restaurant Delivery Workers in NYC."[9] The report discussed findings from the study, including that:

- App delivery workers currently earn on average $14.18 per hour with tips and $7.09 per hour without tips;
- App delivery workers' hourly expenses are $3.06, reducing their take home pay to $11.12 per hour with tips and $4.03 per hour without tips; and
- App delivery workers experience high rates of occupational injury.

On December 16, 2022, DCWP held a hearing on proposed rules that would set a minimum pay rate for app delivery workers. Following a review of comments submitted at this hearing and in writing, DCWP published an updated version of proposed rules and held a second hearing on April 7, 2023. Following review of the comments received as part of these hearings, DCWP published a final minimum pay rule, which was scheduled to take effect July 12, 2023.[10]

The new rule established a minimum pay rate of $19.96 for all app delivery workers. This pay rate is set to be phased in over three years: $17.96 on July 12, 2023; $18.96 on April 1, 2024; and $19.96 on April 1, 2025.

On July 5, 2023, four companies sued to enjoin the rule from taking effect (Uber, Grubhub, DoorDash, and Relay). That litigation is ongoing and the rule is currently stayed from taking full effect.

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[6] *See* NYC Code § 20-1501 *et seq*. This is a brief overview of legal obligations relating to app-based restaurant delivery workers. For complete information, please visit https://www.nyc.gov/site/dca/workers/workersrights/Delivery-Workers.page.

[7] NYC Code § 20-1522(a)(1).

[8] NYC Code § 20-1522(a)(3).

[9] A full copy of the report and the survey data compiled as part of the study can be found at: https://www.nyc.gov/site/dca/workers/Delivery-Worker-Public-Hearing-Minimum-Pay-Rate.page

[10] A full copy of the final rule, Minimum Pay for Food Delivery Workers, can be found here: https://rules.cityofnewyork.us/rule/minimum-pay-for-food-delivery-workers-updated/

V. Fee Cap Study and Public Comments

DCWP is tasked with submitting this report to the Mayor and the Speaker of the Council for the purpose of making a recommendation as to the maintenance or adjustment of the fee cap. To complete this report, DCWP has considered, among other things, the effect of the cap on restaurant apps and restaurants, whether the fee caps affect wages and working conditions for app delivery workers, and the types of products that food delivery apps offer to restaurants for listing, processing, and marketing.[11]

On April 28, 2023, DCWP sought comments from restaurants, restaurant apps, app delivery workers, consumers, and the general public. DCWP's notice seeking comments posed a series of direct questions about how the fee caps have affected these constituencies in the restaurant delivery marketplace.[12]

DCWP received a robust response from stakeholders: in total, almost one hundred comments that run 248 pages in length were submitted to the Department. A complete copy of the comments received is in Appendix B. Below, comments are summarized by stakeholder group. Overall, stakeholders are divided on maintaining or modifying the fee caps. Licensed restaurant apps are in favor of eliminating the fee caps or passing Introduction 813 to allow for higher fees. While a group of chambers of commerce argued for eliminating the fee caps, individual restaurants, restaurant industry groups, delivery workers, and economists and think tanks expressed diverse opinions on whether to modify the fee caps.

Licensed Restaurant Delivery Apps and Third-Party Courier Services

Uber, DoorDash, and Grubhub are licensed restaurant delivery apps and, together, control a vast majority of the marketplace for third-party restaurant deliveries in NYC. Each one submitted a comment against maintaining the current fee caps and advocated for increasing or removing the caps.

Uber contends that the fee caps are unconstitutional and arbitrary. It also argues that the fee caps limit the types of marketing services that would allow small restaurants to increase advertising and visibility. Uber states that restaurants should be allowed to voluntarily pay more for additional services and that the proposed Introduction 813 is a better approach to fee caps.

DoorDash likewise supports passing Introduction 813. DoorDash contends that restaurants on its platforms have previously agreed to pay more for increased services, but the fee caps are preventing the restaurants from doing so. DoorDash will be forced to reduce the services offered by higher tiered plans if the fee caps remain. DoorDash argues that the fee caps will force it to increase customer fees, which it estimates will decrease order volume by 12% annually, hurting restaurants, customers, and delivery workers.

Grubhub argues that, nationally, restaurants operating in markets with fee caps saw their order volumes increase only 6% in the year after the caps went into effect, compared to other restaurants experiencing nearly 80% growth. According to Grubhub, if the fee caps in NYC were

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[11] *See* NYC Code § 20-563.3(d).

[12] *See* Appendix A.

to stay static, it would need to reduce or end certain services that it offers, which will hurt small restaurants that lack the ability to pay for those services directly. Finally, Grubhub also supports Introduction 813 and contends that NYC is the only remaining jurisdiction in the country with fee caps.

Relay is a third-party courier service that provides logistics for restaurants but does not provide a consumer-facing platform for consumers, and it is not a licensed restaurant delivery app. Relay argues that restaurants need fee caps to control costs and that the current fee caps should remain in place. Relay contends that small independent restaurants, as compared to larger chains, will be at a further disadvantage without fee caps because chains will use their market share to negotiate price reductions with the delivery apps. Finally, Relay contends that Washington D.C. recently eliminated fee caps and restaurants experienced 25-30% fee increases for the same services.

Chambers of Commerce

Five chambers of commerce submitted identical or substantially similar comments: Brooklyn Chamber of Commerce, New York City Hispanic Chamber of Commerce, Bronx Chamber of Commerce, Haitian American Caucus, and Yemeni American Merchants Association. These Chambers argue that restaurants need access to a full suite of services on the delivery apps to grow. They also argue that if the caps are lifted, restaurants will still have access to low-cost options if desired. On the other hand, if the fee caps remain in place, restaurant apps will soon reduce services.

Individual Restaurants and Restaurant Industry Groups

Three individual restaurants submitted comments. One restaurant owner argued that keeping the fee caps as is will cause restaurant apps to cut services or increase delivery prices, making orders more expensive for customers and reducing orders.

Two restaurants argued in favor of keeping the caps. These restaurants contend that they already have had to cancel a delivery app because the fees are too high and that orders through the apps do not result in profit.

The NYC Hospitality Alliance contends that "there is precedent, purpose, and wisdom in enacting and supporting" the current fee caps. The Hospitality Alliance based its submissions on a survey it conducted between May 9th and May 17th, 2023, during which it received responses from 431 restaurants located across the five boroughs. This survey found that 92% of restaurants said it was very important to keep the 5% marketing fee cap and the 15% delivery fee cap. It also found that 76% of restaurants want the caps to stay as-is, while the remaining 24% want the caps lowered. The Hospitality Alliance also submitted numerous news pieces about allegedly predatory business practices by the restaurant apps around the country. Finally, the Hospitality Alliance submitted testimony by Robert Bookman, a partner at Pesetsky & Bookman P.C., counsel for the Alliance, opposing Introduction 813 and the lifting of the fee caps.

The Latino Restaurant Association argues that the restaurant apps have supported member restaurants and helped them compete with larger brands. They contend that if the current fee caps remain, the apps will reduce services, resulting in reduced orders and increased prices.

In another submission, Jeffrey Garcia of the New York State Latino Restaurant Bar & Lounge Association argues that the fee caps are critical to ensure that delivery apps don't profit too much at the expense of restaurants. He recommends that the current fee caps are reasonable and should remain in place.

Delivery Workers

85 individual delivery workers submitted comments. Of these, 81 were one of two identical comments arguing that the current fee caps result in fewer orders and fewer tips for delivery workers. Two comments expressed concerns with the minimum pay rule. One delivery worker argues that the existing caps should remain in place and contends that the restaurant apps are notifying delivery workers about the comment process and asking them to fight against the fee caps by “falsely claim[ing] it will do [delivery workers] more harm.”

Economists and Think Tanks

Six economists and think tanks submitted comments, some of which support continuing the current fee caps, and some of which argue that the caps should be eliminated entirely.

The Chamber of Progress is a “technology industry association working to ensure all Americans benefit from technological leaps.” It is distinct from the five chambers of commerce discussed above. In its comments, it argues that data from other markets show that as caps remain in place, restaurant apps will reduce services, reducing order volume, and resulting in increased prices for consumers and lower wages for workers. The Chamber of Progress contends that the fee caps should be raised to allow for more services to benefit restaurants.

Dr. Arun Sundararajan is the Harold Price Professor of Entrepreneurship and Professor of Technology, Operations, and Statistics at NYU’s Stern School of Business, as well as a published author on books related to the gig economy. Dr. Sundararajan argues that the long-term survival of small restaurants is threatened by continued delivery fee caps. He submits that the fee caps prevent restaurant apps from charging market prices for marketing services, which allows larger restaurants and chains to advertise and market more heavily. According to Dr. Sundararajan, studies have shown that fee caps have caused orders for small restaurants to decrease 7% while chain restaurants’ orders increased 3.6%. Dr. Sundararajan also contends that fee caps favor “ghost” kitchens owned by large chains or the apps themselves, which can more easily gain marketing and advertising advantages.

Dr. Michael Mandel is the Chief Economist and Vice President of the Progressive Policy Institute, “a policy organization devoted to growth and innovation that benefits all.” Dr. Mandel argues that while the fee caps made sense during the pandemic, now that restaurant spending is back to pre-pandemic levels, and there is no more constraint on restaurant demand, the fee caps should be wholly eliminated.

The Data Catalyst Institute (DCI) “supports policymakers and other stakeholders as they undertake the important and difficult work of enacting sound public policy governing the use of technology and data.” DCI argues that the combination of the fee caps and the minimum pay rate for delivery workers will result in negative outcomes for workers, restaurants, and consumers. Customers will reduce delivery orders, restaurants will have fewer marketing options, workers will have fewer orders to deliver, and apps’ revenue will decline. DCI also argues that fee caps will cause consumer prices to increase and will hurt small restaurants in underserved neighborhoods more than other restaurants.

The American Economic Liberties Project (AELP) is a "nonprofit advocating against the harms of corporate concentration." AELP argues that the fee caps are critical to protect restaurants. Without caps, most restaurants will be forced to pay a 30% fee to an app for every delivery order. The basic plans offered by restaurant apps in non-NYC locations without fee caps are not viable because they only offer an unreasonably small delivery radius and level of service.

Maureen Tkacik is a Senior Fellow at AELP and submitted a paper titled, "Rescuing Restaurants: How to protect restaurants, workers and communities from predatory delivery app corporations," published in June 2020. Tkacik argues that the main restaurant delivery apps have complete market dominance and are free to engage in deceptive and predatory business practices. The restaurant apps have grown at the expense of restaurants themselves, using dummy websites, lead generating calls, and using restaurant data to create "ghost" kitchens. Tkacik argues that delivery fee caps are one tool to fight against this market dominance.

VI. DCWP Enforcement Data on Restaurant Apps

The NYC Code requires DCWP's report to include, among other things, the number of complaints made to DCWP related to the alleged violations by restaurant delivery apps and the number of violations issued; the total amount of penalties imposed as a result of violations; and the amount of restitution recovered on behalf of restaurants pursuant to this subchapter. *See* NYC Code § 20-563.3(d).

DCWP has received 51 complaints against restaurant delivery apps since January 25, 2022, the date on which the licensing law took effect. Of these complaints, nearly all pertain to general consumer-facing business practices, such as failure to honor a refund policy or overcharging a consumer.

DCWP has received one complaint alleging a violation of the delivery fee caps. On March 9, 2022, a restaurant alleged that Grubhub illegally charged a thirty-cent credit card transaction fee in addition to the 3% allowed by the fee caps on a series of orders. This complaint was successfully mediated by DCWP staff and resulted in the delivery app refunding a sum of money agreeable to the restaurant.

DCWP has issued 6 summonses against restaurant apps. Each of these summonses alleged unlicensed activity by an unlicensed restaurant app. As a result of these summonses, $19,100 in penalties have been imposed against restaurant apps. DCWP has not recovered any restitution on behalf of restaurants through litigation.

VII. Recommendations

DCWP has no recommendation on the maintenance or adjustment of the fee caps because it is premature to evaluate the full effects of the caps on this marketplace.

As seen in the comments received by DCWP, industry stakeholders are divided on the current and potential future effects of the delivery fee caps. DCWP has received only one complaint from a restaurant concerning the fee caps and has not observed any meaningful or substantial non-compliance. DCWP cannot yet determine whether the fee caps have had an effect on the restaurant apps or restaurants. Finally, the minimum pay rate is not yet in full effect due to litigation.

VIII. Appendices

A. Appendix A: notice seeking public comments distributed by DCWP starting on April 28, 2023.
B. Appendix B: all public comments received by DCWP in response to the notice in Appendix A.

Appendix A

Attention:
Restaurants
Delivery Apps
Delivery Workers
Consumers

We Want Your Feedback on the City's Fee Caps

The Department of Consumer and Worker Protection (DCWP) enforces NYC's Third-Party Food Delivery Service Laws, which cap the fees that third-party apps (delivery apps) can charge restaurants. Fee cap amounts are:

- 15% to deliver the order
- 5% to provide service other than delivery and payment processing
- 3%* to process electronic payment

The laws require DCWP to issue a report on the fee caps.

To inform our recommendations, we want to learn from you.

How You Can Help

- See the back for questions for restaurants, delivery apps, delivery workers, and consumers.
- Please email **RuleComments@dcwp.nyc.gov by Friday, May 26, 2023** with your responses and any other comments about your experience.

Thank you!

NYC Consumer and Worker Protection

*Only exception is if an app pays more than 3% and can show proof.

Are you a ...

RESTAURANT

If you use an app to take customer orders for delivery or pickup, we want to know:

- How have app fees affected your business?
- Have apps refused service because of the fee caps?
- Have apps charged more than the fee caps?
- Do apps charge per order using a flat fee or some other method?
- What percentage of an order's purchase price do you typically pay an app?
- Do you make a profit from online orders from apps?
- Do you use apps for services other than delivery? If yes, what fees do you pay for other services?
- Is using an app necessary to compete for customers?
- Have you tried to reduce using apps to reduce the fees you pay them?
- Have you declined to use an app because the fees are too high?
- Are the fee caps too high, too low, or about right?

DELIVERY WORKER

If you do restaurant deliveries for an app, we want to know:

- Do the fee caps affect your wages or working conditions?
- Have the fee caps impacted you in any other way?
- Are the fee caps too high, too low, or about right?

DELIVERY APP

If you operate any website, mobile application, or other Internet service that offers or arranges for the sale and same-day delivery or pickup of food and beverages from an NYC restaurant you do not own, we want to know:

- How have the fee caps affected your business?
- Do the fee caps affect how much you pay workers or your policies on working conditions?
- Do the fee caps affect the services you offer restaurants for listing, processing, or marketing them?
- Do you charge all restaurants the same fees or does your fee structure differ depending on the restaurant?
- Do you charge restaurants per order using a flat fee or some other method?
- Have you passed costs to consumers because of the fee caps?
- Have you ever declined service to a restaurant because the fees you'd get would be too low?
- Are the fee caps too high, too low, or about right?

CONSUMER

If you use a third-party app to order food and beverages from an NYC restaurant for delivery, we want to know:

- Have you seen any information about fee caps when using an app?
- Do app fees affect how much you tip the delivery worker?
- Do app fees affect if you order online or call a restaurant directly?
- Are the fee caps too high, too low, or about right?

Appendix B

Comments Received by the Department of
Consumer and Worker Protection on

Third-Party App Fee Caps

IMPORTANT: The information in this document is made available solely to inform the public about comments submitted to the agency and is not intended to be used for any other purpose

Uber Technologies, Inc.
1515 3rd St.
San Francisco, CA 94158

May 26, 2023

RE: Uber Eats' Comments on New York City Fee Caps

Introduction

The fee cap wrongfully deprives Uber of millions of dollars of revenues that it could use to fund new productions, courier compensation, eater discounts and demand generation, improved operations, long term sustainability, and investments in New York City's economy. It has been harmful to Uber Eats and other delivery network platforms, as well as consumers, couriers, and merchants in New York.

In 2016, Uber launched the Uber Eats platform ("Uber Eats"), which allows consumers to search for and discover the best of local commerce for either pick-up or delivery, and allows merchants to connect with and reach customers. We are proud of the progress we've made over the years and of the important role we've come to play in the communities in which we operate. As reflected in our Merchant Impact Report released last year, Uber Eats facilitated more than half a billion orders for US merchants.

Uber's position is that the fee cap Ordinance is unconstitutional and must be stricken for the reasons set forth in its pending litigation. It takes the highly unusual step of arbitrarily dictating prices between commercial entities and interferes with freely negotiated contracts between platforms and restaurants. Uber nevertheless appreciates your interest in the issue of fee practices in the industry, and hopes the DCWP helps the New York City Council understand the fee cap is detrimental to New York City and should be eliminated.

A. Uber Eats' Delivery Fee Structure

The Uber Eats platform empowers consumers to explore the merchant community, and builds a greater consumer base for small and medium businesses by connecting consumers to new restaurants and menu items, as well as facilitates demand and orders, payment processing and delivery. Restaurants pay fees to access benefits, with different restaurants paying higher or lower fees depending on which combination of benefits they wish to access:

- Enhanced marketing and visibility of the restaurant in-app to local customers
- Advertising and promotion services and support to drive demand to local restaurants
- On-demand access to delivery couriers, who undergo background checks to be onboarded onto the platform, or the ability to use their own couriers
- Technology services, including order management, payment processing (a service which entails Uber Eats paying charges to payment processors), application maintenance, and dispatching technology
- Access to order analytics to monitor performance and customer order trends
- Teams of dedicated customer service specialists to provide support to restaurants and consumers for orders placed through our platform

Uber Eats offers a series of pricing options designed to reflect some of the different possible merchant-services described above. For example, in 2021 we introduced a new pricing model - developed in response to restaurant feedback -- designed to give restaurants even more choice and control over the kinds of services they want from Uber Eats, and in turn, the fees they pay. Under this approach, restaurants can choose from three different standardized service packages from our website depending on how they'd like to work with Uber Eats:

- **Lite**: lowest (15%) marketplace fee - best suited for restaurants that do not need marketing solutions, and just want to process and fulfill delivery orders
- **Plus**: 25% marketplace fee - best suited for restaurants who want to pursue light marketing measures while reducing costs
- **Premium**: 30% marketplace fee - best suited for restaurants that want to grow faster through increased marketing and visibility

In addition, restaurants can still work with Uber Eats even when they do not opt for delivery services facilitated by Uber Eats and pay different rates for doing so (e.g., where a restaurant delivers using its own delivery staff). Restaurants can also contract with Uber Eats to optimize their sales through Webshop, an end-to-end solution for restaurants' websites that includes menu management, order facilitation, and analysis services, as well as through Uber Direct, which allows restaurants to use Uber's technology to facilitate orders placed on existing online stores.

With this range of options for merchants, there is no basis for interference and the extraordinary and unusual step of permanent price controls.

B. The Fee Cap Ordinance Adversely Affects Restaurants

The fee cap ordinance hurts small and midsize businesses, by limiting options for increasing advertising and visibility and efficiency, and by denying such businesses the option of crafting arrangements in the way that works best for each entrepreneur. It also deprives Uber of revenues it could use to further develop products, marketing, promotions, and delivery options that benefit restaurants.

The fee cap Ordinance artificially restricts restaurants' ability to choose to pay additional fees for the services they want. This law is all the more problematic given that the proffered policy premise for the City's fee cap has ended. While certain jurisdictions adopted fee cap restrictions as a response to pandemic-related government strictures on in-person dining, New York City restaurants have long been able to serve customers indoors at 100% capacity, with restaurants choosing for themselves how best to prioritize in-person and delivery business. These same changed circumstances have resulted in the total or effective repeal of other statewide emergency measures adopted earlier in the pandemic, as well as fee caps across the nation. Just like any business, Uber needs to be able to cover its operating costs and generate a profit to run a sustainable, reliable, and safe service. But in addition to covering our operating costs, we also want to ensure that merchants have access to valuable services above and beyond core facilitating ordering and delivery - including marketing, lower consumer fees, order volume guarantees - to name a few. A cap effectively limits the services we're able to offer - services that we know are important to merchants' efforts to grow their business and optimize their delivery offerings, and ones merchants desire.

The fee cap Ordinance has had the perverse result of harming the businesses (and related local neighborhoods) that it purportedly intends to help, as was correctly predicted by numerous interested and impartial parties during the hearings debating the Ordinance and in written testimony submitted to the City Council. The Ordinance also threatens to restrict third-party platforms' ability to offer the full suite of services they provide or could provide for additional fees, or compel them to scale back or refrain from developing certain services, including marketing and promotional services, resulting in fewer earning opportunities for delivery couriers and eliminating the benefits such as innovation and tailored service packages that free competition in the platform market previously provided for restaurants and consumers.

For example, in New York City, merchants who have signed up for the Premium package of services would normally receive promoted placement in the Uber Eats app as a form of marketing enhancement, but due to the cap, these merchants are not receiving the enhanced benefits they want to pay for.

Additionally, the Ordinance may require delivery platforms to:

- Renegotiate contracts with restaurants (or be forced to abandon their rights under those contracts), because many existing contracts contemplate prices for delivery services or marketing and other services that exceed the amounts permitted by the Ordinance.
- Terminate contracts with existing restaurant partners, decline to enter into new contracts with prospective restaurant partners, and/or place limits on consumer order size or location.

Other jurisdictions, acknowledging the importance of free contracting between restaurants and platforms that provide delivery, advertising, support, and other services, have either let fee caps lapse or adjusted their rules to create a baseline price structure, while providing merchants with the freedom to enter into agreements that best meet their needs -- including by agreeing to paying additional fees so as to secure additional services, a right other businesses get to enjoy. We would be happy to share our experience implementing similar frameworks elsewhere.

Int. No. 813 Addresses Some of the Fee Cap Ordinance's Flaws

In November 2022 Council Member Holden introduced Int. No. 813 which exempts third-party food delivery services like Uber Eats from the current fee caps if they offered restaurants the option to: (a) obtain delivery services for a fee consistent with all fee caps, and (b) be listed on the third-party food services platform for a fee consistent with the caps on delivery and transaction fees. This is a better option than the current fee cap regime.

Thank you for your consideration.

Sincerely,

/s/ Armikka Bryant

Armikka Bryant
Sr. Counsel, Uber Technologies, Inc.
Regulatory

May 26, 2023

Department of Consumer and Worker Protection
City of New York
42 Broadway
New York, NY 10004

RE: Comments on DCWP Delivery Worker Hearing

Dear Commissioner Mayuga:

DoorDash respectfully submits this letter to inform the Department of Consumer and Worker Protection's report regarding the city's permanent cap on the fees that restaurants may agree to pay platforms like DoorDash in exchange for services.

DoorDash is a technology company whose mission is to grow and empower local economies, including in New York City. We do that by partnering with thousands of local restaurants for online ordering, pickup, delivery, and marketing services. We also empower New Yorkers from all walks of life to earn money when, where, and how they choose by delivering meals and other essentials to their communities.

Like all price controls, the city's fee cap will do more harm than good if left in place without changes. In other markets across the country, fee caps like this one have led to higher prices for customers, fewer earnings opportunities for Dashers, and less revenue for restaurants that choose to partner with DoorDash. The fee cap may also cause platforms to reduce service offerings in the city, denying local restaurants a key tool to help them expand their customer reach and grow their businesses.

Fortunately, amendments to the city's fee cap that would mitigate these unintended, but inevitable, consequences–while requiring platforms to continue to offer restaurants low-cost options and giving restaurants choice–have already been introduced.[13] The amendments reflect a growing consensus by policymakers across the country that fee caps are unnecessary now that pandemic restrictions have ended and that local restaurants should be free to choose the products and services that best suit their needs.

Empowering New York City's Independent Restaurants

Helping restaurants thrive is essential to achieving DoorDash's mission, and we've built

[13] See New York City Council Int. 0813-2022

DoorDash to be a catalyst for growth for local restaurants of all kinds, especially independent restaurants. There are over 15,000 New York City restaurants on the DoorDash Marketplace (as of March 2023), about 80% of which are independent restaurants.

Restaurants partner with DoorDash not only to power online ordering, pickup, and delivery, but to attract new customers, generate additional sales, and increase profitability. From December 2021 to December 2022, sales for independent restaurants on Marketplace in the city grew by 21%. Based on a national survey of independent restaurants on the DoorDash platform, restaurants overwhelmingly recognize the value of partnering with DoorDash:

- 83% agree that DoorDash helps them reach new customers they would otherwise not be able to reach
- 86% would recommend DoorDash to another business to increase sales volume or revenue
- 68% would recommend DoorDash to another business to increase profitability.

Consumer feedback also demonstrates how DoorDash helps restaurants find new customers and capture incremental sales:

- If DoorDash did not exist, then 72% of meals delivered through the app might not have been ordered
- 73% of surveyed consumers have used DoorDash to try restaurants that they would not have otherwise tried. 77% went back to some or all of these restaurants, including 1 in 7 who visited in person.

Offering Choice and Flexibility for Restaurants

We help our restaurant partners power pickup and delivery through a wide variety of products, partnership options, and tools designed to grow their businesses, including the following:

- **Marketplace**
  - Marketplace is our core product for restaurants. When restaurants sign up for Marketplace, they are listed on the DoorDash app and website, where consumers can place pickup or delivery orders, helping these businesses attract new customers who can be a source of repeat business.
  - Since April 2021, all small- and medium-sized restaurants on Marketplace have had access to partnership plans with a tiered pricing structure, including a Basic plan that includes delivery and all transaction costs (including payment processing fees) for a per order commission of just 15%, which is less than what is currently allowed under the city's fee cap. Restaurants can also select a Plus or Premier plan that includes access to enhanced services in exchange for a higher per order commission–25% for Plus and 30% for Premier. Each partnership plan includes pickup for a 6% per order commission and restaurants can easily switch plans as their needs change.[14]
  - Working closely with our restaurant partners, DoorDash developed our tiered pricing structure so that restaurants could choose a plan tailored to their needs. Restaurants can achieve tremendous success regardless of the plan they choose, including

[14] Please find more information about our Marketplace offering, including available pricing tiers, on our website at https://get.doordash.com/en-us/products/marketplace

restaurants that choose our low-cost Basic plan. Stats from our 2022 national survey show that independent restaurants on Basic are happy with their plan:

- 62% would recommend DoorDash for reaching customers they would not otherwise have been able to reach
- 72% would recommend DoorDash for increasing sales or volume
- 73% would recommend DoorDash for reaching a wider range of customers.

- **Storefront and Drive**. Restaurants also have access to Storefront and Drive, two additional product offerings that allow restaurants to take orders directly from consumers and power delivery through DoorDash. Storefront[15] is a commission-free product that empowers restaurants to create an online ordering system using their own branded website, which our data shows results in an average of 26% more incremental sales–orders these restaurants would not have received but for DoorDash's assistance. Restaurants typically pay a flat fee of 30 cents per order and a credit card processing fee (usually a small percentage of the subtotal, e.g., 2.9%) for this service and have the option to use DoorDash's logistics network to offer delivery. With Drive,[16] restaurants that choose to use their existing online ordering platform or take orders by phone can use DoorDash's logistics network to facilitate delivery and pay a flat fee per order in exchange.

- **Data and Analytics.** DoorDash also provides an ever-expanding suite of analytics tools to help restaurants better understand and expand their businesses, while protecting the privacy of customers that use the platform. This includes information on menu performance, customer analysis (e.g., new, occasional, frequent), heat maps showing where orders are coming from, and customer reviews and feedback, which restaurants have the ability to respond to.

Fee Caps Hurt Customers, Dashers, and Restaurants

The fees that restaurants pay DoorDash in exchange for valuable services help us cover the costs of running and improving the platform for all stakeholders. Commissions help cover Dasher pay; automatic occupational accident insurance and third-party auto liability insurance for Dashers; 24/7 support and safety resources for Dashers; live support for customers and restaurants; the software that powers online ordering for restaurants, and the Merchant Portal, which gives restaurants access to tools that help them better understand and grow their business, the ability to respond to customer reviews and feedback, and many other features.

Under the city's current fee cap, platforms like DoorDash are prohibited from charging restaurants fees that exceed the following per order limits: 15% for a delivery fee, a 5% fee for other services, and a 3% transaction fee. Because of the fee cap, when a customer uses DoorDash to order from a restaurant who has agreed to pay a commission above the current limits–such as a restaurant on a Plus or Premier plan, which a substantial number of NYC restaurants have selected–DoorDash is prohibited from collecting the full commission agreed to by DoorDash and the restaurant.

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[15] Please find more information about our Storefront offering, including pricing, on our website at https://get.doordash.com/en-us/products/storefront

[16] Please find more information about our Drive offering, including pricing, on our website at https://get.doordash.com/en-us/products/drive

As the Progressive Policy Institute said in a recent paper, "[w]hen cities or states impose a price control on the commissions delivery apps can charge restaurants, they are unknowingly destroying the delicate balance platform owners have struck to attract enough consumers and suppliers on the platform to make the economics work."[17] If left in place unchanged, the city's current fee cap will likely result in significant unintended consequences for customers, Dashers, and restaurants.

- ***Higher customer prices, fewer earnings opportunities for Dashers, and less revenue for restaurants.***
  - In other markets across the country, fee caps have led to increased customer fees. If DoorDash is forced to increase customer fees in the city, which is likely if the fee cap remains in place unchanged, we estimate that order volume could drop by as much as **12%** annually. Fewer orders through the platform means fewer earnings opportunities for Dashers, restaurants, and DoorDash. We estimate that Dashers—who earn more than **$27** per active hour (including tips) in New York City markets—could lose nearly **$30 million** annually. This loss of volume will also hurt restaurants, who stand to lose more than **$96 million** in annual revenue (all stats based on FY2022).
  - These impacts will be felt throughout the city, including in the city's low-income communities and communities of color. **Sixty-nine percent** of independent merchants on the platform are based in communities of color, **68%** of orders are delivered to customers in communities of color, and **90%** of Dasher earnings go to Dashers based in communities of color. **Thirty-seven percent** of independent merchants on the platform are based in low-income communities, **39%** of orders are delivered to customers in low-income communities, and **69%** of Dasher earnings go to Dashers based in low-income communities (all stats based on FY2022).

- ***Fewer tools for independent restaurants.***
  - Restaurants who partner with DoorDash can choose from several different partnership plans, including the Plus and Premier plans, which have commissions of 25% and 30%, respectively. Plus helps restaurants grow orders through access to our most loyal customers as part of DashPass, an expanded delivery area, and reduced delivery fees for customers (which helps drive up order volume). Premier offers the lowest customer fees and our Growth Guarantee (accept at least 20 orders per month or pay no commissions), on top of benefits included in Plus. To date, DoorDash has continued to provide the benefits of these plans to restaurants even though it cannot collect the agreed-upon commissions and has suffered the resulting losses. However, if the fee cap stays in place unchanged, restaurants may lose access to enhanced service options like the Plus and Premier partnership plans, eliminating valuable tools that restaurants use to grow their businesses. Fee caps also disincentivize future investment by DoorDash and other platforms in services that help our restaurant partners in the city.
  - The loss of these tools would impact the city's independent restaurants most acutely. Unlike larger chains, independent restaurants are less likely to have the resources to market themselves through other channels. By partnering with DoorDash, restaurants have access to flexible, cost-effective tools to attract new customers and drive growth, in addition to offering pickup and delivery services. In a recent national survey of

[17] *Price Controls Won't Fix What's Ailing the Restaurant Industry*, February 23, 2021, available at https://www.progressivepolicy.org/publication/price-controls-wont-fix-whats-ailing-the-restaurant-industry/

independent restaurants, the vast majority said they would recommend DoorDash to reach a wider range of customers, increase delivery area, and increase sales volume or revenue. The city's fee cap undermines many of the top reasons that restaurants choose to partner with DoorDash in the first place.

It's also important to remember that the city's current fee cap does not exist in a vacuum. A citywide earnings standard for delivery workers is likely to take effect later this year, which will further raise costs for platforms, and could exacerbate the unintended consequences of the city's fee cap. The local economic development that third party delivery provides will be undermined if regulations do not balance the needs of customers, delivery workers, and restaurants.

A Compromise That Benefits All Stakeholders

More than two dozen city council members have co-sponsored amendments[18] to the city's fee cap that would ensure that all restaurants continue to have access to valuable options for pickup, delivery, and other services at or below the limits currently in place, while being able to take full advantage of all the tools that DoorDash offers restaurants to attract customers and grow their revenue.

The compromise approach embodied in these amendments is also consistent with the overall national trend on this issue, which has seen jurisdictions either allow their temporary fee caps to expire with the end of pandemic restrictions or adopt permanent versions that allow flexibility and choice while avoiding the unintended consequences that will inevitably occur in the city. In doing so, policymakers are recognizing that there are better ways to help local restaurants in their communities, such as by providing direct aid, expanding outdoor dining options, and streamlining permitting and enforcement procedures.

Following the onset of the pandemic, approximately 130 state and local governments across the country adopted fee caps similar to the city. Nearly 90% of those jurisdictions–including every other jurisdiction in New York State–have allowed their temporary fee caps to expire as restrictions have lifted and states of emergency have ended.

Like New York City, several other major cities–such as San Francisco, Minneapolis, Philadelphia, Seattle, Portland, and Washington, DC–have adopted permanent fee caps. Unlike New York City, however, each one of those cities has adopted the compromise approach reflected in the amendments that are before the city council. By adopting this compromise approach, the city can leave this pandemic-era policy in the past and focus on more effective ways to help local restaurants, while still ensuring that restaurants have access to services at or below the rates set by the current law.

A New Chapter For New York City Restaurants

The city first imposed fee limits during the very worst parts of the pandemic, when restaurants were shut down and vaccines were months away. Thankfully, the city has come a long way since that time, as dining rooms have been fully reopened for nearly two years (since May 2021), social distancing and mask requirements have been lifted, and nearly 81% of all NYC residents are vaccinated[19] (completed primary series). According to a national survey of independent restaurants on the DoorDash platform, less than

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[18] See New York City Council Int. 0813-2022

[19] https://www.nyc.gov/site/doh/covid/covid-19-data-vaccines.page

20% of restaurant sales now come from third-party delivery and less than 5% come from third-party pickup.

DoorDash has similarly evolved since the onset of the pandemic to better serve all of our stakeholders, including our restaurant partners, as third-party delivery continues to play an important role in helping these local businesses reach their goals. We know that every business is different, and restaurants deserve the ability to select the products and services that best support them. The proposed amendments would empower New York restaurants to choose from a range of partnership plans that fit their unique needs and help them access products and services to connect with new customers, grow their business, and continue to flourish. And they would do so without risking unintended consequences for customers, Dashers, and restaurants along the way.

*   *   *

Thank you again for this opportunity to provide these comments as the Department conducts this assessment on the effects of the permanent cap on the fees that restaurants may agree to pay platforms like DoorDash in exchange for services.

Sincerely,

Sascha Owen
Senior Manager of Government Relations for New York

Commissioner Vilda Vera Mayuga
NYC Department of Consumer & Worker Protection (DCWP)
42 Broadway
New York, NY 10004
Via email: Rulecomments@dcwp.nyc.gov

May 26, 2023

Dear Commissioner Vera Mayuga:

Thank you for the opportunity to respond to the agency's request for feedback regarding NYC's Third-Party Food Delivery Service Laws, which cap the fees that third-party apps (delivery apps) can charge restaurants for their services. Grubhub and Seamless have been part of the fabric of New York for over two decades, since Seamless was founded here in 1999. Today, in New York City, Grubhub employs more than 300 people, pays (including tips) more than $300 million annually to 15,000 delivery workers, and restaurants collectively generate more than $1.5B annually from orders placed on our platform.

All of this economic activity is multiplied several times when these dollars are paid to restaurant employees and suppliers, and when our employees and delivery workers pay rent and for groceries, clothing, transit, and other living expenses. New York City's restaurant delivery economy includes UberEats, DoorDash, thousands of delivery workers employed directly by thousands of restaurants, and thousands of independent services that frequently are paid to deliver meals that are ordered on the Grubhub platform.

In the year after the marketing cap went into effect, affected restaurants saw their order volumes grow only 6%, while restaurants not affected enjoyed nearly 80% growth. The extraordinary contributions of the restaurant delivery economy - especially during COVID, when delivery apps were restaurants' digital safety net - helps many restaurants succeed. Nevertheless, small, local, independent restaurants need access to every possible option and tool. The most perplexing part of the fee dap law is that it eliminates options, choices, and tools from the very restaurants that the law was intended to help.

It is indisputable that the marketing services cap disadvantages the smallest restaurants that most need risk-free pay-as-you-go promotional services that are only provided at scale by delivery apps. These restaurants comprise the majority of Grubhub's New York City restaurant partners;

and they choose every day to continue working with us and to maintain our valuable, affordable partnership.

Grubhub deeply appreciates the agency's important study of the fee cap law. Though Grubhub believes the City, restaurants, delivery workers, delivery apps, and diners would have been better served by understanding the fee cap's impacts *before* it went into effect, we nevertheless are pleased to respond to your questions and provide information to inform your analysis and recommendations.

Feedback on the City's Fee Caps:

1. **How have the fee caps affected your business?**

    - Grubhub has publicly reported losses for each of the last 3 years, totaling more than $700M during the pandemic years 2020-2022. New York City is Grubhub's largest market and the source of our biggest losses. Despite these unsustainable losses, Grubhub continues to make investments in NYC in many areas including restaurant grant programs, in the FDNY Foundation to promote education on e-bike battery safety as well as Grubhub's philanthropic programs such as our meal distribution programs for lower income New Yorkers. Grubhub could be funding more of these investments if the company didn't have constraints on the business.

2. **Do the fee caps affect how much you pay workers or your policies on working conditions?**

    - Despite extraordinary losses caused by the fee cap, Grubhub has managed to forestall changing its delivery partner pay scale because of the fee cap. For two years, during the pandemic state of emergency, we understood the fee cap to be an extraordinary but *temporary* burden and we were committed to helping our loyal delivery partners weather the pandemic storm. Since the emergency ended in New York in September 2022 and then nationwide in May 2023, we have continued to bear the burden of a no-longer-temporary fee cap without modifying delivery partner pay; but if the fee cap continues indefinitely we will be forced to change our delivery model that will have negative consequences for delivery workers, including reducing the number of couriers on the platform.
    - Although we have maintained our pay scale, the fee cap has negatively impacted worker pay through no fault of Grubhub. Lower restaurant spending on marketing - a natural consequence of the fee cap law - means, in turn, fewer orders, fewer deliveries, less pay, and less tips. As fee caps have remained in place, more consumer fees have been added and this also leads to fewer orders, smaller orders, and lower tips.

- Grubhub's commitment to delivery workers goes beyond direct pay. Grubhub is the only delivery app to support protections for delivery workers, though undoubtedly this will increase our costs even more. We also support increasing driver minimum pay, though we do not support the current draft DCWP proposal.
- We urge DCWP and all stakeholders to consider the extraordinary two-sided pressure imposed when our revenue is limited by government-imposed fee caps and our costs are required to increase by government-imposed pay increases. This combination is unprecedented in the history of economic regulation and it will potentially break our business model. It will be virtually impossible for us to pay delivery workers more unless we get relief from the severe revenue restraints imposed by the current fee cap.

3. **Do the fee caps affect the services you offer restaurants for listing, processing, or marketing them?**

   - Yes. Grubhub is reluctant to invest in NYC while being forced to operate with unsustainable losses. Grubhub viewed these regulations as temporary and wanted to be able to show our newest restaurants the power of the platform. We did not want to disadvantage smaller, independent restaurants against longer tenured restaurants. If the regulations are not modified, we won't be able to continue this practice.

4. **Do you charge all restaurants the same fees or does your fee structure differ depending on the restaurant?**

   - Our basic per-order fee structures are uniform, but the actual fees differ based on the services each restaurant chooses. All restaurants that choose our preset bundles receive the same services for the same per-order fees, as set forth here on our website. Nationwide, except in NYC because of the fee cap, restaurants can choose to add additional services from the 10% and 15% levels a la carte therefore these restaurants have much more freedom and flexibility to select and pay for marketing services they value and that help them to grow their businesses.

5. **Do you charge restaurants per order using a flat fee or some other method?**

   - Restaurants choose a fee charged as a percentage of each order, and they agree to that particular percentage based on the services they select. The per-order percentage fee structure means that Grubhub does not make any money unless the restaurant receives orders through the Grubhub Marketplace. This means that Grubhub's incentives are perfectly aligned with a restaurant's, because Grubhub both wants the restaurant to get more orders and make more money.

6. **Have you passed costs to consumers because of the fee caps?**

    - We have raised consumer fees to help cover costs of operation, but have not been able to offset the losses incurred from the fee cap. After the fee cap was implemented, Grubhub could have reduced restaurant services to align with the new maximum fees. Instead, we chose to continue providing full-price services to restaurants for only partial payment. Grubhub had to raise diner fees to operate, but higher diner fees mean fewer restaurant orders, which means fewer deliveries and less pay (and tips) to delivery workers.

7. **Have you ever declined service to a restaurant because the fees you'd get would be too low?**

    - Grubhub viewed these regulations as temporary and wanted to be able to show our newest restaurants the power of the platform. Also, Grubhub did not want to disadvantage them against longer tenured restaurants. If the regulations are not modified, the company won't be able to continue this practice.
    - Grubhub has so far chosen to maintain premium services to restaurants that historically paid for those services, but that is not financially sustainable and will not continue if the marketing services cap is not amended.

8. **Are the fee caps too high, too low, or about right?**

    - Permanent price controls are bad economic policy, and in this instance are bad for restaurants and all stakeholders in the Restaurant Delivery Economy. The idea behind price controls is that restaurants should access delivery and other services at artificially low prices, arbitrarily set by the government. The actual impact, however, demonstrates that the apparent discount is overwhelmed by inadvertent costs.
    - Most significantly, the NYC marketing price cap has no flexibility to adapt to restaurants' marketing choices, so its cost to restaurants is its effective limit on restaurants' options to promote, find new diners, engage regular customers, build their brand, and grow their businesses.
    - Everyone knows there's "no free lunch," but in this case, it's literally true as the "savings" associated with capping marketing costs are zero because marketing costs have always been wholly voluntary. On the other hand, the cost of the phantom "marketing cap savings" is the elimination of restaurants' freedom to choose to spend their hard-earned money to grow their business the way they wish. It's as if the government is forcing small restaurants to stay small, while larger competitors are free to spend unlimited sums on radio, digital marketing, and other options that small restaurants cannot afford because they require up-front

payments as compared to delivery apps' risk-free pay-per-order marketing services.

As documented here and in other submissions, marketing fee caps' unintended harmful impacts on restaurants, delivery workers, diners, and delivery apps are significant and justify remedial action. We urge DCWP to consider this information when issuing your report, and further to support Int. 813/2022, the marketing services fee cap exemption legislation cosponsored by twenty-five members of the City Council.

Core Rationale: Small, independent restaurants deserve the flexibility and choices they need to grow and compete with major brands and chains

New York City's neighborhood restaurants should be allowed to choose from a menu of marketing options to help their small business grow, thrive and compete with big brands. To do that, the current limit on marketing services provided by third-party delivery platforms must be lifted, which can be done while preserving the current law's default ceiling on delivery charges. It's a common sense, practical change that follows the trend of dozens of other cities, including every major market that implemented an emergency order price control during the pandemic.

This imperative to modify a law put in place early in the pandemic when the landscape was drastically different will allow restaurants to find new customers and compete more effectively with national chains that spend millions on advertising. With expanded options for restaurants to reach diners, small- and medium-sized independent restaurants – especially those owned by immigrants and families and serving lower- and middle-income communities of color – will grow, improving economic outcomes for restaurant owners and workers while creating a stronger local economy. Int. 813 preserves the City's stated goals, while acknowledging that, ultimately, small business owners know best which decisions they need to make to grow – not the government.

Original Fee Cap Law: Unintended Consequences

- As stated above, in the year after the marketing cap went into effect, affected restaurants saw their order volumes grow only 6%, while restaurants not affected enjoyed nearly 80% growth.
- The 2020 "delivery fee cap" law was presumably intended to limit the costs to restaurants from unfair delivery fees, but it unintentionally restricted restaurants from voluntarily paying for marketing services unrelated to delivery. The marketing services fee cap significantly limits options for restaurants that lack bigger competitors' and national chains' dedicated marketing teams and big budgets, and unfairly constrains the only affordable pay-as-you-go restaurant marketing model.
- Like many price controls – which nearly all economists agree are bad policy – NYC's limit on marketing services that delivery apps can provide restaurants created

unintended consequences that actually hurt restaurants, customers, and delivery workers. (Read more in this Crain's op-ed by a NYU Stern professor)

- If marketing services limits remain, and restaurants are not permitted to choose value-added services that they desire, fewer orders will be placed through third-party platforms. This will mean fewer restaurant orders, deliveries, and opportunities for delivery workers. The impacts will be felt throughout the City, disproportionately affecting lower-income communities that staff restaurants and delivery services.

The Proposed Int 813 Empowers All Restaurants With 100% Choice to Pick The Optimal Combination of Delivery App Marketing Services and Rate

- Notwithstanding confusion created by large restaurant groups' misinformation campaign, the amendment empowers restaurants with uninhibited choice. None will pay more than the current cap rate unless they choose to do so and receive value-added services in return, as detailed on our website: https://get.grubhub.com/grubhub-pricing-and-fees/. Restaurants will have complete control and the flexibility to adjust services and pricing as needed.
- Amending the law to allow restaurants to opt-in to additional services will allow small and medium-sized restaurants, especially New York City's family and immigrant-owned businesses, to compete aggressively, find new customers, and thrive – especially in scenarios such as opening new locations when promotion is critical.

Support for this Change is Led by Small and Independent Restaurants – among Many Other Community Organizations and City Council Members

- Many restaurants want to pay for pay-as-you-go digital marketing services because they cannot afford traditional advertising that requires advance payment, such as television or radio ads. More than 500 restaurants across the five boroughs have voiced support for this common-sense change.
- As Dawn Kelly, a restaurant owner in Jamaica, Queens, said: *"By limiting what the delivery apps can charge for marketing strategies, it restricts what small restaurants can choose from to get in front of new customers and into their bellies. Lord knows it isn't as simple as placing an ad in the community paper anymore."* (Read her full op-ed in the Daily News).
- It's also telling that this amendment has 25 co-sponsors – nearly half of the members of the City Council. Additionally, the chambers of commerce from The Bronx, Queens, Brooklyn and Manhattan – along with dozens of other civic groups – strongly support this bill. As bill co-sponsor Council Member Marjorie Velazquez aptly noted, mom-and-pops and local chambers simply want the ability and options "to try to compete with the same capacity as larger firms like a Burger King."

NYC is Now Alone Among Major Cities in Maintaining this Pandemic-Era Restriction – and Faces Serious Legal Risk in Doing So

- New York City is the only major city with a permanent price control for delivery platforms that does not allow restaurants the flexibility to voluntarily purchase additional marketing services from third-party delivery partners.
- Nearly 80 restaurant delivery price caps enacted nationwide as pandemic emergency measures have expired or been repealed.
- An additional seven cities adopted modified fee caps that allow restaurants the flexibility to voluntarily purchase additional marketing services from delivery apps:. San Francisco, Minneapolis, Seattle, Spokane, Portland, Philadelphia, and Washington, DC.
- The compromise agreed to in all seven of these cities is precisely the compromise embodied in Int/813, which is before the City Council. The proposed amendment – preserving a 5% marketing tier of service but allowing restaurants the flexibility for additional marketing services – is exactly the compromise proposed by the Golden Gate Restaurant Association and the City of San Francisco and agreed upon by delivery services. Notably, San Francisco faced the same litigation that New York faces today, which could potentially overturn the entire fee cap law including the delivery fee cap. By enacting its compromise legislation San Francisco preserved the fundamental delivery fee cap. New York City can make the same legislative compromise today and ensure preservation of its delivery fee cap.
- Undoing New York City's marketing service cap will let small restaurants – the core of New York City's neighborhoods – grow and thrive – and benefit from the same opportunities as their counterparts across the country

Should you have any questions or require additional information, please contact Joshua Bocian, Senior Manager of Government Affairs at jbocian@grubhub.com.

Commissioner Vilda Vera Mayuga
NYC Dept. of Consumer & Worker Protection
42 Broadway
New York, NY 10004
-submitted via email-

May 26, 2023

Commissioner Mayuga:

Relay is a New York City-based on-demand food courier service that allows restaurant owners to efficiently manage their deliveries across multiple platforms, including third-party food delivery apps, their own websites, and phone orders. We are not a third-party food delivery app – Relay does not have a customer-facing platform; we manage logistics for restaurants. When Relay was founded in 2014, our premise was simple: independent restaurants deserved greater control over their own delivery orders, and couriers deserved to have predictable earnings.

While New York City's law establishing caps on the fees third-party food delivery services charge to restaurants does not directly impact Relay, we are concerned about the significant impact that the proposal to lift the fee cap would have on the approximately 3,000 local restaurants we work with throughout New York City.

Delivery orders have always been a critical revenue stream for New York City restaurants, but they became a literal lifeline at the onset of the pandemic. The City recognized this in 2021, when it rightly implemented legislation making the temporary cap on delivery and marketing fees charged to restaurants permanent.

At Relay, we work closely with our partner restaurants and understand the daily challenges they face as they have navigated the pandemic, rapid inflation, labor shortages, and other issues in recent years. Our goal is to help them reduce unnecessary fees by streamlining their deliveries. In fact, in the last 12 months alone, Relay has helped New York City restaurants save over $50 million in fees that would otherwise be paid to major third-party delivery apps. That is money that restaurant owners can reinvest directly back into New York City's economy. While our courier services can help restaurants save on delivery fees, it is the City-mandated cap on marketing fees that has allowed many small restaurants to grow their customer base and survive these challenging times.

It has been stated that eliminating the fee cap simply provides restaurants that opt into more robust marketing plans with greater opportunity to reach potential customers. However, we already know that small, independent restaurants are at a disadvantage on many of these platforms. Large, national chain restaurants leverage their market share to negotiate prime placement on the apps, at lower fees than our neighborhood favorites. Independent restaurants will continue to be pressured to pay more just to maintain their position on the platform. If they don't, they risk becoming essentially undiscoverable. The proposal currently pending before the City Council is only a "win-win" for large third-party delivery apps and national restaurant chains – smaller restaurants and their loyal customers are the ones who will shoulder the increased costs associated with lifting the fee cap.

In fact, Relay operates in Washington, D.C., so we have already witnessed what happens when marketing fee caps are eliminated. Within days of the cap being lifted earlier this month, D.C. restaurants were notified that they would need to pay significantly higher marketing fees to remain searchable on the platforms. Many reported increased fees of 25%-30% just to maintain their current level of service. D.C.'s City Council moved quickly on emergency legislation to correct these loopholes and protect restaurants from exorbitant fees. This should provide a timely lesson for New York City.

Relay supports the current, permanent fee cap structure and encourages the Department to affirm the permanent fee cap structure.

Thank you for your consideration.

NYC | HOSPITALITY ALLIANCE

Restaurant Survey Results on the Delivery App Fee Cap Submitted to the Department of Consumer and Worker Protection on behalf of the NYC Hospitality Alliance

May 26th, 2023

After years of exploitation of local restaurants by certain third-party delivery companies ("delivery apps"), market domination by too few mega-sized delivery app corporations, and a global pandemic, the City of New York enacted a nationally recognized fee cap limiting the amount delivery apps can charge restaurants for their services. This is not unprecedented, the City of New York has placed fee caps on other sectors like the commercial carting and taxi industries upon determination that such market restrictions are in the public interest. The city is also in the process of regulating wage rates for deliveristas who are paid by the delivery apps. Therefore, there is precedent, purpose, and wisdom in enacting and supporting these marketplace guardrails in limited circumstances, like in the case of delivery apps.

The delivery app fee cap amounts are: 15% to deliver the order, 5% to provide service other than delivery and payment processing, and 3%* to process electronic payment.

The law establishing the fee caps requires the Department of Consumer and Worker Protection (DCWP) to issue a report on the fee cap. To inform this report, DCWP solicited public comments, and in response, the NYC Hospitality Alliance surveyed restaurants across the five boroughs with the assistance of a diverse group of other not-for-profit organizations and community groups that actually represent and serve the city's restaurant industry.

The NYC Hospitality Alliance was not solicited or retained by any third-party to conduct this survey and has no direct financial interest in the outcome of these survey results. Our mission is simply to receive feedback from the city's restaurant industry we represent and serve, communicate it to DCWP to inform their report, and guide our organization's position on regulatory matters before the government.

The survey questions we asked restaurateurs to answer were developed based on years of our deep knowledge and expertise in the restaurant and delivery app marketplaces, with the intent to collect meaningful data and insights to inform DCWP's report. Respondents representing 431 restaurants located in the five boroughs participated in this survey between May 9th and May 17th, 2023. These are the collective results with individual comments from restaurateur respondents.

We urge DCWP to consider and use this essential data to inform their report and findings.

NYC RESTAURANT SURVEY RESULTS ON THE DELIVERY APP FEE CAP

"We have to charge customers 20-25% more just to make any profit. Customers are the losers if fee caps are eliminated."

How important is keeping the current 5% listing and marketing fee cap in effect for your restaurant?

- 92% - Very Important ○ 7% - Somewhat Important ○ 1% - Not Important

"Even with the fee cap, the percentages are too high. These orders are barely profitable and for smaller orders, not profitable at all. But we can't leave the platforms as it will damage our visibility in the neighborhood."

How important is keeping the current 15% fee cap in effect to deliver the order for your restaurant?

- 92% - Very Important ○ 7% - Somewhat Important
- 1% - Not Important

"Relying on another business to bring food to our customers is never ideal, but we don't have the capacity to do it for ourselves. The fees charged by the corporations that deliver our food are too high. We barely make any money each year, while they get richer and more powerful."

How much does your restaurant rely on third-party delivery companies?

- 70% - A lot ○ 27% - Somewhat ○ 3% - Not Important

"The cost of the delivery service is disproportionally heavy on the restaurant. It should be divided between restaurants, marketplaces, and customers.

Are your third-party delivery orders currently sufficiently profitable enough for your restaurant with the fee cap in effect?

- 32% - Yes ○ 49% - Somewhat
- 19% - No

We consider these companies monopolies that only care about their profits. Prepandemic when they were taking 30% of revenue this was not profitable at all but restaurants can't compete with them"
"

Which best describes your overall restaurant(s) experience and relationship working with thirdparty delivery companies?

○ 19% - Good ○ 60% - Average ○ 21% - Bad

"Most important they keep our customer data and prevent us from marketing to customers eating our food, claiming they are their customers and not ours."

Would you like to see any changes to the third-party delivery fee cap?

○ 76% - No, I want the fee cap to stay in effect as is ○ 24% - Yes, I want to changes to the fee cap*

**All respondents that left a comment to this question said that they want the fees lower than what they are now. None asked for an increase, or an option to pay more for additional services.*

"Their fees are exorbitant, and they use their phone numbers and websites on google under your listing to get the commission."

What policies would you like to be enacted? (Multiple options may be checked)

○ 84% - Third-party delivery companies should provide me with my restaurant's own customer data, including their email address.
○ 82% - My restaurant should be permitted to clearly disclose to customers the thirdparty fee my restaurant pays to the third-party delivery company.
○ 88% - Third-party delivery companies should charge restaurants a lower fee for repeat customer orders and/or when an order results from a direct customer search for my restaurant.
○ 81% - Prohibit third-party delivery companies from requiring that restaurants charge the same amount for menu items on different third-party delivery platforms and for on premises dining.
○ 76% - Allow restaurants to insert marketing materials in delivery packages for orders transacted on a third-party delivery platform.

- 76% - Require third-party delivery platforms to offer restaurants the option of a flat fee for each order transmitted and/or delivered, not a percentage of the order.

It is clear from these survey results that restaurants overwhelmingly want the fee cap to remain in effect, in its current form, as these respondents, and countless other restaurateurs across the five boroughs have demanded in letters to Mayor Adams and the City Council, including at a public hearing where nearly all comments submitted by restaurateurs and local hospitality industry representatives were in support of keeping the current fee cap in effect.

The delivery app fee cap has been essential in helping restaurants recover from the pandemic, however the industry still has not recovered and many small businesses have big debt, the sector is still short approximately 10,000 jobs compared to pre-pandemic employment levels, and operating costs have skyrocketed due to inflation, in comparison to out of state and internationally owned delivery apps that have grown their market share through the pandemic generating billions and billions of dollars in revenue. New York City's restaurants cannot afford to go back to paying outrageous fees under the guise of free market choice, which is an illusion for countless small businesses.

We have also attached our testimony from the recent City Council hearing on Int. 813, legislation we've dubbed the Bigger Fees for Big Delivery Bill, which guts this important small business protection to help further inform DCWP's report. The testimony includes a long list of articles that document the exploitation of restaurants by the delivery app marketplace, which further highlights why the fee cap and other regulatory guardrails are necessary in order not to go back to the bad old days of delivery app abuse, and why the Department of Consumer and Worker Protection has an obligation to uphold and enforce these laws as part of their agency's mission.

The NYC Hospitality Alliance thanks you for your consideration of our comments and data. You may contact our executive director Andrew Rigie with questions at arigie@thenycalliance.org.

Wednesday, March 29th, 2023

NYC Hospitality Alliance comments on Int. 813—A Local Law to amend the administrative code of the city of New York, in relation to establishing exemptions for third-party food delivery services from the limits on fees charged by such services on food service establishments in front of City Council Committee on Consumer & Worker Protection

My name is Andrew Rigie and I am the executive director of the NYC Hospitality Alliance, a notfor-profit association representing thousands of restaurants across the five boroughs. Today I am here to deliver the truth behind a lobbying campaign seeking to gut the third-party delivery fee cap with troubling legislation, Int. 813, what we've dubbed the Bigger Fees for Big Delivery Bill.

Even though the big delivery companies are suing the City of New York to overturn this law – which sets the maximum rate these corporate giants can charge restaurants to list them on their apps and deliver their food – they've simultaneously engaged in an aggressive and expensive lobbying campaign to gut the fee cap under the guise of wanting to help small businesses and turning restaurants against each other as well as delvieristas. It's unfortunate. They imply their campaign is all about helping immigrant-, minority- and woman-owned businesses by letting them pay higher marketing fees to compete against large chain restaurants. But seriously, who can absorb these bigger fees and better afford to buy more advertising? It's not the neighborhood taqueria, it's the international taco chain.

If these delivery companies didn't have such dominance over the marketplace, the fee cap would not have been necessary. But when customers sue Grubhub for antitrust violations because they're price fixing menus at restaurants, and when you know the history of big delivery in the Big Apple, you'll understand why this sector must be regulated. Think about the hypocrisy, they are suing and lobbying to eliminate price controls on themself, while they are being sued for price controlling at restaurants. Do as I say, not as I do, I guess!

Before the Covid-19 pandemic shut down our city's restaurants, an onslaught of investigative reports in the media exposed the unethical, if not illegal business practices of a certain delivery company, which led to U.S. Senator Chuck Schumer calling on the federal government to investigate, and the City Council to hold hearings that highlighted the exploitation of restaurants by big delivery.

The public and elected leaders finally learned that restaurants were exploited for years by Grubhub charging them bogus fees for orders they didn't receive. Delivery companies listed restaurants on their apps without permission, causing confusion and chaos for small businesses, workers, and customers. They created secondary websites and phone numbers for restaurants, so they could take more fees and steal their customers. A quick Google search will return articles from around the country describing these exploits, including all the governments, attorneys general, restaurants, workers, customers, and their own investors who've taken legal action against third-party delivery companies over their business practices, some of which I've attached to my testimony for your review.

We can't trust these delivery companies when they say the Bigger Fees for Big Delivery Bill is simply about letting small restaurants market themselves to get more deliveries, which everyone supports! If it was about marketing, the big delivery companies wouldn't charge small restaurants the same high fees on repeat customer orders – which aren't the result of any enhanced marketing.

Big delivery companies purchase advertisements on Google above restaurants' own websites and within their organic search listings, so they can steal their direct customers and take big fees. Seriously, why should restaurants pay higher fees to third-party delivery companies that then use the money to steal the restaurants' own customers and charge them even more fees?

The delivery companies say they make it easier for small restaurants to access services like menu photography and website design by paying a higher per-order fee to them, instead of a lump upfront payment they can't afford. Sounds great until you realize that the delivery company wants to continue taking that higher per-order fee from the restaurant even after they paid off the cost of the service.

History has shown us that restaurants that don't pay the ever-increasing third-party delivery fees are buried in the search results, making it difficult for customers to find them. Suppose a restaurant doesn't continue to pay increasing fees. In that case, their delivery sales decrease as their visibility diminishes, and the small business can't afford to stay on the platform. Still, they can't afford to leave it because they'll lose access to their customers, who are controlled and manipulated by the big delivery companies. That's why the same delivery companies are also suing to overturn a law passed by the City Council requiring them to share a restaurants own customer information with them. We must tear down this digital divide! Don't let these big corporations continue to steal customers from local restaurants. Let restaurants nurture their relationships with their own customers so they can offer them direct deals and offers.

This fee cap law passed with overwhelming support by the City Council, carrying with it a requirement, requested by the delivery companies themselves, that the city publish a report on its impact to allow lawmakers to determine if it should remain in effect, be modified, or eliminated. We must wait until the report is released in September of 2023 before considering changes to the law. Employing the details and data from the report, lawmakers, restaurants, and delivery companies should use it to inform and cook up a new recipe for a fairer marketplace and fee structure.

The City Council has before it a critical choice for a beloved New York industry. If it passes the Bigger Fees for Big Delivery Bill now, it will be the small restaurants who will be left holding the bag – all while big delivery gets their hands back in the pockets of small businesses.

Even considering all of this, the NYC Hospitality Alliance remains committed to working constructively with the delivery companies and elected leaders to develop a fairer marketplace that works for restaurants, deliveristas, and the delivery companies. But Int. 813, the Bigger Fees for Big Delivery Bill is not the answer.

We urge the City Council to reject this misguided proposed legislation.

Thank you for your consideration of our comments.

Respectfully submitted,

Andrew Rigie
Executive Director
NYC Hospitality Alliance

10 REASONS TO TELL THE CITY COUNCIL TO <u>SAY "NO"</u> TO INT.813

THE BIGGER FEES FOR BIG DELIVERY BILL

This law is a handout to BIG DELIVERY! It will gut the fee cap so BIG DELIVERY COMPANIES can again charge BIG so-called "marketing fees" to local restaurants with no new protections to stop exploitation of these small businesses!

1. **BIG 3rd PARTY DELIVERY COMPANIES** exploited restaurants for years by charging them bogus fees for services they didn't offer, listed them on their apps without permission, created secondary websites and phone numbers for restaurants so they could take more fees and steal their customers. Don't trust them now!

2. **BIG 3rd PARTY DELIVERY COMPANIES** are being sued by governments, restaurants, customers, and their investors around the country for breaking local laws, violating antitrust laws, and more, which hurt restaurants, deliveristas, and customers. **Why is the NYC Council deregulating BIG DELIVERY COMPANIES???**

3. **BIG 3rd PARTY DELIVERY COMPANIES** want to gut the fee cap law, so they can keep increasing the BIG fees they charge restaurants and compel them to pay because of their power and market domination. If restaurants do not pay the higher fee, their delivery sales will decrease. Big 3rd Delivery Companies need to get their hands out of the pockets of Small Businesses and charge reasonable fees.

4. **BIG 3rd PARTY DELIVERY COMPANIES** want to charge small restaurants BIG so-called marketing fees on repeat and direct customer orders that weren't the result of restaurants paying them higher so-called marketing fees. It makes no sense! Big 3rd party delivery companies purchase advertisements on Google above restaurants' own websites and within their organic search listings, so they can steal their direct customers and take big fees. Seriously, why should restaurants pay higher fees to 3rd party delivery companies that then use the money to steal the restaurants' own customers and charge them even more fees???

5. **BIG 3rd PARTY DELIVERY COMPANIES** know the fee cap levels the playing field, but they still mislead government officials and restaurants and say they want gut the fee cap so small restaurants can pay them more money for so-called "marketing" to get more business. The truth is that big international restaurant chains will better afford the higher fees, they have money to buy more advertising and have leverage to negotiate discounted rates, while small restaurants will have to pay ever-increasing fees to just try and keep up.

6. **BIG 3rd PARTY DELIVERY COMPANIES** say they want to charge per order fees to restaurants for extra “marketing” services, so they don’t have to pay upfront, but they also want to keep charging those high fees long after the restaurants paid for that service! Plus, we know their history of charging restaurants fees for services they didn’t even provide!

7. **BIG 3rd PARTY DELIVERY COMPANIES** are suing the City of New York to overturn the fee cap law and other laws the City Council passed to rein in their bad business practices, so the City Council should not negotiate with the same companies suing them! Terrible precedent this sets!

8. **BIG 3rd PARTY DELIVERY COMPANIES** are suing to overturn a law so they don’t have to share a restaurants own customer information with them. We must tear down this digital divide! Don’t let these big corporations continue to steal customers from local restaurants. Let restaurants nurture their relationships with their own customers so they can offer them direct deals and offers.

9. **BIG 3rd PARTY DELIVERY COMPANIES** want to be deregulated so they can control and manipulate the delivery marketplace to profit, while restaurants struggle. If so few companies with so much power didn’t dominate the delivery marketplace, there wouldn’t have been the impetus for the fee cap in the first place.

10. **BIG 3rd PARTY DELIVERY COMPANIES** requested that the fee cap law include a provision requiring the City of New York to publish a report on the impact of the fee cap. The report would help lawmakers determine if it should remain in effect, be modified, or removed. That report is due this September of 2023. Yet, they still decided to sue the City of New York to eliminate the cap and are lobbying the City Council to gut the fee cap before their requested report is even published. Seriously, how can you trust or negotiate under these terms? What is the report going to say that they don’t want you to hear???

10 REASONS TO TELL THE CITY COUNCIL TO SAY “NO” TO INT.813

THE BIGGER FEES FOR BIG DELIVERY BILL

DC sues Grubhub for allegedly employing deceptive practices

Grubhub to pay $3.5M in D.C. lawsuit alleging hidden fees

Chicago Inks $10M Settlement In Uber Eats Probe

Grubhub, Uber Eats, Postmates must face diners' lawsuit over U.S. restaurant prices

Grubhub threatened with legislative action if it doesn't fix phone order issues

Chicago sues DoorDash, Grubhub for allegedly deceiving customers

'Outraged': NYC restaurants blast Grubhub over 'phony' lobbying push

GrubHub overcharged fees to Mass. restaurants

D.C. Restaurants Hit With Higher Delivery App Fees After Mandated Cap Expires

Robbins Geller Gets $12.6M Fee In Grubhub Suit

Grubhub hasn't refunded majority of restaurants for bogus fees

Grubhub charging us even when our customers don't order: restaurant owners

Grubhub's free lunch fiasco still costing restaurants money

Lawsuit prompts Grubhub to add disclosures about hidden fees

Grubhub made over 30K websites disguised as restaurant homepages

GrubHub extends refunds for fake fees amid pressure from Schumer

State regulator says Grubhub's stiff fees could be illegal

Doordash steals money from small businesses

[We Sued Grubhub to Protect Residents & Local Restaurants From Harmful and Deceptive Business Practices]

[Grubhub settles lawsuit with Pennsylvania over price transparency]

[Grubhub Sued for Alleged 'Deceptive Practices' and Prices During Pandemic]

[Grubhub Faces Lawsuit for Adding 150,00 Restaurants to Platform Without Permission]

CNN BUSINESS

DC sues Grubhub for allegedly employing deceptive practices

By Brian Fung, CNN Business

Updated 12:50 PM EDT, Tue March 22, 2022

WashingtonCNN Business —
The attorney general of Washington, D.C. announced Monday he is suing Grubhub, alleging that the company harmed consumers during the pandemic by charging hidden fees and by misleading consumers about them using so-called "dark patterns" — along with a battery of other claims.

The food-delivery service, which grew in prominence over the pandemic as in-person dining shifted to takeout and delivery orders, said in response Monday that the company supports DC restaurants and has sought to work with Racine's office over the past year to address its concerns.

"We are disappointed they have moved forward with this lawsuit because our practices have always complied with DC law," a Grubhub spokesperson told CNN. "Many of the practices at issue have been discontinued. We will aggressively defend our business in court and look forward to continuing to serve DC restaurants and diners."

In his Monday complaint filed in DC Superior Court, Attorney General Karl Racine alleged that Grubhub has violated the District's consumer protection laws and is not transparent about the fees it charges users, saying the company does not display additional service fees in the way it prominently displays delivery fees.
"Until recently, Grubhub further obscured these additional fees by grouping them with taxes at checkout," Racine's office alleged in a statement. "This practice constitutes a

'dark pattern' — a design feature that deceives, coerces, or manipulates consumers into making choices that are either not what they intended, or not in their best interests."

Racine's suit claims Grubhub's advertising is misleading by presenting free online orders and delivery as a universal feature, when only a subset of customers are actually eligible, according to the complaint.

The DC government also claims that Grubhub harmed restaurant owners with a pandemic-related promotion created for the purported benefit of local restaurants, but which instead allegedly "passed most of the costs of the discounts along to the already-struggling restaurants" while still requiring the restaurants to pay their normal, full commission on orders under the promotion.

And Grubhub allegedly took a number of misleading steps at various times to drive traffic to its platform, the complaint alleges, including by listing restaurants on its site without consent, creating non-official phone numbers for restaurants in a bid to generate more Grubhub orders and creating non-official websites for restaurants that routed visitors to Grubhub.

Racine's complaint seeks a jury trial and restitution and civil penalties against the company.

RESTAURANT BUSINESS

Grubhub to pay $3.5M in D.C. lawsuit alleging hidden fees

The settlement includes $2.7 million for affected customers. Grubhub will also change how it communicates fees in its app. By Joe Guszkowski on Jan. 03, 2023

Grubhub will pay $3.5 million to settle a lawsuit filed by the District of Columbia alleging it deceived customers with hidden fees and other practices.

$2.7 million of the settlement amount will go to affected customers. The delivery company will also have to change how it communicates fees in its app.

The suit filed in March listed eight Grubhub policies that the District said misled customers and violated consumer protection law.

They included obscuring some charges like service fees and small-order fees and advertising free delivery with a Grubhub+ subscription, even though members still have to pay a service fee on every order.

"Grubhub used every trick in the book to manipulate customers into paying far more than they owed," said D.C. Attorney General Karl Racine in a statement last week. "Grubhub's hidden fees and misleading marketing tactics were designed to get the company an extra buck at the expense of D.C. residents—but we're not letting them get away with it."

As part of the settlement, Grubhub agreed to do the following to create more transparency around fees:

- Prominently disclose to customers that additional fees may apply at checkout. (The company is adding a "fees" link detailing its various extra charges.)
- List each fee separately at checkout as described under the D.C. Fair Meals Delivery Act.
- Stop advertising that Grubhub+ users get free delivery without noting that additional fees may apply.
- Note that menu prices may be higher on the app than at the restaurant itself.
- Shut down Grubhub-operated microsites for D.C. restaurants or transfer ownership to the restaurant.

In addition to those changes, Grubhub is also now identifying non-partnered restaurants, which are restaurants that don't have contracts with the company but that it has nonetheless created a listing for in its marketplace.

"We agreed to this settlement to put this litigation behind us and continue moving our business forward," a Grubhub spokesperson said in a statement. "We remain committed to providing transparency throughout the ordering process for our diners and restaurant partners."

The $3.5 million settlement includes an $800,000 civil penalty to the District, $200,000 in restitution to former account holders and $2.5 million to current account holders.

The $2.5 million will be distributed this month in the form of a Grubhub credit of $4.50, $7 or $10 depending on a customer's order history and frequency. If a customer doesn't use the credit within 90 days, they'll get a check for the amount.

The settlement comes less than a month after Uber Eats said it would pay $10 million to end an investigation by the city of Chicago that found it listed restaurants without their consent and violated the city's delivery fee cap.

They are part of an ongoing battle between delivery companies and local governments seeking to regulate them.

Chicago Inks $10M Settlement In Uber Eats Probe

By Joyce Hanson · Listen to article

Law360 (December 5, 2022, 7:08 PM EST) -- Chicago has finally signed a $10 million settlement with Uber Eats and Postmates to resolve the city's investigation into purported misconduct by the meal delivery platforms during the pandemic, saying Monday that the deal closes a two-year probe into the apps' practice of listing restaurants without their consent.

The city's probe stemmed from the unwanted listings of Chicago restaurants on the apps owned by San Francisco-based Uber Technologies Inc., according to Mayor Lori Lightfoot's office. The city said Uber Eats and Postmates also violated Chicago's emergency fee cap ordinance during the COVID-19 pandemic and engaged in other advertising-related misconduct.

"The city contends that Uber charged food dispensing establishments in excess of 15% of these businesses' monthly net sales earned through its third-party food delivery services, in violation of the city's emergency fee cap ordinances," according to the 12-page settlement signed in November by Sarfraz Maredia, Uber Technologies' vice president of delivery at Uber Eats, and Stephen J. Kane, deputy corporation counsel for Chicago.

Betsy A. Miller, a Cohen Milstein Sellers & Toll PLLC lawyer who represented Chicago in the matter, told Law360 on Monday that Chicago in 2021 began to receive a variety of complaints from restaurants about the Uber Eats, Postmates, Grubhub and DoorDash delivery apps. The restaurants complained that the apps' commissions were too high, that eateries were being listed without permission, and that the apps were engaged in deceptive pricing on their platforms.

"During the pandemic in Chicago, half of the city's 7,500 registered restaurants closed at some point," Miller said. "Consumers needed to get their food, restaurants were trying to provide it, and this technology was in some ways making it possible, but restaurants also were reporting significant concerns of potential misrepresentations and unfair business practices. All companies have a right to try to form a business model in a safe, honest and fair marketplace and see if it works. But when the city began investigating, what it found was a variety of potential violations of its consumer protection laws."

The city reached out to all three companies about the possibility of resolution without litigation, but it was only with Uber that settlement talks proved fruitful, Miller said.

Separate suits Chicago filed against GrubHub and DoorDash in August 2021 remain pending. They accuse those food-delivery platforms of using deceptive practices to fool customers into paying higher prices, claiming that the companies violated the city's municipal code by advertising order and delivery services from restaurants without their consent, engaging in bait-and-switch tactics by jacking up prices at the end of a delivery, and advertising menu prices higher than if a customer ordered directly from the restaurant.

The federal court now presiding over Chicago's suit against DoorDash has denied DoorDash's motion to dismiss, and the parties are currently engaged in the discovery process. Meanwhile, the state court presiding over the city's suit against Grubhub denied part of Grubhub's motion to dismiss and requested supplemental briefing on another aspect of Grubhub's motion. The parties completed the supplemental briefing and will appear for a hearing on Dec. 13.

Lightfoot said in a statement that the Uber settlement reflects Chicago's commitment to a fair marketplace that protects businesses and consumers from illegal activity.

"Chicago's restaurant owners and workers work diligently to build their reputations and serve our residents and visitors," the mayor said. "That's why our hospitality industry is so critical to our economy, and it only works when there is transparency and fair pricing. There is no room for deceptive and unfair practices."

The city asserts in the settlement agreement that Uber deceptively advertised that Eats Pass and Postmates Unlimited subscribers would receive "free delivery" or "$0 delivery fees," and that it deceptively advertised that certain merchants were "exclusive to" or "only on" the platforms.

In addition, Uber allegedly linked its platforms to the "Order" buttons on merchants' business listings on Google Search and Google Maps without adequate disclosure to consumers and without the merchants' consent, the settlement said.

Uber denies the city's contentions, according to the settlement.

"Uber maintains that Uber accurately advertised merchants as 'exclusive to' or 'only on' the platforms where merchants expressly agreed to be exclusive on the platforms; and ... Uber states on information and belief that Google LLC controlled whether the platforms were linked to the Order buttons in the merchants' Google business listing," the settlement said.

Ultimately, following the city's June 28, 2021, cease-and-desist demand, Uber completed the removal of unaffiliated Chicago merchants listed on its platforms and agreed not to list any unaffiliated merchants without written consent in the future, according to the settlement.

The $10 million deal includes Uber's $3.33 million payment to Chicago in September 2021 after the city discovered the fee-capping misconduct, a new payment of $2.25 million to restaurants that were charged commissions above the limits set by the city's emergency fee cap, $2.5 million in commission waivers to restaurants listed without their consent, and a $1.5 million payment to cover the city's investigation costs and fees.

A spokesperson for Uber said the tech giant is "really pleased" to have found an outcome that worked for restaurants and the city.

"We are committed to supporting Uber Eats restaurant partners in Chicago and are pleased to put this matter behind us," the spokesperson said in a statement.

The city in the Uber matter is represented in-house by Stephen J. Kane and Peter Cavanaugh, and by Betsy A. Miller, Peter Ketcham-Colwill and Johanna M. Hickman of Cohen Milstein Sellers & Toll PLLC.

Counsel information for Uber was unavailable Monday.

Grubhub, Uber Eats, Postmates must face diners' lawsuit over U.S. restaurant prices

By Jonathan Stempel

NEW YORK, March 30 (Reuters) - A U.S. judge on Wednesday said Grubhub, Uber Eats and Postmates must face an antitrust lawsuit by diners who accused them of driving up menu prices by exploiting their dominance in meal deliveries during the COVID-19 pandemic.

U.S. District Judge Lewis Kaplan in Manhattan said it was reasonable to infer that requiring restaurants to accept "no-price competition clauses" left them with "no choice but to raise prices" regardless of where diners ordered meals.

He also said diners plausibly alleged that Grubhub and Uber Eats' more restrictive clauses discouraged restaurants from using other platforms, despite their need to generate enough sales to stay afloat and offset low profit margins.

"Defendants' motion to dismiss is denied in its entirety," Kaplan wrote.

Diners claimed that the no-price competition clauses barred restaurants from charging lower prices for dining in or ordering takeout, while Grubhub and Uber Eats also forbade restaurants from charging less to customers who ordered on rival platforms.

They said the harm from inflated meal prices was compounded by "supracompetitive" 5% to 10% delivery fees charged to diners and 30% commission rates often charged to restaurants.

The proposed class action sought triple and other damages for dine-in and delivery customers in the United States since April 2016.

Grubhub, owned by Netherlands-based Just Eat Takeaway.com (TKWY.AS), said it was disappointed with the decision and will continue defending its dining-related services.

Uber Eats and Postmates, both owned by Uber Technologies Inc (UBER.N), did not immediately respond to requests for comment. Lawyers for the diners said they were pleased with the decision. The practices of delivery companies faced increased scrutiny after the pandemic forced tens of thousands of restaurants to close and many more to temporarily shut their dining rooms.

Grubhub, Uber Eats and rival DoorDash Inc (DASH.N) have also sued to overturn a New York City law capping the fees they charge restaurants at 15%, while Grubhub and DoorDash are challenging a similar law in San Francisco. read more

The case is Davitashvili et al v Grubhub Inc et al, U.S. District Court, Southern District of New York, No. 20-03000.

RESTAURANT DIVE

Grubhub threatened with legislative action if it doesn't fix phone order issues

Published Nov. 14, 2019

By Alicia Kelso

Contributing Reporter

Dive Brief:

- Grubhub will create a new third-party task force to review the way it charges restaurant partners for phone orders, according to Crain's New York.
- The move comes after the New York City Council sent a letter to Grubhub CEO Matt Maloney threatening to pursue legislation if restaurant complaints weren't addressed.
- The company's task force will provide recommendations within 60 days on how to address the complaints and better communicate with restaurant partners.

Dive Insight:

Complaints about Grubhub's phone policy started emerging in the spring. The New York Post reported that restaurants were being charged between $4 and $9 for phone calls from Grubhub channels even if those calls didn't result in sales. In other words, restaurants were being charged Grubhub's fees even if a customer was just calling to find out operating hours.

In response to this criticism, Grubhub launched a three-point plan in August that included an extension of its look-back period for restaurants, enabling them to review all phone orders within 120 days, from 60 days. This provided restaurants with more time to notify the company for a refund if a charge was issued. Grubhub also said it would launch a new website to make it easier for restaurants to request direct control of any URLs registered as part of their contract with the delivery platform and that it would hold roundtable events to foster direct conversation with restaurant partners.

But the City Council's letter seems to indicate that the extension hasn't rectified these issues and that complaints from restaurants are still coming in. Indeed, the City Council argues that refunds should be issued for such charges regardless of how much time has passed. Grubhub has defended its timeframe, however, noting that it protects consumer privacy and data.

The biggest question is whether or not a task force will be effective in managing Grubhub's ongoing complaints about erroneous phone charges. Hiring a third-party vendor to examine these issues could help restore some trust. Grubhub said it uses an algorithm to flag unfair charges, but with these issues continuing to linger, its system may require human oversight.

This marks one of many issues the company has had to overcome this year. Grubhub has also been accused of price-gouging its restaurant partners and registering web domains that mimic local restaurant websites, for example. In July, Senator Chuck Schumer called for a federal investigation into the company.

Andrew Rigie, executive director of the NYC Hospitality Alliance, told Crain's, "It's troubling that time and time again Grubhub has to face government intervention to do the right thing by their restaurant customers."

Combined, these issues add up, and Grubhub will have to find solutions for all of them to maintain trust from its restaurant partners. Without that trust, the company will have a harder time competing in the intensifying delivery space.

Grubhub itself has acknowledged that competitive environment. The company's stock value dropped more than 30% in October after weak Q3 results and a transparent letter from Maloney noting that "the easy wins in the market are disappearing a little more quickly than we thought." It's clear that Grubhub could use some tailwinds, and fixing its fundamentals such as this lingering phone issue could be a start.

CNBC

TECH

Chicago sues DoorDash, Grubhub for allegedly deceiving customers

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Lauren Feiner@LAUREN_FEINER

KEY POINTS

- The City of Chicago filed two sweeping lawsuits against DoorDash and Grubhub for allegedly deceiving customers and using unfair business practices.
- The suits echo longstanding claims from restaurants on the platforms.
- The DoorDash complaint also alleges deceptive tipping practices previously charged and settled by the D.C. attorney general.

The City of Chicago filed two sweeping lawsuits against DoorDash

and Grubhub for allegedly deceiving customers and using unfair business practices.

The suits echo longstanding claims from restaurant owners that the platforms advertise delivery services for their businesses without their consent and conceal lower prices that restaurants offer directly to customers outside of the platforms.

The city also claims both platforms use a “bait-and-switch” method to attract customers with low delivery fees, only to charge additional ones when they are about to place their order.

In separate statements, both DoorDash and Grubhub called the lawsuits “baseless.”

A DoorDash spokesperson said the company “has stood with the City of Chicago throughout the pandemic, waiving fees for restaurants, providing $500,000 in direct grants, creating strong earning opportunities, and delivering food and other necessities to communities in need.”

In November, DoorDash stopped adding new restaurants that it doesn’t have agreements with to its app. It also said it will remove restaurants that don’t want to be listed within 48 hours of being notified.

Grubhub similarly says it removes listing for non-partner restaurants when asked. It said only a small percentage of such businesses have requested removal. The company said its contracts require restaurants to offer customers at least as favorable prices on its platform as available elsewhere, contrary to the city’s assertion that it conceals lower prices off the platform.

“Every single allegation is categorically wrong and we will aggressively defend our business practices,” a Grubhub spokesperson said in a statement. “We look forward to responding in court and are confident we will prevail.”

The city is seeking to end the alleged misconduct by mandating more transparency, civil penalties and restitution for consumers and restaurants hurt by the alleged practices.

The suits include additional claims specific to each company.

The city alleged that Grubhub deceptively shared telephone numbers for customers to connect with restaurants, but would charge the restaurants a commission for calls placed through those numbers, even when they didn’t result in an order. The city also claimed Grubhub made “imposter websites” for restaurants to unexpectedly lure customers to its own platform.

Grubhub has maintained that its creation of sites for restaurants does not violate laws, though it has ended the practice. The company also changed its phone routing system on Aug. 23 so that calls from customers seeking answers from restaurants not about an existing order will be sent directly to those businesses at no cost.

The suit claims Grubhub’s marketing campaigns promoting local restaurants during the pandemic were deceptive, while it allegedly forced restaurants to extend their contracts and cover promotion costs. It also alleged Grubhub violated Chicago’s 15% emergency cap on commissions that delivery platforms could take from restaurants.

Grubhub denied violating Chicago’s emergency commission cap and denied that its pandemic campaign was deceptive. The company said more than $500,000 that it raised in the campaign went to Chicago restaurants.

The city claimed DoorDash misled customers about how their tips for drivers would be used. This issue has been the subject of a separate lawsuit from the attorney general of the District of Columbia. DoorDash has said it changed its tipping method prior to the D.C. attorney general's suit. It reached a $2.5 million settlement with his office in November over those claims.

Chicago also alleged DoorDash misleadingly labeled a $1.50 fee placed on every order as a "Chicago Fee." The city claimed this wrongly implied the fee was required by or paid to Chicago rather than DoorDash.

NEW YORK POST

‘Outraged’: NYC restaurants blast Grubhub over ‘phony’ lobbying push

By Lisa Fickenscher
February 8, 2023 7:05pm

Several Big Apple restaurant owners were named without their knowledge in a letter sent to local politicians by Grubhub in a lobbying push to amend a law that limits what food delivery companies can charge the eateries, The Post has learned.

One of the missives sent last month to City Council member Carmen De La Rosa named 23 businesses in her Washington Heights district.

However, at least seven of the restaurant owners did not know anything about the letter until it was brought to their attention by the New York State Latino Restaurant, Bar and Lounge Association, multiple owners told The Post.

The letter also named people who did not own the restaurants.

“This is obviously an attempt to use us without our consent to push through legislation,” said Gus Anton, owner of The Park View restaurant at 219 Dyckman St. “I was outraged by the letter,” which listed Pedro Reyes – who is unknown to Anton – as a representative of the 50-seat eatery that serves sandwiches, salads and pastries.

Sandra Jaquez, owner of Sa’tacos at 231 Dyckman St., was similarly shocked to learn that her restaurant was a signatory and represented by Matteo Costa.

“I have no idea who Matteo Costa is,” Jaquez said. “I never agreed to the letter and I’m not for this [legislation],” she added.

Five other restaurant owners – Marisco Centro, Grito Mexican Grill, Burgos, Amore Cafe and Malecon Restaurant – also did not consent to being listed on the letter, according to Jeffrey Garcia, president of the Latino Restaurant, Bar and Lounge Association.

“Any document they put out now has to be questioned because of these discrepancies we found,” Garcia said.

De La Rosa was unavailable for comment her spokesperson, Fraynette Familia, said.

The identical form letter was sent to other City Council members listing restaurants in their districts, according to one Council member, who did not want to be identified, but confirmed that it was sent by a Grubhub lobbyist.

A Grubhub spokesman declined to comment about the letter when reached by The Post on Wednesday.

The letter is the latest skirmish in a pitched lobbying battle between the food delivery companies and restaurant trade groups, who are fighting to keep the fee cap on the books as the City Council prepares for hearings on the issue.

In 2021, legislators passed the fee cap, which restricts the industry from charging restaurants more than 20% per takeout order. The law allows the industry to charge 15% for delivery and 5% for other fees such as marketing.

The food delivery companies are backing a bill introduced last November that would loosen the fee cap.

“Groups working on behalf of big restaurants have consistently misled members of the industry about this legislation,” the Grubhub rep told The Post. “To-date, more than 500 representatives from restaurants across the five boroughs have voiced their support for this common sense change to make their own marketing decisions and better compete with big brands. And it’s encouraging that more than half the City Council has co-sponsored this bill to empower small, locally-owned businesses.”

The City Council has not set a date for a future hearing on the issue.

Grubhub, Doordash and UberEats are also suing the city to overturn the 2021 law, which was implemented in 2020 to help restaurants weather the pandemic.

A growing number of 26 Council members, including Marjorie Velazquez (D-Bronx), Eric Dinowitz (D-Bronx) and Vicke Paladino (R-Queens) support amending the law – alarming a large contingent of restaurants who don't want to reverse the fee cap.

On Tuesday, the owners and operators of some 900 restaurants delivered a letter to the City Council entitled "Say No To The Bigger Fees For The Big Delivery Bill."

"There is an aggressive lobbying campaign alleging there is a grassroots campaign to get rid of the fee cap from restaurants and community groups," according to the letter, which was shared with The Post. "However it is being funded and coordinated by a major delivery company that stands to benefit greatly."

The letter was spearheaded by the NYC Hospitality Alliance and the Latino Restaurant Bar and Lounge Association, which represent more than 4,000 eateries in the city.

WBJ Worcester Business Journal

March 22, 2023

GrubHub overcharged fees to Mass. restaurants

By Kevin Koczwara

Suffolk County Superior Court has ruled food delivery service platform Grubhub Holdings Inc. illegally overcharged fees to Massachusetts restaurants, which was in violation of the state's statutory fee cap implemented during the COVID-19 public health emergency.

The ruling from March 16 was announced by Massachusetts Attorney General Andrea Campbell's office, which sued GrubHub in July 2021 for violating the Commonwealth's consumer protection act. The AG's office was seeking refunds for restaurants.

The lawsuit against GrubHub remains active and ongoing.

"I am proud of the team and this thoughtful ruling which found that Grubhub illegally overcharged Massachusetts' restaurants as they struggled to stay afloat during the pandemic," Campbell said in a March 16 press release. "We look forward to continuing with our case to hold the company accountable and refund restaurants for the fees they were illegally charged."

Grubhub is a delivery service platform where customers order food from restaurants for delivery or pickup. Restaurants contract with Grubhub to use its services. Grubhub was founded in 2004 and is part of the Dutch multinational company Just Eat Takeaway.com N.V., which acquired the company for $7.3 billion.

The lawsuit alleges Grubhub violated a provision of the state's economic development legislation, prohibiting Grubhub and other third-party delivery service platforms from charging fees to restaurants exceeding 15% of an order's menu price. The fee cap came into effect on Jan. 14, 2021, and remained in place until June 15, 2021, when the state of emergency in Massachusetts was lifted. The lawsuit alleges Grubhub charged fees in excess of 18% of the order's menu price. Grubhub opposed the lawsuit, arguing it had not violated the emergency law and, if it had violated the law, the law was unconstitutional.

The attorney general's office sent letters to Grubhub and other online food delivery service platforms to remind them about the fee cap in February 2021. The attorney general then sent a cease and desist letter to Grubhub in May 2021, demanding the company stop charging fees in excess of 15% of the purchase price of the online order, which was in violation of the law.

dcist

MAR 17, 2023 1:58 PM

D.C. Restaurants Hit With Higher Delivery App Fees After Mandated Cap Expires

Amanda Michelle Gomez

D.C.'s blunt 15% cap on fees that third-party delivery companies like DoorDash, Grubhub, and Uber Eats can charge restaurants per online order eased this month. Now, the city's bars and restaurants are getting notices of increased commission fees, anywhere between 25% and 55%, if they want to keep their similar service. Food delivery companies are offering basic plans with a 15% commission fee, but restaurant owners see those barely as an option.

In May 2020, during the height of the pandemic, D.C. became one of several cities across the country to cap food delivery commission fees at 15%. The D.C. Council reasoned that restaurants were relying on delivery and takeout to stay afloat but had their online ordering profit eaten up by commissions. Delivery companies opposed the cap, arguing that it would result in higher fees for customers and decreased distance of deliveries. The Council did require companies to disclose fees to patrons in the legislation that ultimately passed and became law. Councilmembers continued to extend the cap throughout the pandemic, until recently.

Last December, the Council unanimously passed a bill that eased the blunt cap. Ward 6 Councilmember Charles Allen, one of the co-sponsors of the new law, the Fair Meals Delivery Act, explained in an email to DCist/WAMU that they sought to limit the delivery fees from companies to 15%, but allows them to charge restaurants a higher amount if they provide additional services.

But the 15% service option is loosely defined in D.C. law. A restaurant needs to be discoverable on the company's platforms for deliveries. Companies also are required to notify all restaurants that have an existing agreement of the option within 30 days of the effective date of the law. The law kicked in on March 10.

Pie Shop owner Sandra Basanti received emails from DoorDash and Uber Eats on Thursday, notifying her that the companies will reinstate rates higher than 15% unless she downgrades to a basic plan. Changes are expected to occur on March 16.

"I'm so confused. It's convoluted, not surprisingly," said Basanti as she tried to make sense of the email and new plan options.

The email from DoorDash, which Basanti shared with DCist/WAMU, says the company will reinstate Pie Shop's previous "Classic commission rate of 55%," "pickup commission rate of 15%," and "DashPass rate of 26%, where applicable". DoorDash justified the changes by citing the new D.C. law.

In a screenshot that she shared with WAMU/DCist, DoorDash explains that the basic plan option with a 15% delivery commission rate effectively reaches fewer customers and has a smaller delivery area, although it's unclear by how much as the provided information is vague. The other listed options take a 25% and 30% commission rate, but reach "high value customers" and accept 20 orders per month or pay zero commissions.

Basanti told DCist/WAMU that she never enrolled Pie Shop in a delivery plan where commission is 55%. She can't afford that, so is reviewing DoorDash's options.

Uber Eats, meanwhile, told Basanti that she'll face 25% commission fees for services, which reflected her business's pre-pandemic rates "soon." The lowest cost plan of 15% limits the number of people who will see the restaurant on the app because customers could only see a business when they search for it by name, according to the email shared with DCist/WAMU.

“Every week, there’s something. We have to ‘pivot,'” Basanti told DCist/WAMU. “If we didn’t get the memo or we weren’t paying attention for one week, then it could result in us being slapped with fines or having to pay hefty commission charges or whatever it is.”

Restaurant owners tell DCist/WAMU that the price hikes sting as they are still recovering from the pandemic. They’re also reeling from other industry changes. For example, bar and restaurant owners also anticipate increased labor costs after D.C. voters passed Initiative 82 last November. That ballot measure gradually phases out tipped minimum wage, meaning tipped food service workers will gradually earn more until 2027, when they’ll start to earn the city’s full minimum wage, instead of relying on tips.

An Uber spokesperson tells DCist/WAMU that the company is giving D.C. restaurants until April 16th to prepare for the change or select another option.

“We recognize that the District’s restaurant industry is continuing to grapple with increasing costs, including new costs associated with Initiative 82. That is why we did not immediately revert merchants back to their pre-pandemic commissions once the law went into effect,” the spokesperson says via email. “We are fully transparent about our pricing, which is why all of our plans can be easily found on our website. It is not our business practice to charge merchants egregious fees, especially so soon after the change in the law. We want to do right by our restaurant partners and hope we can continue to work with them on how we can best meet their needs.”

The spokesperson also says that plans with fees higher than 15% account for the costs associated with additional marketing.

A DoorDash spokesperson says the company notified D.C. restaurants it partners with on March 2, explaining that the city's commission cap would lift on March 16 and that they would be reverted to pre-pandemic rates unless restaurant owners selected a different plan. The spokesperson clarified that restaurants would not be charged commission rates that were higher than 30% for local delivery or 6% for pickup. There is an option for nationwide shipping, and those commission fees are greater because of higher shipping costs.

In April 2021, DoorDash introduced tiered plans around the country, but D.C. restaurants were exempted because of the city's blunt 15% cap. Prior to the pandemic, delivery companies typically charged 30% commission fees for each patron's order.

"We offer a range of partnership options for local restaurant partners to provide choice, flexibility, and transparency while empowering them to select a commission rate that works for them — including as low as 15% for delivery," says the DoorDash spokesperson via email.

Basanti said she had no correspondence from DoorDash prior to March 16. Neither did restaurant owner Chris Svetlik, who said he only got an email from DoorDash on Thursday for Hill East Burger and not his other spot, Republic Cantina. The email says he'll be charged a "Classic commission rate of 30%" and "DashPass rate of 30%, where applicable."

"I knew it was coming," Svetlik told DCist/WAMU. "This tiered model is where the delivery companies want to go, giving the perception of choice and giving a legally-mandated 15% for services tier that I anticipate will be extremely unattractive for a restaurant to sign up."

Svetlik said he'll crunch the numbers to determine what plan to get, but ultimately will have to make a judgment call. Svetlik and other local restaurant owners banded together to try and get the Council to make the 15% cap on delivery fees permanent, like New York City. They argued that small businesses are still struggling, with many of them owing back rent. They also faced historic costs for ingredients and dry goods. San Francisco, the first city to impose a blunt cap, reached a compromise with delivery companies and mirrors D.C.'s new law.

"It really felt like it was just us kind of screaming this into a void," said Svetlik, adding that they struggled to get the local restaurant association to take up the issue. "So in the end it felt like we landed on a solution which was very favorable to the delivery apps."

After learning about Pie Shop's experience with DoorDash, which also circulated social media, Councilmember Charles Allen said in email to DCist/WAMU: "What's happening is not meeting the spirit or intent of the law. It appears that big out-of-state tech corporations are using their leverage to coerce small, locally-owned restaurants into paying more without getting anything in return. It's time to close this loophole and protect our neighborhood businesses."

At Large Councilmember Kenyan McDuffie, another co-sponsor of the Fair Meals Delivery Act, says he's aware of reports that DoorDash has implemented a new policy that appears to violate the spirit and intent of the law. "The 15% fee cap was intended to ensure that our local restaurant operators are not burdened by exorbitant fees, especially as they continue to recover from the pandemic," he says in a statement. "I have reached out to DoorDash to express my deep concern about this new policy and demand that the company immediately clarify its food delivery policy for local restaurants to ensure its compliance with District law."

Former Councilmember Mary Cheh of Ward 3, who tried to amend the new law, warned it would create a “race to the bottom” scenario, with 15% fee plans turning into a “sham offering.”

The city’s Office of the Attorney General, meanwhile, says as long as the fees are clearly disclosed to restaurants, they don’t have any authority under local consumer protection law to go after companies because those fees are high.

This post has been updated to include comment from At Large Councilmember Kenyan McDuffie and D.C.’s Office of the Attorney General.

Robbins Geller Gets $12.6M Fee In Grubhub Suit

By Emilie Ruscoe · Listen to article

Law360 (January 13, 2023, 9:05 PM EST) -- Robbins Geller Rudman & Dowd LLP attorneys can collect a $12.6 million fee for their work representing a class of Grubhub Inc. investors in a case alleging the takeout delivery company misrepresented its growth, a federal judge in Chicago has determined.

In a Thursday order, U.S. District Judge Matthew F. Kennelly said the Robbins Geller team can receive 30% of the $42 million settlement it brokered on behalf of those who purchased Grubhub shares between April and October 2019.

Judge Kennelly called the requested sum "fair and reasonable," noting it was comparable to the fees awarded in similar cases in the Seventh Circuit.

"Lead counsel has conducted the litigation and achieved the settlement with skill, perseverance and diligent advocacy and is highly experienced in the field of securities class action litigation," Judge Kennelly said Thursday.

The judge also said the plaintiffs' counsel could have nearly $237,000 to reimburse their litigation expenses and that the institutional investors that served together as lead plaintiff in the action — the City of Pontiac Reestablished General Employees' Retirement System and the City of Pontiac Police & Fire Retirement System — could each receive $1,000 for their work on the case.

Robbins Geller asked for the multimillion-dollar fee in December, telling Judge Kennelly that the settlement reflects the firm's "experience, reputation and skill in prosecuting securities class actions."

The parties asked for preliminary approval of the settlement in October, telling the court they had accepted a mediator's settlement proposal five months after commencing mediation.

In an October memo, the Robbins Geller team said the settlement was "highly favorable" to the class.

In the latest version of the suit, from July 2020, the investors said that trading prices for Grubhub shares fell by 43% in October 2019 when the company announced disappointing financial results and lowered its earnings guidance for the coming year in connection with acknowledgments about the company's struggles to attract new, loyal customers.

According to the investors, Grubhub said at the time that the disappointing numbers owed to the fact that new customers it had managed to attract via a major increase to its marketing spending "were not driving as many orders as we expected."

In a Friday email, Jim Barz, an attorney for the investors, told Law360, "We are pleased that the court approved the settlement and we were able to get a great result for the class."

A spokesperson for Grubhub said, "We are satisfied that we reached a settlement to put this matter to rest."

The City of Pontiac Reestablished General Employees' Retirement System and City of Pontiac Police & Fire Retirement System are represented by James E. Barz, Frank A.

Richter, Robert J. Robbins, Bailie L. Heikkinen, Theodore J. Pintar and Brian E. Cochran of Robbins Geller Rudman & Dowd LLP.

The defendants are represented by Sandra C. Goldstein PC, Stefan Atkinson PC, Mary T. Reale, Lindsey Edinger, John F. Hartmann PC and Madelyn A. Morris of Kirkland & Ellis LLP.

The case is Azar v. Grubhub Inc. et al., case number 1:19-cv-07665, in the U.S. District Court for the Eastern District of Illinois.

--Additional reporting by Piper Hudspeth Blackburn, Danielle Ferguson, Joyce Hanson, Katryna Perera and Lauraann Wood. Editing by John C. Davenport.

NEW YORK POST

Grubhub hasn't refunded majority of restaurants for bogus fees

By Lisa Fickenscher

February 3, 2020 9:58pm

A survey conducted by the NYC Hospitality Alliance last month found that some 62 percent of area eateries were charged for accepting calls through Grubhub-owned phone lines that never resulted in orders.

Grubhub — which promises to only charge for orders it helps generate — has promised to refund eateries for bogus phone fees going back 120 days. Yet, more than 91 percent of survey respondents say they have yet to receive their money, the survey found.

"We believe that it was too time consuming for restaurants to figure out how much they were owed, but it shouldn't be their responsibility in the first place," said Andrew Rigie, executive director of the industry trade group that conducted the survey of 300 NYC restaurants using an e-mail questionnaire.

The results of the survey are expected to be released as soon as Tuesday.

Grubhub, which owns delivery company Seamless, came under fire last year after The Post reported that it had been charging eateries between $4 and $9 through its Grubhub-dedicated lines for calls longer than 45 seconds — even if the customer was simply calling to complain that the food arrived cold.

Lawmakers, including Sen. Chuck Schumer (D-NY), have called on Grubhub to reimburse restaurants, prompting the company to eventually agree to refunds of 120 days — up from 60 days.

The Chicago company, headed by CEO Matt Maloney, has said the fee data cannot be retrieved beyond four months. But 5.2 percent of Alliance members reported receiving refunds “in excess of 120 days,” the survey said.

“While I cannot comment on biased online surveys I have not seen, with imaginary findings I cannot verify, I can say that we work closely with all of our restaurant partners — both to help drive new customers to their businesses and solve problems if they come up,” a Grubhub spokesperson said.

In January, Grubhub rolled out a new phone ordering system nationwide aimed at reducing the number of erroneous fees amid threats from NYC legislators. The system allows diners to press #1 to place an order and #2 for everything else.

NEW YORK POST

Grubhub charging us even when our customers don’t order: restaurant owners

By Kevin Dugan and Lisa Fickenscher

May 19, 2019 | 5:35pm

Restaurateurs across the country say they are waking up to a years-long, high-tech bamboozling by Grubhub involving hidden fees for orders that never happened — an allegation that could cost the company millions, The Post has learned.

Last November, a woman called Italian eatery Enoteca at 6:50 p.m. to ask if they had gluten-free pasta. The Brooklyn restaurant was charged a $9.07 fee for the call — even though no order was made — by Grubhub, America’s largest food ordering service.

More recently, an upscale Mediterranean restaurant in Manhattan, which declined to be named for this story, was charged for telling a hungry customer that it was closed for a private event.

Grubhub earned $9 on that, among other bogus orders, the owner told The Post.

A third restaurateur told The Post he is being charged an estimated $2,000 a year at just one of his five restaurants due to calls from customers with questions about menu items.

Grubhub, which owns food delivery service Seamless, tells restaurants that it will only charge them for food orders it helps to generate, documents show.

But eatery owners say the Chicago company, which also owns MenuPages.com, has been quietly billing them for all kinds of calls, including calls for dinner reservations or complaints about not enough duck sauce.

The payoff to Grubhub, a publicly traded company, is hard to quantify, but a new lawsuit filed in Philadelphia federal court in December is seeking $5 million in damages, an amount that could increase if other restaurants join the litigation, which is seeking class-action status.

The suit, filed by Munish Narula, owner of Tiffin Indian Cuisine in Philadelphia, claims the charges for phantom orders have been going on “for at least seven years,” and are widespread across the company’s 115,000 restaurant partners.

Behind the hidden fees, according to the lawsuit and restaurant sources, is Grubhub’s practice of setting up brand new phone numbers for restaurants it contracts with. It displays its phone numbers on its Web site and app instead of the restaurant’s actual number.

Customers who rely on Grubhub’s numbers may never know the difference because Grubhub automatically forwards its calls to the restaurants, which then fill the orders.

Fees for non-orders have the effect of doubling Grubhub’s normal commissions of 15 percent to 20 percent of the final bill, restaurateurs say. For example, the woman who called about the gluten-free pasta placed an order on Grubhub’s app two minutes later, earning the company an additional $9.18 — or a 36.5 percent commission on the single order, documents show.

Mike Evans, one of Grubhub’s cofounders, has said that his company uses a “statistical model” to determine whether or not a phone call through its system resulted in an order or not.

“It turns out to be possible to predict with a high degree of accuracy which calls are orders or not,” Evans wrote on Web site Quora in 2013.

Narula’s lawsuit claims Grubhub’s statistical model is a mere egg timer — one that charges for any call above 45 seconds.

“We believe the Tiffin case is without merit and dispute the claims,” the company said in a statement.

Restaurants “have the ability to review and audit recordings of phone calls through their dedicated portal and can easily dispute any charges,” the company added, referring to the company’s practice of recording calls made through Grubhub lines.

But Narula’s suit claims the company refused to give him transcripts of his Grubhub-recorded calls in March 2018, when he first realized he was being charged for non-orders. He claims Grubhub only started making transcripts available to him and other eatery owners many months later, in August 2018.

Grubhub disputes this, saying it has provided the transcripts all along.

Enoteca owner Marco Chirico, 31, said he was only able to access to his transcripts for a few months when he first noticed the phantom orders last December. He estimates his losses ranged from $400 to $900 a month for the period he was able to access.

And yes, Grubhub refunded Enoteca, Chirico told The Post — but only after making him wait 45 minutes to an hour to speak to a representative.

On Friday, Eunhee Park Cohen, the owner of the Hell’s Kitchen restaurant Tabouleh, also had trouble reviewing transcripts tied to 21 questionable charges from April tallying $4.50 to $5.47 a call.

“Usually it’s older people calling. Their conversations are very lengthy,” she said of the charges before laying into Grubhub for making her work to find hidden fees.

“Do you think all the small restaurant owners in New York City … read each thing?” she asked of the call transcripts. “You don’t have time to go to the bathroom sometimes,” she said of the business.

After disputing the charges and getting a refund, Chirico alerted the New York State Restaurant Association, which immediately sent an e-mail to its 1,000 members in the city, warning them to check their accounts.

The February memo from NYSRA president Melissa Autilio Fleischut says the association heard about the problem from Chirico and a second unnamed member.

“The percentage in commission they take, and the things they take from you that you don’t notice —it hurts you. It hurts the business,” Chirico said.

NEW YORK POST

Grubhub's free lunch fiasco still costing restaurants money

By Lisa Fickenscher
June 6, 2022 10:00am Updated

More than two weeks after Grubhub's free lunch fiasco, restaurants are still holding the proverbial bag.

The food delivery company has not refunded some restaurants who were overwhelmed by the onslaught of orders and ultimately had to throw away meals that never got delivered or picked up – or paid for.

Many restaurants ate the food tab in those instances, despite the fact that Grubhub said it would foot the bill for its May 17 promotion offering a free $15 lunch between the hours of 11 a.m. and 2 p.m.

"We lost about $4,000 on the promotion," George Tenedios, chief executive of the Fresh & Co. chain of 13 restaurants in Manhattan. "We were able to pump out our orders in 45 to 70 minutes, but I think the customers were never notified by the app that the order was ready."

Grubhub is apparently swamped with such complaints, according to Fresh & Co.'s Grubhub rep, who ignored five emails from the restaurant pleading for information about its refund before finally responding.

“All orders from the Free Lunch Promo will be refunded,” the Grubhub sales rep finally wrote in an email, which was shared with The Post, conceding that “it has taken some time for the team to [get to] all accounts affected.”
A spokesperson for Grubhub told The Post in a statement, “While the vast majority of restaurants saw an uptick of successful orders – a major win for them – we are working to refund restaurants that either had orders cancelled or unfulfilled.”

Starting Monday, the company said it will reach out to restaurants who have been clamoring for a refund.

Some restaurants said they were not prepared for the rush of orders – or that they were never warned in advance about the promotion.

Delivery workers, cooks and other restaurant staff couldn’t keep up with the volume, which reached 6,000 orders on the app per minute, according to Grubhub.

Jeremy Wladis estimates that he’s out $1,500 worth of undelivered food at his four restaurants in the Big Apple, including Upper West Side mainstays Good Enough to Eat and Nina’s Great Burrito’s Bar. Grubhub has not yet refunded his restaurants.

“Our service and kitchen were screwed up,” Wladis said. “It hurt our brand.”

But the restaurant company DIG – which also has not been refunded for the undelivered meals – managed to turn the snafu into a “happy mistake,” spokesperson Grace Kibira told The Post.

DIG, which has 22 quick service eateries in the Big Apple, emailed customers to tout their own delivery service and placed social media ads poking fun at the Grubhub misfire.

“Your friends waited 6 hours for a sloppy burrito; not cool,” the email blast read.

DIG offered customers a $5 credit for downloading its app, which allows them to order directly from the restaurant instead of with a third-party delivery service, and gave them an extra $5 for referring a friend.

“We were able to convert Grubhub users over to our app,” Kibira told The Post. “We took advantage of the situation to promote our restaurant.”

Lawsuit prompts Grubhub to add disclosures about hidden fees

Amanda Silberling@asilbwrites / 4:17 PM EDT•March 21, 2022

Washington D.C. Attorney General Karl Racine announced today that his office filed a lawsuit against Grubhub for "misleading District residents and taking advantage of local restaurants to boost its own profits."

The lawsuit alleges that Grubhub violated D.C.'s Consumer Protection Procedures Act (CPPA) in eight different ways, which mostly center on false advertising. The filing references misleading prices (prices are often higher in-app than at the restaurant) and false claims that deliveries via Grubhub+ were free when they still contained a service charge.

Some of the complaints point to practices that the platform has since discontinued, like Grubhub's early-pandemic-era "Supper for Support" promotion. Launched in late March 2020, Grubhub offered restaurants the opportunity to offer a $10 coupon on orders over $30, but the restaurant had to foot the bill for that free food. On the consumer end, Grubhub encouraged customers to "save while supporting the restaurants [they] love," even though their promotion actually put more strain on restaurants by pressuring them to lower profit margins (if one neighborhood taco shop enrolled in the promotion, and the other didn't, where do you think consumers would direct their business?).

"The company deceived users with a promotion that claimed to support local restaurants during the heart of the pandemic. But in reality, this program cut into struggling restaurants' profit margins while padding Grubhub's bottom line," Attorney General Racine said in a statement.

NEW YORK POST

Grubhub made over 30K websites disguised as restaurant homepages

By Kevin Dugan and Lisa Fickenscher

June 30, 2019 | 10:14pm

Grubhub has created thousands of Web sites that masquerade as the sites of restaurants — a practice that can jack up prices for hungry customers, The Post has learned.

The online food-ordering giant, which also owns Seamless and Menupages, has scooped up more than 34,000 URLs since 2010 with names that are similar to restaurants' own Web addresses, according to a database obtained by The Post.

In some cases, Grubhub creates a version of an existing restaurant site by changing a dot-com to a dot-net.

In all cases reviewed by The Post, Grubhub's copycat sites use the restaurants' logos — even as they direct customers to its Grubhub and Seamless sites.

While the duplicate Web sites typically have the same menu as the restaurants do, the prices can be higher than the prices customers would have paid if they had ordered from these restaurants directly, the data shows.

For example, all of the signature salads on Chicago Salad House's Web site, www.chicagosaladhouse.com, cost $10. But on Grubhub's dummy site, www.saladhousechicago.com, many of the same salads cost $11 or $11.25.

The Seamless Web site for 354 Steakhouse in Cliffside Park, NJ, charges $7.95 for onion soup, or $1 more than the restaurant itself charges, while the 26-ounce porterhouse for one costs $43.95 via Seamless — or $2 more than the restaurant's actual price. 345 Steakhouse confirmed its lower prices when contacted by The Post.

"There's certainly ethical questions," Andrew Rigie, executive director of the New York City Hospitality Alliance, told The Post. "Even if there is language in the contract, I suspect many restaurateurs don't understand what it means: That they are losing control of their business."

Grubhub said in a statement that it only created domain names for restaurants "as a service" to them — a practice it has since stopped. "It has always been our practice to transfer the domain to the restaurant as soon as they request it," the company said.

Ahmet Bugdayci, the owner of Abracadabra Magic Food in Williamsburg, said he asked Grubhub for domain name Abracadabrabrooklyn.com — which he discovered the delivery service giant had taken when he was trying to build his own site roughly five years ago — only to give up because the process was too complicated.

“In the beginning, we asked. It’s not easy,” Bugdayci said. “This is what they do, you can’t do anything. We want to talk, but it seems like a long process. We are a very small business.”

In a Google search for Abracadabra Brooklyn, Grubhub’s doppelganger page — along with the official Seamless and Menupages sites — appears before Abracadabra’s actual Web site.

A database created by a private investigator and researcher shows 34,504 Web sites registered with copycat Grubhub URLs since 2010, according to a copy of the document obtained by The Post.

A separate database created by the same researcher showed that more than 9,158 of the copycat URLs are still active. Some of the restaurants whose

Web sites appeared on the list have their own proprietary online ordering system, like Chicago Salad House, the researcher noted.

The wannabe sites appear legitimate until a customer scrolls to the very bottom, down past a menu and about 10 of the latest reviews. There it mentions a Grubhub Holdings copyright.

The sites even include Grubhub-registered phone numbers (different from a restaurant’s own real phone number) that record the calls and charge restaurants a commission, according to sites viewed by The Post.

Complaints about the sites first surfaced at a New York City Council hearing last week, in which Grubhub executives denied any knowledge of alleged “cybersquatting.”

“I’ve never seen any evidence of cybersquatting or copying of restaurants to take their business,” Sami Naim, Grubhub’s director of public policy, said at the hearing. “None whatsoever.”

Grubhub in a statement said it “has never cybersquatted,” which it defined according to a nonprofit internet think tank as a “generally bad faith registration of another person’s trademark in a domain name.”

The revelations come after The Post first exposed that the delivery company was registering thousands of dummy phone numbers for restaurants in order to take commissions on phone calls.

NEW YORK POST

GrubHub extends refunds for fake fees amid pressure from Schumer

By Kevin Dugan and Lisa Fickenscher

August 1, 2019 | 1:47pm

Food ordering giant Grubhub’s olive branch to restaurants is getting chewed up and spit out.

The Chicago-based company — which also owns delivery company Seamless — agreed on Thursday to widen the refund window for restaurants that have been unwittingly paying fees for bogus food orders.

But industry reps say the company’s plan to start refunding restaurants for up to 120 days — up from 60 days — is still not enough.

“If Grubhub charged a restaurant a bogus fee 300 days ago they must still refund it,” said Andrew Rigie, executive director of the NYC Hospitality Alliance, who called the 120-day policy “absurd.”

As The Post first reported in May, Grubhub has been charging restaurants as much as hundreds of dollars a month — sometimes for years — for Grubhub-generated phone calls lasting over 45 seconds — whether they resulted in orders or not. The company has been sued for the practice, which has taken place on Grubhub-issued phone lines.

In addition to the longer refund window, Grubhub said it will set up a website that makes it easier for restaurants to “request direct control” of websites that have been in the establishments’ names but had been quietly registered by Grubhub.

The company will also set up a series of roundtables with restaurants, including the New York Restaurant Association, and invite members of the New York City Council to attend.

Grubhub announced the changes Thursday following months of pressure from elected officials, including Sen. Chuck Schumer and City Council member Mark Gjonaj.

Schumer’s office, which has previously called on Grubhub to refund all fake fees, called it step in the right direction.

“Grubhub’s announcement today is a productive and positive step in addressing the issues. We look forward to continuing to work with the New York State Restaurant Association, the New York City Hospitality Alliance, and others to achieve more progress as this plan unfolds,” Angelo Roefaro, Schumer spokesman, told The Post.

“They do not go far enough for the fees that should have never been charged,” Gjonaj told The Post. “And I’m not really worried about Grubhub’s bottom line. I’m worried about the bottom line for mom and pop trying to stay afloat.”

The company has previously rejected requests for refunds beyond 60 days — with some notable exceptions.

Some restaurants have already received far more extensive refunds for these phone charges, leaving the restaurant industry hungry for more. As The Post reported in June, Grubhub refunded one New York City restaurant operator more than $10,000 for the practice — covering his fees going back to 2014.

“As before, we are committed to examining and immediately refunding any phone calls that did not result in orders,” the company said in making the announcement. Additionally, we will redouble our efforts to continuously improve processes we use with regard to phone orders.”

Grubhub chief executive Matt Maloney on Tuesday went on the defensive about the 60-day policy, which he described as “fair” because it is written in restaurants’ contracts with Grubhub.

“The extension of our lookback period is a normal course of business operations,” Brendan Lewis, a spokesman for Grubhub, told The Post.

“We have worked cooperatively with [Schumer’s] staff and they have been extremely helpful in recent weeks. We are thankful for their collaboration,” Lewis added.

“While Grubhub’s announcement is a step in the right direction, it is a small step, and much more must be done. Their announcement does not even address the major complaint from so many restaurants, which is that their fees have continued to go up as they dominated the market,” Rigie said.

NEW YORK POST

State regulator says Grubhub’s stiff fees could be illegal

By Kevin Dugan and Lisa Fickenscher

October 7, 2019 | 6:36pm

A New York regulator said third-party food-delivery companies like Grubhub and Uber Eats appear to be breaking state laws by charging restaurants stiff fees that are based on a percentage of their orders.

During an at-times testy hearing in Harlem on Monday, the New York State Liquor Authority’s chairman, Vincent Bradley, likewise brushed off concerns that a controversial proposal to cap those delivery fees at 10% would make things impossible for delivery services.

“At the end of the day, if they fail because of this, then they were probably going to fail anyway,” Bradley said.

Critics, including New York City council member Mark Gjonaj, have blasted delivery companies for taking commissions as high as 30% of the bill for delivering everything from burgers to dim sum — a punishing pound of flesh for most mom-and-pop eateries, he contends.

Grubhub has countered that it brings “incremental” business to restaurants, including more profitable patrons who come and sit down for dinner.

Whatever the case, the state liquor board on Monday signaled that these companies will either have to comply with a 10% ceiling on fees or charge flat rates instead.

“There is a proliferation of companies out there, most on the tech side but not all, that are charging percentages well beyond what they should be,” Bradley said.

“Under our view of the law, they shouldn’t be charging anything, percentage-wise,” he added. “They can charge a flat fee, whatever they want, whatever the market will bear. But they shouldn’t be taking a percentage of profits, revenues, whatever the case may be.”

If food deliverers don’t comply, they could face decades-old state regulations forcing them to register as partners on restaurants’ liquor licenses — a potential bureaucratic nightmare that would involve thousands of such applications.

The Monday hearing at the Adam Clayton Powell Jr. state office building on West 125th Street was attended by about 40 lawyers and company representatives. None of the delivery companies’ reps spoke at the hearing.

Grubhub’s director of public policy, Sami Naim, walked in about a half-hour after the meeting started and later declined to comment.

The meeting grew heated about 40 minutes after it started, when Zachary Hecht, policy director for Tech:NYC, said the proposed rule “could impede innovation” in the delivery industry.

“How?” Bradley said, interrupting Hecht, whose trade group represents Postmates, Delivery.com, Uber and dozens of other big tech firms.

“Based on what I’ve witnessed with these tech companies, should anyone go out of business because of this — which is not our goal at all — I would imagine there’s 20 other people willing to step right in and follow the law, as we dictated it,” he said, drawing laughter from the attendees.

After the hearing, Hecht told The Post he was “not really satisfied with the lines of questioning or the framing,” adding that state officials ought to study how a flat fee would affect restaurants.

“The regulatory uncertainty contained in the advisory would be very concerning for tech companies,” Hecht said. “It appears they’re trying to regulate in a vacuum, and that’s not how it should work.”

Katie Norris, a Grubhub spokeswoman, said “it was promising that the next version of the guidelines will clarify vague and confusing language from the first draft,” declining to comment further.

THE ARROWHEAD
The Student News Site of Souderton Area High School

Doordash steals money from small businesses

Molly Hendricks, Managing Editor|December 8, 2021

By using food delivery services to get coffee, lunch or dinner, many consumers are unintentionally taking money from small business. Consumers do not realize the small fees businesses receive from providing these services that ultimately harm their profit/revenue.

In order to avoid leaving the house, many consumers utilize delivery services like DoorDash, Grubhub and UberEats.

These services come with a cost to both the customer and restaurant.

While using these apps and services can be convenient to the customers, many small businesses struggle to implement them because of the ridiculously high cost to them and their revenue.

Oftentimes the owners of small businesses only use these services because of high customer requests and the pressure that their competition is using delivery services.

Before the COVID-19 pandemic, these services would take at least 30% of the total order cost from the restaurant.

The New York Post reported that in April 2020, DoorDash sought to aid restaurants.

“The new commissions will allow restaurants to choose to pay as little as 6% of an order, rising to 15%, 25% and 30%, depending on their needs,” New York Post reporter Lisa Fickenscher said.

According to Fickenscher, for many restaurants, using DoorDash was more costly than beneficial.

“Previously, restaurants were forced to negotiate their fees, which led to many smaller restaurants forking over 30% of every food order to a tech giant simply because customers chose to order their food via a website or app instead of calling the restaurant directly.”

Many have gotten used to the convenience of delivery throughout the pandemic, but as the habit sticks, it makes it more and more difficult for restaurants to get fully back on their feet.

Some states and cities such as Los Angeles, New York, San Francisco and Oregan put temporary caps on the percentage that these apps could take from restaurants until the pandemic was over

Even then, 62% of San Francisco restaurants said they were still losing money from utilizing these “services.”

What’s even more infuriating is that Grubhub, Uber Eats and DoorDash proclaimed that their services are what is “Saving Restaurants” throughout the pandemic.

Grubhub released an ad in March 2020 stating, “Grubhub believes that together, we can help save the restaurants we love.”

We do love so many local restaurants, but if we really want to save them, we need to suck it up and call the business directly to place an order.

Once restaurants began to reopen though, many of the companies still charged their high fees, taking from small restaurants in a still incredibly vulnerable time.

According to Cornell professor Karan Girotra, this type of delivery is only profitable in dense neighborhoods and towns, where multiple orders can be delivered quickly and cheaply.

But in suburbs where the landscape is further spread out, it becomes nearly impossible for the restaurants to make any sustainable profit off of these orders.

According to statements released by DoorDash, they are primarily focused on using their services with big chain restaurants, not small independent restaurants.

Still, the popularity and pressure to make pickup and delivery easier for the customer leaves many owners and managers feeling as if these services are a necessity.

The premise of what these services want to do is good in theory, and if it had been executed properly, they probably may have been able to help more restaurants than they harmed throughout the pandemic.

There is more trial and error that needs to happen before these apps can bring in sustainable profit for all businesses.

But, in the meantime, we consumers need to suck it up, talk to workers and pick up our food ourselves.

Office of the Attorney General for the District of Columbia

We Sued Grubhub to Protect Residents & Local Restaurants From Harmful and Deceptive Business Practices

March 29, 2022

We Sued Grubhub to Protect Residents & Local Restaurants From Harmful and Deceptive Business Practices

Last week, we filed a lawsuit against Grubhub, a food delivery company, for charging hidden fees, misleading District residents, and exploiting local restaurants to boost its own profits. And it did all of this as residents and DC restaurants struggled during the heart of the COVID-19 pandemic.

In addition to charging hidden fees, our suit alleges Grubhub also used bait-and-switch advertising tactics—which are illegal—and failed to disclose that prices are higher on its app and website than at restaurants.

For example, in March and April 2020, Grubhub deceived users with a promotion claiming to support local restaurants at the beginning of the pandemic. But the discount Grubhub offered consumers came out of the pockets of already-struggling restaurants.

With this lawsuit, we are seeking to force Grubhub to end its deceptive marketing practices, be truthful about prices and fees, provide restitution to affected consumers, and pay penalties for violating District law. Consumers don't mind paying for delivery fees, but Grubhub needs to be honest about those fees in the first place.

Protecting District residents is my top priority, and every day we work hard to hold corporations and other bad actors accountable if they cause harm. This lawsuit builds on our work to go after companies like Doordash and Instacart for misleading consumers and stealing tips from workers.

We won't allow any company to profit by tricking consumers or taking advantage of local small businesses. It doesn't matter if you're a brick-and-mortar company or a "gig economy" business—the same rules apply to all.

To learn more about this lawsuit, read this DCist article or this or this Washington Post article.

Thank you.

Karl A. Racine

Attorney General

KDKA CBS NEWS PITTSBURGH

Grubhub settles lawsuit with Pennsylvania over price transparency

NOVEMBER 21, 2022 / 9:22 PM / CBS PITTSBURGH

PITTSBURGH (KDKA) — A new state settlement means more price transparency on Grubhub.

The Pennsylvania Attorney General's Office says an investigation revealed consumers were sometimes charged higher prices for items ordered than what they cost if bought from the restaurant directly. The new price disclosures will be listed on the menu pages.

The company will also donate $125,000 to several groups including the Greater Pittsburgh Community Food Bank

Newsweek

Grubhub Sued for Alleged 'Deceptive Practices' and Prices During Pandemic

BY NICK MORDOWANEC ON 3/24/22 AT 12:07 PM EDT

Grubhub used "deceptive trade practices" at the expense of consumers and businesses in the midst of the COVID-19 pandemic, a new lawsuit claims.

The suit, filed March 21 by Washington, D.C. Attorney General Karl Racine against Grubhub Holdings Inc. and Grubhub Inc., alleged that the popular food delivery and software company hiked up prices and charged hidden fees to negatively affect Washington, D.C. residents who used the service. It also claimed that Grubhub exploited local restaurants attempting to stay afloat during COVID-related lockdowns, in addition to violating consumer protection laws.

In July 2021 the State of Massachusetts filed a similar claim against Grubhub, alleging that restaurants were charged restaurants fees that exceeded 15 percent of an order's menu price.

A Florida-based pizzeria also made allegations against Grubhub, creating numerous TikTok videos claiming that its business was added to their platform without permission. No litigation occurred as a result.

The intent of the D.C. suit is to force Grubhub to end its allegedly unlawful practices while increasing transparency regarding where to order food and how to help local businesses.

"Grubhub misled District residents and took advantage of local restaurants to boost its own profits, even as District consumers and small businesses struggled during the COVID-19 pandemic," Racine said in a statement. "Grubhub charged hidden fees and used bait-and-switch advertising tactics—which are illegal. On top of that, the company deceived users with a promotion that claimed to support local restaurants during the heart of the pandemic."

Racine went on to state that Grubhub "cut into struggling restaurants' profit margins while padding Grubhub's bottom line," adding that consumers "don't mind" paying for delivery fees but alleging that Grubhub was not honest about said fees originally.

Andrew Kline, general counsel to the Restaurant Association of Metropolitan Washington, said he supported Racine's lawsuit because while "third-party delivery services can be important partners of restaurants, they should not exploit either the public nor the businesses they serve with misleading statements and unfair trade practices."

The lawsuit claimed that Grubhub made $1.8 billion in revenue in 2020, but a Grubhub spokesperson wrote to *Newsweek* that "this frivolous lawsuit" and its revenue total is inaccurate. The company had a net loss of $155.9 million in 2020, they said.

"The logistics of delivery [dispatching and paying drivers, our delivery and driver technology, etc.] have substantial costs," the spokesperson said. "Grubhub also supported our restaurant partners with hundreds of millions of dollars in 2020 through increased marketing support, reduced commissions, and bonuses and personal protective equipment for drivers."

The lawsuit included a litany of allegations against Grubhub, including that the company listed over 1,000 D.C. restaurants on its software platform "that in fact had no contractual relationship with Grubhub, without those restaurants' consent, and without adequately disclosing to consumers its lack of relationship with those restaurants."

Grubhub's retort was that it does not list restaurants on its website or app in D.C. where no agreement exists, in line with District law.

The suit also alleged that Grubhub advertised higher prices on its website and app compared to what consumers are charged on those restaurants' own websites or in-store menus—and that such "discrepancies" were not sufficiently disclosed.

The Grubhub spokesperson said the company included a disclosure in its terms of use and, moving forward, will include a disclosure in the check-out flow before an order is placed that "prices may be lower in-store."

It is also alleged that fees, described in the suit as "a bait-and-switch scheme" for Grubhub to misrepresent costs to consumers, were not properly disclosed "until the end of the ordering process at the checkout page after consumers have already invested their time in searching for a restaurant and selecting menu items that they want to order."

Such fees mentioned included service fees and small-order fees.

But Grubhub argued there was no misrepresentation at all, saying that all diners agree to the company's terms of use—which includes a disclosure on potential fees related to goods and services—before ever using the platform.

"All fees are disclosed in the order/checkout flow, in the order confirmation receipts and in marketing materials," the Grubhub spokesperson said. "Going forward, Grubhub will individually list each applicable fee on the checkout page and provide diners with a description of the fee. No fee would be combined with any other fee."

Remaining allegations in the suit included Grubhub customers still paying service fees after they received "unlimited free delivery" as

Grubhub+ subscribers; routing telephone numbers and charging partner restaurants a separate commission; Grubhub created websites, or "microsites," made to look like the restaurants' own official websites; and advertisements for the platform's "Supper for Support" promotion during the COVID-19 pandemic actually negatively impacted restaurants that "were required to foot the full cost" of the discount in addition to having to cover Grubhub commissions on the full non-discounted price of the food total.

Grubhub claimed it discloses the existence of additional fees for Grubhub+ orders in its app, terms of use, and in other ads like email footnote disclosures; that the lawsuit noted that Grubhub resolved the telephone routing practice; that it created websites and registered domains on restaurants' behalf as another source of orders "and to increase their online brand presence"—at no charge to restaurants for website creation or maintenance; and that the "Supper for Support" promotion, although no longer in existence, did "many things to support residents and restaurants in D.C. and across the country throughout the pandemic" and that terms were "clearly disclosed to restaurants."

"We work hard to support D.C. restaurants and diners, and we continually review and enhance our operations to better serve them and meet their expectations," the spokesperson said. "During the past year, we've sought to engage in a constructive dialogue with the D.C. Attorney General's office to help them understand our business and to see if there were any areas for improvement.

"We are disappointed they have moved forward with this lawsuit because our practices have always complied with D.C. law, and in any event, many of the practices at issue have been discontinued," they continued. "We will aggressively defend our business in court and look forward to continuing to serve D.C. restaurants and diners."

COMPLEX

Grubhub Faces Lawsuit for Adding 150,00 Restaurants to Platform Without Permission

BY FNR TIGG
OCT 29, 2020

Grubhub has been hit with a lawsuit after allegedly adding more than 150,000 establishments to their platform without informing the owners, CBS News reports.

A lawsuit filed in Chicago claims that Grubhub added "non-partnered restaurants" to its platform to please shareholders and boost revenue to beat out competitors like Uber Eats and DoorDash.

"Grubhub's decision to add unaffiliated restaurants to its platform may have reaped immediate dividends for Grubhub, but those gains came at the expense of restaurants who had good reasons for choosing not to partner with Grubhub," the lawsuit states. "By including those restaurants on its platform anyway, Grubhub is misleading consumers, who reasonably believe the restaurants have partnered with Grubhub and will be working cooperatively with Grubhub to provide them with accurate, reliable and timely service."

Grubhub currently lists 300,000 restaurants on its platform, but only 245,000 are described as partnered establishments. The company started the process of adding to its non-partnered restaurants last October. CEO Matt Maloney reportedly said in an earnings call that the company has "tens of thousands of non-partnered restaurant" on the platform and it's "already made the call to scale this out, we're just announcing it right now."

The lawsuit claims that several restaurants have asked to be taken off the site, but Grubhub refuses. As a result, they are stating that Grubhub is violating federal false advertising and trademark infringement rules because it's profiting by using local restaurants' name, logo, and menu.

Grubhub saw a 41% increase in the second quarter compared to the same period last year as many people are ordering in due to the pandemic. Despite the increase, they are still behind Uber Eats and the top food delivery service, DoorDash. Grubhub has yet to comment on the pending lawsuit.

Testimony of Robert Bookman, Esq
Partner, Pesetsky & Bookman P.C.
Counsel, NYC Hospitality Alliance
March 29, 2023

In my 35 + years testifying before this Council, this is the first time I can recall discussing a proposal to ROLL BACK a consumer and small business protection adopted by the Council. And despite what they try to sell you today, the true beneficiaries of this roll back is a few huge 3rd party delivery corporations.

Take a look at who these Huge companies really are:

1-Chicago—$10Million settlement for a variety of consumer abuse by GRUBHUB DOORDASH UBER EATS after filing two sweeping lawsuits for deceiving customers and unfair business practices
2-Massachusetts…State AG successfully sued GRUBHUB for violating fee cap still in existence statewide
3-Washington D.C.--$3.5 Million fine for GRUGHUB after lawsuit brought by the District AG for deceptive pratices 4-Pennsylvania- sued GRUBHUB over lack of price transparency…$125,000 fine
5-National…GRUBGUB sued for adding 150,000 restaurants to their platform without permission
6-Anti-Trust lawsuit brought by diners against GRUBHUB, UBEREATS POSTMATES driving up prices
7-Shareholder lawsuit $42 million settlement for deceiving their own shareholders.

This is all in the past 2-3 years!
Only one I know hiring more lawyers and PR companies to defend themselves than these companies is Donald Trump.

Do these sound like companies that are proposing this legislation because they want to do more for neighborhood restaurants? They actually had to hire salespeople to go door to door to convince a handful of restaurants that paying them more fees is good for their business. And even then some of those restaurants later said they never agreed. We sent you a letter in strong opposition with over 500 restaurants signing on from a single email blast gathering in about 10 days.

The truth is the playing field is level as a result of the fee cap. They want to go back to the bad old days where only those that can afford more fees make out well.

Whatever they say today it can be translated into two words.Revenue and Profit…not for small neighborhood restaurants, but for them! Keep hearing that as they testify..revenue and profits. Ask them! Will this bring you more revenue and profits?

THEY ARE SUING YOU…and yet while the lawsuit is pending you give them this gift of this hearing, thereby undermining your own lawyers arguments in the pending litigation defending the law you passed.. Unprecedented in the 35 years I have been testifying at this Council and truly embarrassing for this institution..

WAIT FOR THE REPORT…they asked to be included in the legislation this Council passed 2 years ago. It is coming in a few months. Let's talk then.

To the New York City Department of Consumer and Worker Protection,

I am writing on behalf of the Latino Restaurant Association (LRA) to share how our members have been able to grow their businesses by taking full advantage of the tools and resources offered by third-party delivery platforms.

The LRA is a national restaurant association representing Latino restaurant owners, including in New York.

The LRA believes that New York City restaurants need to be able to continue to access important resources and services that can help them expand their reach in an increasingly online economy. Third-party delivery platforms have supported the restaurants we represent through challenging times, allowing these businesses to meet customers where they are or take advantage of new opportunities to increase their revenue.

This includes having the ability to select the products and services that best support their needs, resources that can be especially important for small businesses to help them differentiate themselves and better compete with bigger brands that have greater visibility outside of these platforms.

As the city considers changes to the fee cap, finding the right balance to empower restaurant owners to make strategic decisions that are right for them is critical. Importantly, restaurants that want access to low-cost options would still have access to the services that platforms would be required to offer. These options, which provide restaurants access to thousands of customers across New York City, allow small businesses to utilize crucial services that would otherwise be cost prohibitive compared to operating their own delivery fleet.

Meanwhile, as the Agency looks ahead, it must also consider the harmful unintended consequences of these price controls under the status quo. If the current rules remain in place, it could mean that platforms eventually reduce service options or increase costs, higher prices that would inevitably be passed along by restaurants, which would mean fewer orders being placed on delivery apps — a bad outcome for consumers, restaurants, and the business community as a whole.

As champions for the small businesses that power our communities, the LRA knows that every business is unique, and that's true for their operations and needs in the marketplace. When it comes to enabling restaurants to maximize the impact of using local delivery, we believe it's important for business owners to maintain control over how they use third-party delivery platforms.

In an ever-changing digital marketplace, we encourage the Agency to support efforts that would ensure delivery services remain accessible for local businesses and every business across the five boroughs is able to decide what is best for their own needs.

Thank you for the opportunity to submit testimony.

Sincerely,

Lilly Rocha

Lilly Rocha
Executive Director
Latino Restaurant Association lilly@latinorestaurantassociation.org

May 26, 2023

Testimony of Jeffrey García
President
New York State Latino Restaurant Bar & Lounge Association (NYSLRBLA)

Before the

New York City Department of Consumer and Worker Protection

Regarding

Third Party Delivery App Fee Caps

Thank you for the opportunity to provide comments on DCWP's Third Party Food Delivery Service Laws which cap the fees that third party apps can charge restaurants.

My name is Jeffrey García and I serve as the President of the New York State Latino Restaurant Bar & Lounge Association (NYSLRBLA), which represents the interests of hundreds of minority and immigrant-owned restaurants and nightlife establishments throughout New York City. I am also the owner of Mon Amour Coffee and Wine Bar in the Bronx.

When COVID-19 struck, the City Council passed a number of bills aimed at supporting the restaurant industry including the delivery fee cap which is the focus of my comments today.

The fee cap helps to mitigate the economic burdens on the owners and employees of minority and immigrant-owned restaurants throughout the city by limiting the ability of third-party delivery companies to charge higher, untenable fees on these businesses with no limit. Prior to the fee cap, smaller, immigrant-owned businesses were disproportionately harmed by such expenses as they fought to stay afloat paying astronomical fees upwards of 35% per order.

In this day and age, delivery apps are a necessary component of running a successful restaurant in the city. This fee cap is critical to ensuring that the third-party delivery industry does not gain unfair leverage. The current level of the fee cap is reasonable for our members and should be kept in place as it is not the time to further burden our small businesses. The restaurant and nightlife industry in New York City has just begun to enter a recovery phase after the devastating economic impacts due to COVID-19, the rising costs of inflation, utilities, and labor costs. It is essential that we continue to support the industry and we must not put any more economic strain on the already overburdened owners of these establishments.

We thank DCWP for the opportunity to comment on this law and we look forward to partnering with you in developing comprehensive independent restaurant industry reforms that can protect restaurants like the ones we represent.

May 26, 2023

Department of Consumer and Worker Protection
42 Broadway #5
New York, NY 10004

Comment of the American Economic Liberties Project (AELP) in Response to Request for Feedback on Third-Party Food Delivery Fee Caps

American Economic Liberties Project is a 501(c)(3) nonprofit advocating against the harms of corporate concentration. During the first months of the Covid-19 pandemic, AELP formed the Protect Our Restaurants coalition to help independent restaurant owners and operators educate policy makers about the harms inflicted on their businesses by the predatory conduct of concentrated industries.[1] At the outset of the pandemic, emergency caps on the commissions charged by third-party food delivery companies proved critical to the viability of a cratered restaurant industry. Those commissions were critical even prior to the pandemic-fueled food delivery boom. For the reasons set forth herein, they remain vital for countless small, independent restaurants in New York City and across the country.

Restaurants are one of the most fragmented and vibrantly competitive industries in America, but the same cannot be said for their vendors. During the pandemic and subsequent supply chain crisis Protect Our Restaurants advocated for restaurants being harmed by concentrated industries ranging from liability insurers that colluded to deny business interruption claims, to broadline food suppliers that routinely gouged restaurants on basic food products while simultaneously singling out small accounts for worsened service.[2]

But no industry has victimized this sector of small business so brazenly as food delivery apps, which have burned nearly $30 billion in the past four years alone and are under pressure from investors to extract higher commissions and more punishing terms from their most vulnerable customers as a means of achieving profitability.[3]

Protect Our Restaurants research suggests that delivery apps began imposing a "market rate" commission of roughly 30% on most of their customers starting around 2017.[4] Given that most restaurants generate a

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[1] On the Protect Our Restaurants Coalition, see Helen Rosner, "The Fight to Rein In Delivery Apps," *New Yorker*, October 5, 2021 https://www.newyorker.com/culture/q-and-a/the-fight-to-rein-in-delivery-apps

[2] On the predations of business interruption insurers insurers, see Moe Tkacik, "Behind the Concerted Effort Not to Save America's Restaurants," *The Marker,* December 3, 2020 https://marker.medium.com/america-is-killing-its-restaurants-423d1b8c0bbb
On our efforts to urge regulators to investigate Sysco and US Foods, see Economic Liberties, "FTC & DOJ Must Step in to Stop Dominant Middlemen Ripping off Independent Restaurants,"

https://www.economicliberties.us/press-release/ftc-doj-must-step-in-to-stop-dominant-middlemen-rippingoff-independent-restaurants/

[3] Between 2018 and 2022, Doordash reported a combined $3 billion in net losses; Uber reported $24.9 billion in losses over the same period. [4]

American Economic Liberties Project, "Protect Our Restaurants Coalition Urges FTC to Investigate Predatory Delivery Apps," July 21, 2021.

profit margin in the low single digits, this commission rendered most delivery app orders unprofitable. Nevertheless, restaurants often found it difficult to cut ties with delivery apps that been collecting data on their customers and acquiring much of their digital real estate.[5]

Recognizing that paying 30% commissions on the majority of their orders would be fatal to their businesses, independent restaurants organized at the start of the pandemic to negotiate temporary commission cuts from DoorDash and other delivery apps. DoorDash refused, and starting in San Francisco more than 60 cities, municipalities and states moved to cap the fees throughout the duration of the Covid-19 emergency.[6] For months delivery apps flouted the caps, only complying following extensive negative media coverage of the issue.[7]

While restaurants faced enormous challenges throughout the pandemic and its aftermath, those in markets that capped fees benefited from the caps immediately and immensely. A Protect Our Restaurants coalition member whose state imposed a 15% cap for just five months of 2021 reported saving $87,000 between two quick-serve taco restaurants, money he used to keep workers employed throughout a punishing Covid-19 surge and raise his cashiers' starting wage to $16.50 an hour plus tips.

Conversely, when the caps began to expire restaurants immediately suffered. Last spring, the owner of one Chicago taqueria said that the $93,000 in delivery app commissions he had paid since the city's caps expired in October 2021 had wiped out virtually all of his profits: "There's nothing left once DoorDash and Grubhub takes their cut."[8] When the 15% delivery app fee cap expired in Washington D.C. earlier this year, restaurants reported being informed by DoorDash that their commissions were about to be hiked to 25-55% unless they downgraded to a "basic" plan which would grant them access only to a hyper-limited delivery radius.[9] Restaurant owners who downgraded to the "basic" 15% plan reported disappearing from the platform's search results and, if customers managed to reach their order forms at all, being shut out of access to delivery drivers.[10] The outcry over the practices was so swift and overwhelming that the City

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https://www.economicliberties.us/press-release/protect-our-restaurants-coalition-urges-ftc-to-investigate-predatory-delivery-apps/

[5] H. Claire Brown, "GrubHub is buying up thousands of restaurant web addresses. That means Momand Pop can't own their slice of the internet," *The Counter,* June 28, 2019. https://thecounter.org/grubhub-domain-purchases-thousands-shadow-sites/

[6] See the Protect Our Restaurants Fee Cap Tracker at https://www.protectourrestaurants.com/fee-caps [7] Maureen Tkacik, "Rescuing Restaurants: How to protect restaurants, workers and communities from predatory delivery app corporations," American Economic Liberties Project, June 2020. https://www.economicliberties.us/wp-content/uploads/2020/09/Working-Paper-Series-on-Corporate-Power_7.pdf

[8] Manny Ramos, “Sky-high delivery app fees are killing my restaurant, owner says months after pandemic cap lifted,” Chicago Sun-Times, April 11, 2022. https://chicago.suntimes.com/2022/4/11/23002428/delivery-app-fees-grubhub-doordash-restaurant-takorea-cocina-uber-eats-pandemic

[9] Amanda Michelle Gomez, “D.C. Restaurants Hit With Higher Delivery App Fees After Mandated Cap Expires,” DCIst, March 17, 2023. https://dcist.com/story/23/03/17/d-c-restaurants-hit-with-higher-delivery-app-fees-after-mandated-cap-expi res/

[10] John Gonzales, “Emergency bill passes to give DC restaurants relief against higher delivery app fees,” *WJLA*, May 5, 2023. https://wjla.com/news/local/washington-dc-uber-eats-grubhub-doordash-restaurants-delivery-package-pla

Council unanimously passed a new emergency law in May 2023 to prohibit delivery apps from “excluding” restaurants on the basic plan from search results or shrinking their delivery area below a four-mile radius.[11]

This conduct was eminently predictable. Prior to the fee caps, restaurants frequently reported being similarly blacklisted by delivery apps when the staggering losses imposed by 30% commissions forced them to downgrade to a lower tier of service, in a dynamic one restaurant owner described as “pay to play: Spend more to promote your restaurant, and see your search rankings rise. Cut down on marketing spend, and watch your restaurant fall to the bottom of the page and lose sales.”[12] At the highest tiers of marketing “service”, commissions often soared well past 60%.[13] Underscoring the subjective harm of unregulated delivery app services on the restaurant industry, the National Restaurant Association found in a December 2022 survey of business conditions that “cutting back on third-party delivery services” was one of respondents’ seven most widely-cited ways of “managing costs.”[14] Cutting back on services was nevertheless a constrained choice between paying extraordinary fees and losing access to customers who had become accustomed to the convenience of food delivery during the pandemic.

Smaller and start-up restaurants are most at risk of financial ruin when fee caps expire. Large corporations with the power to negotiate pay far lower commissions to DoorDash than independent restaurants; McDonald’s, by way of example, pays commissions of between 11.6% and 14.1% on its DoorDash orders.[15] A Protect Our Restaurants coalition member whose restaurants generate more than $10 million annual volume on delivery apps was recently approached by DoorDash with an offer to slash his commissions to 15% from 25% in exchange for an exclusivity agreement with the company. And one San Francisco restaurateur who refused to sign a contract with DoorDash recently told a newspaper that the delivery app had called him with an offer to set his commissions at 12.5% after dozens of his customers wrote the company begging it to add his sandwich shop to the platform.[16] By contrast, owners of new restaurants or restaurants that have not traditionally generated major volume on delivery apps are

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ns-council-passed-emergency-bill-legislation-pandemic-cap-commission-fees-charges-services-consumers-small-businesses-third-party-app-drivers-four-miles-inflation-price-food

[11] Amanda Michelle Gomez, “D.C. Council Passes Emergency Bill Offering Restaurants Relief Against Higher Delivery App Fees,” DCIst, May 2, 2023. https://dcist.com/story/23/05/02/dc-council-emergency-bill-restaurant-delivery-apps-fees/

[12] H. Claire Brown, “GrubHub is buying up thousands of restaurant web addresses. That means Mom and Pop can't own their slice of the internet,” *The Counter,* June 28, 2019.

[13] Jaya Saxena, "Viral Facebook Post Shows Just How Little Restaurants Make from Grubhub Orders," *Eater,* May 1, 2020.
https://www.eater.com/2020/5/1/21243966/giuseppe-badalamenti-chicago-pizza-boss-shares-grubhub-earning-statement-on-facebook
[14] National Restaurant Association Business Conditions Survey, December 2022.
https://restaurant.org/getmedia/dd9f7366-ead9-4f19-aaca-29cb467b66ed/Restaurant-Business-Conditions-Survey-Infographic-Dec-2022.pdf
[15] PYMNTS, "DoorDash to Raise Fees Against McDonald's That Serve Too Slow," *PYMNTS,* February 14, 2023. https://www.pymnts.com/news/delivery/2022/doordash-to-raise-fees-against-mcdonalds-that-serve-too-slow/#:~:text=DoorDash%20uses%20a%20tiered%20rate,%2C%20both%20down%20from%2015.5%25
[16] Yujie Zhou, "Restaurants Left On Their Own After SF Eliminated Food Delivery Fee Cap," *Mission Local,* May 11, 2023.
https://missionlocal.org/2023/05/restaurants-left-on-their-own-after-sf-eliminated-food-delivery-fee-cap /

typically "forced into the higher tiers" of "service," according to Golden Gate Restaurant Association president Laurie Thomas.

Some independently-owned restaurants have sought to recover some of these fees by passing on additional costs to consumers. (Notably, a cap on fees does not prevent delivery apps from recovering revenue from consumers, but removing the cap places the onus on restaurants to do so.) Even so, DoorDash recently began penalizing restaurants who attempted to recover fees from consumers by suppressing their search results on its platform, which DoorDash has justified as a response to customer frustration over price "gouging."[20] Underscoring the delivery app's hypocrisy on the topic of gouging customers, a DoorDash customer just weeks after this announcement filed a putative class-action lawsuit alleging the company arbitrarily charges iPhone users as much as $2 extra per order relative to Android users.[21]

The third-party food delivery market is almost entirely controlled by three providers, DoorDash, UberEats, and Grubhub, whose business models are predicated on extracting wealth from localized small business communities and defy traditional business sense. To wit, the two biggest delivery apps reported a combined $28.1 billion in losses in the past four years alone, and yet one of them, DoorDash, commands an astonishing 65% share of the national delivery app market. While DoorDash lost $1.36 billion last year, its board of directors was sufficiently optimistic about its future in February to allocate $750 million of its cash on hand to buying back its own stock.

The fate of independent restaurants is far more precarious, and yet they've been asked to shoulder the burden of swinging another Silicon Valley gig app to profitability. Simple, unambiguous fee caps with no exceptions or "enhancements" have proven a hugely effective method of mitigating harms to small

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[20] Joe Guszkowski, "Doordash Pushes Back Against Inflated Delivery Prices," *Restaurant Business Online,* April 27, 2023
https://www.restaurantbusinessonline.com/technology/doordash-pushes-back-against-inflated-delivery-pri ces
[21] Joe Guszkowski, "Lawsuit Accuses DoorDash of Charging iPhone Users Extra," *Restaurant Business Online,* May 24, 2023. https://www.restaurantbusinessonline.com/technology/lawsuit-accuses-doordash-charging-iphone-users-e xtra

businesses. Fee caps are also unambiguously popular: a recent survey of 431 New York City restaurants found that 99% of respondents saw preserving delivery app fee caps as “very important” (92%) or “somewhat important (7%) to their ongoing vitality.[22] Amending the cap to serve the agenda of DoorDash and Grubhub would quite literally amount to doing the bidding of the 1%.

Sincerely,

Protect Our Restaurants coalition,
American Economic Liberties Project

[22] NY Hospitality Alliance, “Restaurant Survey Results on the Delivery App Fee Cap Submitted to the Department of Consumer and Worker Protection on behalf of the NYC Hospitality Alliance,” May 26, 2023.

AMERICAN ECONOMIC LIBERTIES PROJECT

Rescuing Restaurants: How to Protect Restaurants, Workers, and Communities from Predatory Delivery App Corporations

Maureen Tkacik

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AMERICAN ECONOMIC LIBERTIES PROJECT

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INTRODUCTION

At the end of March 2020, about two weeks into the national coronavirus lockdown, three of the leading food delivery apps were struck by the same marketing strategy, aligning themselves with a mission to "save" independent restaurants. Postmates shot an ad campaign titled "#OrderLocal" featuring celebrities like Mindy Kaling saying, "You don't want to come out of this tough time and find that all your favorite small businesses are closed."[23] DoorDash launched a campaign called "Open for Delivery," temporarily waiving the delivery fees charged to consumers, and later followed up with an ad campaign featuring celebrities like George Lopez and Ming-Na Wen talking about restaurant jobs they had before they were famous.[24] Grubhub also rolled out a promotion called "Supper for Support," exhorting its 23.9 million users to rally around the small enterprises that "are the lifeblood of our communities" and promising a $10 discount on any order placed between 5 p.m. and 9 p.m. as a kind of reward for their solidarity, "so you can save while supporting the restaurants you love."[25]

Few outside the restaurant industry could appreciate the way these marketing campaigns misrepresented the economics of restaurants. The four dominant delivery apps—two of which have since announced they intend to merge with one another—charge large commissions to restaurants for the service of processing orders, even more for delivering them, and still more for lending promotional support like the $10 discounts. These fees virtually guarantee that all orders placed to independent restaurants over delivery apps are unprofitable for the restaurants.

Before the pandemic, many chefs and small operators paid the fees, believing they lacked the leverage or power to do anything else. But once the pandemic shut down most dining rooms, wiping out more than $145 billion in restaurant sales between March 1 and June 30,[26] thousands of chefs realized that staying open to feed the delivery apps would bankrupt them.

In San Francisco, the local independent restaurant association began pleading with the apps for a 50% break on commissions, reasoning that surely 50% commissions from all the restaurants would be preferable to 100%

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23 Elaine Underwood, "Postmates gathers 16 celebrities in support of local restaurants," *PRWeek*, April 2, 2020. https://www.prweek.com/article/1679237/ postmates-gathers-16-celebrities-support-local-restaurants

24 Amelia Lucas, " DoorDash eliminates and reduces some commission fees for restaurants," *CNBC*, March 17, 2020. https://www.cnbc.com/2020/03/17/doordasheliminates-and-reduces-some-commission-fees-for-restaurants.html

25 Caleb Pershan, "Grubhub Asks Restaurants to Foot the Bill on 'Supper for Support' Promotions," *Eater*, March 31, 2020. https://www.eater. com/2020/3/31/21201207/restaurants-pay-grubhub-discount-support-for-supper4 Scott, Mark, "Facebook to tell millions of users they've seen 'fake news' about COVID-19," *Politico Europe Edition*, April 16, 2020 https://www.politico.eu/article/facebook-avaaz-covid19-coronavirus-misinformation-fake-news/

26 Bruce Grindy, "Restaurant sales hit a pandemic high in June, but were far below normal" National Restaurant Association, July 16, 2020. https://restaurant.org/ articles/news/restaurant-sales-hit-a-pandemic-high-in-june6 Patel, Nilay and Dieter Bohn, "Sundar Pichai on Managing Google Through the Pandemic," *The Verge*, May 19, 2020 https://www.theverge.com/2020/5/19/21262934/google-alphabet-ceo-sundar-pichai-interview-pandemic-coronavirus

commissions from no restaurants at all.[27] But the corporations refused, instead hatching more predatory cash extraction schemes like "Supper for Support," which required restaurants to shoulder the entire $10 discount, and also pay Grubhub its commissions on the full pre-discounted price of the transactions, so that a $32 order would yield just $12 to the restaurant.

By mid-April, many city governments had begun to fight back, using emergency orders to cap the fees the apps were allowed to charge. Over the next three months, state and local legislators in Seattle, San Francisco, Los Angeles, New Jersey, New York City, Washington D.C., Philadelphia, Cincinnati, Portland, and many smaller municipalities passed laws capping the fees third party delivery apps were allowed to charge restaurants during the pandemic at maximums of between 10% and 20%. Many of the laws passed with unanimous support from local legislators.[28]

The apps' response to the rash of new laws was illuminating: in city after city, they simply refused to acknowledge them. Postmates was the most consistent in its disregard for the law, flouting the first caps passed in Seattle[29] then Los Angeles and Washington D.C., and finally Portland,[30] where the smaller delivery app was joined in its noncompliance by its much larger rival Grubhub.

In San Francisco, where DoorDash's 64% market share is more than quadruple that of its next biggest rival,[31] the company admitted to continuing to charge 30% commissions for nearly three months following Mayor London Breed's April 10 institution of a 15% fee cap.[32] DoorDash ultimately agreed to pay back the commissions, while Grubhub, after initially complying with California's caps, increased commissions again in June, telling partner restaurants the fee cap had expired once local laws allowed them to open for patio dining.[33]

Restaurants are increasingly struggling to fend off this deep pocketed clique of tech companies determined to use them purely as vehicles for extracting fees and consumer data, which together with an unprecedented shutdown of dining rooms now threaten their industry with extinction. And far from providing great service to consumers, these delivery apps have often failed miserably to improve on the old pizza delivery guys; one

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27 Eve Batey, "Delivery Apps Refuse to Temporarily Decrease the Fees They Charge Restaurants," *Eater*, April 3, 2020. https://sf.eater.com/2020/4/3/21207395/ postmates-uber-eats-doordash-commissions-fees-delivery-coronavirus

28 Margaux Weeke, "City Council Unanimously Adopts Ordinance Limiting Third-Party Food Delivery Fees," July 8, 2020. https://www.portland.gov/eudaly/ news/2020/7/8/city-council-unanimously-adopts-ordinance-limiting-third-party-food-delivery

29 Gabe Guarente, "Postmates Doesn't Seem to Be Complying with a New Seattle Order Limiting Third-Party App Fees," *Eater*, May 5, 2020. https://seattle.eater. com/2020/5/5/21248208/postmates-compliance-seattle-order-limits-third-party-app-fees-to-15-percent

30 Celina Tebor, "Restaurants, city say food delivery apps aren't complying with Portland's 10% commission cap," *Oregon Live*, July 24, 2020. https://www. oregonlive.com/food/2020/07/restaurants-city-say-delivery-apps-arent-complying-with-portlands-10-commission-cap.html

31 Liyin Yeo, "Which company is winning the restaurant food delivery war?," Second Measure, August 18, 2020. https://secondmeasure.com/datapoints/fooddelivery-services-grubhub-uber-eats-doordash-postmates/

32 Justin Phillips, "DoorDash admits to violating SF's cap on restaurant delivery fees, promises refunds," *San Francisco Chronicle*, July 10, 2020. https://www. sfchronicle.com/food/article/Doordash-admits-to-violating-SF-s-cap-on-15394887.php#photo-19427679

33 "If You Use Grubhub, Please Read--They Defied SF's Delivery Commission Fee Cap," *Tablehopper*, July 17, 2020. http://www.tablehopper.com/chatterbox/if-youuse-grubhub-please-read--they-defied-sfs-delivery-commission-fee-cap/

survey of regular app users found that cold food and order inaccuracies led them to report being dissatisfied with more than a quarter of all delivery app transactions.[34]

This paper will discuss the ways delivery apps have used abusive, deceptive and often illegal practices to take control of the restaurant industry, and how their business model increasingly poses a threat to the future of American restaurants.[35] It will provide case studies of Grubhub and Doordash to explain the similar but distinct models these companies have used to build their dominance. And finally, it will provide solutions policymakers could pursue to ensure that independent restaurants aren't all subsumed by these predators.

What the apps have done, instead of competing to serve customers and restaurants, is use Wall Street money to accumulate market power, raise barriers to entry, and then merge with each other and set up regional monopolies.

* * *

BEHIND THE DELIVERY APP "WARS": A DE FACTO CARTEL

34 Underscoring the predatory nature of the delivery apps, complaints over food temperature, long waits and inaccurate menu descriptions typically result in consumer refunds that are systematically charged back to the restaurants that exercise little control over those things. Anna Schmidt, "How restaurants, food delivery apps like Grubhub, Uber Eats frustrate consumers: Survey," *FOXBusiness*, January 8, 2020. https://www.foxbusiness.com/lifestyle/food-delivery-appsconsumer-frustration-survey

35 While the rise of the delivery apps has also had a dramatic impact—and often a negative one, as lawsuits against the apps filed in recent years by In-N-Out Burger, Yum Brands and Legal Sea Foods will attest—on chain restaurants, Economic Liberties has deliberately chosen to focus on independent restaurants for the purposes of this paper. Chain restaurants have by and large used their size and marketing budgets to negotiate far superior terms from delivery apps—typically along the lines of 15%—than independent restaurants have the leverage to, meaning the breakeven business McDonald's and Popeye's do with the apps is typically subsidized by smaller operators, which typically generate an average $4 per order in profit for the platforms, as this excellent story explains in greater depth. See Adrianne Jeffries, "During the Pandemic, Grubhub Should Be Thriving. It's Not," *The Markup*, May 27, 2020. https://themarkup.org/coronavirus/2020/05/27/ during-the-pandemic-grubhub-should-be-thriving-its-not

The existence of four significant players (two of which intend to merge) has led the business press to describe the restaurant delivery business as "fiercely competitive."[36] This competition, however, has not been oriented towards creating a better service, but towards capturing market power. And they are willing to lose money to do so. Not one of the third party delivery apps is currently profitable, and three never have been. DoorDash alone lost nearly half a billion dollars in 2019.[15]

What the apps have done, instead of competing to serve customers and restaurants, is use Wall Street money to accumulate market power, raise barriers to entry, and then merge with each other and set up regional monopolies. The people who have invested tens of billions of dollars in the four dominant delivery apps tolerate huge short-term losses purely because they see the likelihood of monopoly power.

Sometimes those backers are the same funds. Both Uber and Grubhub received substantial early-stage investments from both Benchmark Capital and its founder Bill Gurley,[16] who served on the boards of both companies until Uber launched UberEats in 2015. Benchmark co-founder Andy Ratchleff was a seed investor in

DoorDash.[17] Softbank invested $7.6 billion in Uber and nearly a billion dollars in DoorDash, and last year, the Saudi-backed Japanese venture capital firm ordered DoorDash and UberEats to conduct merger talks.[18] Pending its acquisition by the Dutch delivery app Just Eat Takeaway, Grubhub's third-largest shareholder is large fund manager BlackRock, which also holds a significant minority stake in Postmates pending its own acquisition by Uber.[19]

But the most compelling evidence of the harmful type of competition involved in the delivery app "wars" is the effect this multibillion dollar influx of funds into restaurant delivery apps has had on the commissions restaurants pay for presence on the platforms and the wages couriers make for delivering the food. The former, which were arguably high when Grubhub was a dominant player in most markets in 2014, are substantially higher now;[20] while the latter, in spite of a 20% growth in the food delivery sales over the past 5 years, fell by some estimates dramatically short of minimum wage.

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15 Erin Griffith, "DoorDash Faces Its Latest Challenge: Wooing Wall Street," *The New York Times*, May 4, 2020. https://www.nytimes.com/2020/03/04/ technology/doordash-ipo.html#:~:text=The%20pressure%20is%20high%20for%20DoorDash%2C%20which%20private%20investors%20valued,because%20 the%20information%20was%20private.

16 Sherin Shibu, "One of the most successful investors in Silicon Valley says hearing these 2 things will instantly make him love a startup pitch," *Business Insider*, July 8, 2019. https://www.businessinsider.com/bill-gurley-investment-key-concepts-2019-7

17 Billy Gallagher, "DoorDash Raises $2.4M To Improve Food Delivery," *TechCrunch*, September 30, 2013. https://techcrunch.com/2013/09/30/door-dash-raises2-4m/ 18 Sterling, Greg, "Google CEO: Local-Mobile Search Grew 50% Last Year," *LSA Insider*, Oct. 28, 2018 https://www.lsainsider.com/google-ceo-local-mobilesearch-grew-50-last-year/archives

18 Arash Massoudi, Eric Platt, James Fontanella-Khan, Miles Kruppa, "Uber and Doordash held merger talks after Softbank push," *Financial Times*, January 30, 2020. https://www.ft.com/content/e46a250a-4352-11ea-a43a-c4b328d9061c

19 "RETAILPostmates Notches $100M In Funding," PYMNTS, January 11, 2019. https://www.pymnts.com/news/retail/2019/postmates-funding-blackrockglynncapital-tigerglobal/

36 Matt and Cathy Bussewitz, "Uber buys Postmates, ups delivery game in $2.65 billion deal," *ABC News*, July 6, 2020. https://abcnews.go.com/Business/ wireStory/uber-buys-postmates-265-billion-stock-deal-71627594

20 Grubhub's financial statements suggest average commissions have risen from just over 14% in 2014 to 22%. It is offering more of its customers delivery services, but also doing more volume on behalf of large chains that command steep discounts in their commissions.

21 An analysis of 229 November 2019 and December 2019 DoorDash driver pay reports conducted by the state labor rights advocacy group Working Washington determined that driver pay after calculating for mileage and additional payroll taxes averaged $1.45 per hour. The survey is available at https://payup.wtf/doordash/no-free-lunch-report

Food delivery apps are match-making institutions whose appeal is based on their ability to provide customers to restaurants and restaurants to delivery drivers and customers. The key mechanisms to dominating a city are featuring a broad enough range of restaurants while maintaining a large enough pool of drivers that consumers know they can probably order what they want, when they want it using the app, which then, theoretically, encourages more restaurants to sign up because the app is what all the customers use.

Instead of competing for restaurant partners to grow its marketplaces, DoorDash and Postmates used deceptive practices and industrial scale menu plagiarism to simulate the appearance of official partnerships, filling its marketplaces with the offerings of restaurants whose owners had no idea the apps even existed.

Instead of competing for restaurant partners to grow its marketplaces, DoorDash and Postmates used deceptive practices and industrial scale menu plagiarism to simulate the appearance of official partnerships, filling its marketplaces with the offerings of restaurants whose owners had no idea the apps even existed. When orders came through, call center employees hired by the apps would order the food manually and couriers would pick it up under strict orders to not identify themselves.

When the restaurants caught on, invariably because the deception had resulted in angry phone calls from customers — most frequently because the menu listed on the platform was out of date and the dishes ordered were no longer available, or because the chef had prepared the food for trip up an elevator and not a 45 minute bike ride — the restaurant management would contact the offending app attempting to get their menu removed from or updated on the platform, and a salesperson would claim to be powerless to do anything about it unless they signed on to an official partnership.

These practices are deceptive, predatory and in many cases reliant on intellectual property theft, as a Santa Fe restaurant owner detailed in a recent open letter to a delivery app CEO:[37]

> "If we don't sign up for this 'partnership' you pirate our menus off our website and take orders from customers anyway. The pre-charged payment cards sometimes don't work and everything we made languishes, unpaid for. We field angry calls from customers who think it's our fault they didn't get the food they ordered. When my manager called customer service to tell you how unfair it is that we are paying for your mistakes, he was told 'Well, none of this would happen if you would just

[37] Erin Wade, "An Open Letter to Matt Maloney, CEO of Grubhub, https://www.erinkimberlywade.com/letter-to-matt

> sign up with us.' Which sounds a lot like what the mob boss says after they burn down your house."

The contracts the app salespeople induced restaurants to sign in most cases included anticompetitive "No Price Competition Clauses," requiring restaurants to keep prices the same across all food delivery apps and in-person dining.[38] These clauses had two consequences. First, they triggered a shift in customer behavior toward relying on delivery services in lieu of showing up in-person. Second, by ensuring price uniformity across all apps the clauses indirectly absolved the apps from competing with one another, either for users or restaurant partnerships, on the basis of price; if consumers could be sure prices would be the same regardless of which platform they ordered from, there was little incentive to offer restaurants lower commissions in the hope they would do more business over the platform, and at the same time price uniformity made it easier to sway customers with the use of special delivery discounts, rebates, loyalty clubs and other promotions—for which the delivery apps could then in turn charge restaurants additional fees.

Similarly, instead of competing to hire drivers and bike couriers to deliver their orders, DoorDash, Postmates and Grubhub blanketed each market they entered with recruiters pitching the jobs as supplemental income sources, with the intention of misclassifying their workers as "independent contractors," exploiting a loophole in labor law that allows corporations avoid the legal responsibilities of hiring employees simply by calling those workers contractors. Aided by referral bonus programs and

When my manager called customer service to tell you how unfair it is that we are paying for your mistakes, he was told 'Well, none of this would happen if you would just sign up with us.' Which sounds a lot like what the mob boss says after they burn down your house.

[38] Postmates, Grubhub and UberEats all specifically bind restaurant partners to charge the same prices across the board in their default contracts. DoorDash has been somewhat more flexible about pricing but informally enforces the same policy, according to industry experts and attorneys. See Davitashvili v GrubHub Inc., 20-cv-3000, U.S. District Court, Southern District of New York. https://www.classaction.org/media/davitashvili-et-al-v-grubhub-inc-et-al.pdf Charges Sales Tax on Orders in Tax-Free States," *ClassAction.org*, August 5, 2019.

promises of $2,000 weeks,[39] the apps flooded their systems with so-called "gig workers," depressing wages, then gradually pared and professionalized its amateur workforce by assigning regular schedules, penalizing workers who refused jobs that took

them too far or paid too little and using extreme micromanagement[40] and surveillance technology[41] to exert increasing control over their "independent" staffers.

One analysis found that DoorDash drivers took home an average of $1.75 an hour after taxes and mileage were factored in.

But as their drivers began to resemble a traditional workforce, the delivery apps continued to misclassify them as contractors, invoking an oftcited industry claim that 80% of app-based drivers "work only part-time"[27] despite the Bureau of Labor

Statistics estimates that roughly 73% of so-called "gig" workers do the job full-time.[42] (The industry figures, a former lobbyist for multiple app companies told the American Economic Liberties Project, are misleading because they only count workers as "full time" if they work full time for a single app, despite surveys suggesting that more than 80% of app drivers work for multiple apps.[43])

Misclassification enables the delivery apps to pay rates far below minimum wage, once mileage and additional payroll taxes are deducted. One analysis found that DoorDash drivers took home an average of $1.75 an hour after taxes and mileage were factored in; the same study found that drivers actually lost money on fully a third of jobs.[44] Frustrating matters, the apps conceal much relevant information—the ultimate location of a given job they are asked to accept, for example— from drivers, chronically tweak their formulas for remunerating couriers, usurp tips to apply them to guaranteed minimums, and levy fees and adjust policies in ways that keep

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39 Andy Newman, "My Frantic Life as a Cab-Dodging, Tip Chasing Food App Deliveryman" *The New York Times*, July 21, 2019. https://www.nytimes.
com/2019/07/21/nyregion/doordash-ubereats-food-app-delivery-bike.html

40 The extent to which DoorDash couriers are aggressively supervised throughout a given shift is detailed in San Francisco District Attorney Chesa Boudin's lawsuit against DoorDash. See The People of the State of California v DoorDash Inc., CGC-20-584789, U.S. Superior Court, City and County of San Francisco https://
sfdistrictattorney.org/sites/default/files/Document/DoorDash%20complaint.pdf

41 In 2017 the FBI launched an investigation into a software program code-named "Hell" devised by Uber to spy on drivers it suspected of "double-apping" as Lyft drivers in an attempt to coax those drivers into promising exclusivity. See Rebecca O'Brien and Greg Bensinger,"Uber Faces FBI Probe Over Program Targeting Rival Lyft," *The Wall Street Journal*, September 8, 2017. https://www.wsj.com/articles/uber-faces-fbi-probe-overprogram-targeting-rival-lyft-1504872001 27 Yes on 22, "Key Facts about Proposition 22," yeson22.com/get-the-facts

42 What is the 'Gig Economy' and Who Works In It?, Countable, October 24, 2019. https://www.countable.us/articles/36842-gig-economy-works

43 Harry Campbell, "Lyft & Uber Driver Survey 2019: Uber Driver Satisfaction Takes a Big Hit,"August 1, 2020. https://therideshareguy.com/uber-driver-survey/

44 No free lunch, but almost:, PayUp, July 16, 2020. https://payup.wtf/doordash/no-free-lunch-report

workers constantly struggling to stay afloat.[45] DoorDash even uses its workers to extract additional fees, charging workers who elect to receive their earnings at the end of each shift $1.99 for the privilege, and more recently charging "Dashers" shipping fees as high as $43 for "free" hand sanitizer and gloves to protect themselves and customers during the pandemic.[46]

The apps, especially DoorDash, have deliberately flouted laws passed to protect their workers.

The delivery apps have established regional monopolies that effectively suppress competition especially in the realm of wages.

The apps, especially DoorDash, have deliberately flouted laws passed to protect their workers. Most notably, DoorDash has taken no apparent steps to comply with a California law that went into effect in January 2020 codifying a 2018 state supreme court decision against an Amazon contractor that requires companies classifying laborers as independent contractors to meet three strict thresholds to prove they were not employees. Nearly six thousand DoorDash couriers filed arbitration claims demanding to be reclassified in six weeks after it passed.[47]

Together with Postmates, DoorDash instead pledged to spend $90 million repealing the law with a ballot initiative called Proposition 22.[48] In a June lawsuit against the company, the newly-elected San Francisco District Attorney Chesa Boudin detailed the numerous ways DoorDash micromanages the time of its couriers and described DoorDash's defiance of the law as "calculated decision." Certainly it was a costly one: over and above its share of that $90 million, the company risks a penalty between $5,000 and $25,000 for each infraction.

Making matters more difficult for both workers and restaurants, the delivery apps have established regional monopolies that effectively suppress competition especially in the realm of wages. DoorDash maintains a 65% market share in San Francisco, diminishing the competition for courier labor in a pattern that repeats

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45 DoorDash bowed to pressure to change its tipping policy after it was detailed in this New York Times story, but especially during daytime hours tips are still factored in to "guaranteed minimum" rates; the company is simply more forthcoming about the policy with drivers. See Andy Newman, "My Frantic Life as a CabDodging, Tip Chasing Food App Deliveryman" *The New York Times*, July 21, 2019. https://www.nytimes.com/2019/07/21/nyregion/doordash-ubereats-food-appdelivery-bike.html

46 DoorDash charges workers $15 for "free" coronavirus supplies — while paying them $2 to deliver food, PayUp, March 14, 2020. https://payup.wtf/blog/ doordash-hand-sanitizer

47 "In California, Doordashers sue over gig worker classification," *The Counter*, February 13, 2020. https://thecounter.org/in-california-doordashers-sue-over-gigworker-classification/

48 Andrew J. Hawkins, "Uber, Lyft, and DoorDash kick off $90 million fight against California's gig worker law," *The Verge*, October 29, 2019. https://www.

itself throughout most of the biggest metropolitan markets, half of which are more than 50% controlled by a single one of the four dominant players.[49]

As discussed above, the delivery apps are serial mergers. Grubhub and DoorDash alone comprise more than 20 companies that once competed with one another. Grubhub in particular is a classic "roll-up" of a few menu portals, a point-of-sale systems integrator and about a dozen regional food delivery services, most of which raised prices immediately upon being acquired. investors plowed nearly a billion dollars into Postmates despite its single-digit market share solely because of its potential "takeover interest."[50] Before Uber consummated that interest, the cash-burning rideshare giant also held merger talks with both Grubhub and DoorDash. "The constant refrain you hear from all of these companies when they go on CNBC or talk to investors is that they're going to start making money as soon as the next merger closes," says a former executive for one of the major delivery apps.

Finally, three of the four dominant apps have also carved out an unfair advantage for themselves vis a vis any law-abiding competitors by cheating the government. Although GrubHub has paid hundreds of millions of dollars in sales taxes on its commissions over the course of its existence, neither DoorDash, Postmates nor UberEats have ever paid sales taxes on theirs, according to a 2019 investigation.[51] Perversely, in a practice chronicled extensively in online forums, DoorDash did collect sales taxes on the food it sold in three states—Delaware, New Hampshire and Montana—that do not tax food that is consumed off-premise. DoorDash simply pocketed the ostensible tax as extra revenue.[52]

Although all the delivery apps have pursued a strategy of market domination, some important differences in their corporate governance can help contextualize their sometimes-divergent approaches to that dominance. Grubhub and DoorDash specifically are the products of markedly different formative financing cultures. And it

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theverge.com/2019/10/29/20938452/uber-lyft-protect-doordash-ab5-gig-worker-law-ballot-california So far, together with Instacart, the apps have spent $110 million promoting Proposition 22. See Sarah Holder, "California's Gig Economy Ballot Measure Fails Workers, Labor Groups Say," *Bloomberg*, July 7, 2020. https://www.bloomberg.com/news/articles/2020-07-07/uber-lyft-ballot-measure-opposed-by-labor-groups?sref=9N7kxaRj

[49] New York, Dallas, Houston, Miami and Philadelphia are more than 50% controlled by Grubhub, Doordash, Doordash, UberEats and Doordash respectively. See Liyin Yeo, "Which company is winning the restaurant food delivery war?," Second Measure, August 18, 2020. https://secondmeasure.com/datapoints/fooddelivery-services-grubhub-uber-eats-doordash-postmates/

[50] Joshua Franklin and Anirban Sen, "Postmates revives IPO plans amid takeover interest," *News Break*, June 30, 2020. https://www.newsbreak.com/ news/1592504391631/postmates-revives-ipo-plans-amid-takeover-interest-sources

[51] Shirin Ghaffary, "DoorDash and Uber Eats aren't collecting sales tax on delivery fees in some states. That could be a problem." *Vox*, November 20, 2019. https:// www.vox.com/recode/2019/11/20/20973401/food-delivery-companies-doordash-grubhub-instacart-delivery-fees

[52] A lawsuit seeking class action status to recoup the improperly charged sales taxes was settled out of court after DoorDash attempted to enforce a mandatory arbitration clause. Notably, the complaint noted that DoorDash had not improperly charged customers sales taxes in Oregon or Alaska. See Erin Shaak, "Class Action Claims DoorDash Charges Sales Tax on Orders in Tax-Free States," *ClassAction.org*, August 5, 2019. https://www.classaction.org/blog/class-action-claimsdoordash-charged-sales-tax-for-orders-in-tax-free-states

is worth discussing them briefly because they happen to be the dominant sources of financing in American business, both involve their own unique antitrust implications, and in the case of Grubhub and DoorDash they have worked somewhat symbiotically.

Grubhub's domination of the restaurant internet is both inspired by and inextricably linked to Google's monopolization of search.

GRUBHUB: THE WALLED GARDEN OF RESTAURANT EXTORTION

The best way to understand the perniciousness of Grubhub's business model is to Google a restaurant, preferably a mid-tier one from which a lot of people might order takeout. Invariably, you will call up a long list of websites either owned by or in business with the delivery apps, and for most of them that delivery app is GrubHub, which owns Menupages, Allmenus and Seamless, along with Eat24, a former subsidiary of Yelp which remains Yelp's "official delivery partner." For years, thousands of restaurants also found themselves competing against doppelganger websites owned and designed by Grubhub, which spent much of the last decade buying up tens of thousands of URLs related to real restaurants, outfitting them with rudimentary websites that directed users back to GrubHub, and using search engine optimization to move them sites up the search results.[53] The result is that a casual restaurant's actual website is sometimes not near the top of its own search rankings, which leaves those restaurants at the mercy of Grubhub.

Grubhub's domination of the restaurant internet is both inspired by and inextricably linked to Google's monopolization of search. Founded in 2005 alongside the Huffington Post and Bleacher Report, Grubhub joined a wave of internet properties that learned to build audiences by mastering Google's algorithms. Like Google, Grubhub originally billed itself as a search engine, but over the years increasingly blurred the lines between paid and "natural" content until it became impossible for an enterprise to avoid getting buried in the search results without paying up. (The FTC has repeatedly and explicitly ordered search engines to clearly differentiate paid from unpaid content,[54] but its guidance has persistently failed to police the ever-subtler ways Google advertises to its users.) And as Google has metamorphosed into what House Antitrust Subcommittee

53 H. Claire Brown, "GrubHub is buying up thousands of restaurant web addresses. That means Mom and Pop can't own their slice of the internet," *TheCounter.* org, June 28, 2019. Grubhub and its subsidiary Seamless were not the only delivery apps to do this; in 2015 another investigation found that the then-upstart delivery app OrderAhead, which is now owned by DoorDash, acquired several thousands of restaurant URLs. While both Postmates and DoorDash pioneered their own versions of the same strategy, even making it more abusive in many cases, the annexation of restaurants' Google presences is most closely associated with Grubhub.

54 Federal Trade Commission, "Sample Letter to General Purpose Search Engines," June 24, 2013.37 Shirin Ghaffary, "DoorDash and Uber Eats aren't collecting sales tax on delivery fees in some states. That could be a problem." *Vox*, November 20, 2019. https://www.vox.com/recode/2019/11/20/20973401/food-deliverycompanies-doordash-grubhub-instacart-delivery-fees

Chairman David Cicilline termed a "walled garden" of corporate profit, Grubhub has used Google to appoint itself as a kind of restaurant toll collector.

More often than not, for example, the "takeout" or "delivery" button displayed on the official Google Business listing of a small restaurant will lead the user directly to Grubhub, with each click resulting in a fee for Google just as each order results in a larger fee for the delivery app. It is not clear how much Grubhub pays Google for linking its official sites to the restaurant portal, but a bar owner who tried to get his Google Business listing to link to his own delivery service told Economic Liberties that he was initially quoted a price of a dollar per click regardless of whether the user ordered anything.

Grubhub goes to great lengths to extract tolls from its restaurants. Until last year, the company listed phantom restaurant phone numbers on its networks of fake Grubhub sites, which would route callers to the restaurant's real number while enabling Grubhub to charge the restaurant a commission for the "lead." A class action lawsuit detailing the practice revealed that Grubhub had charged one small chain thousands of dollars for phone calls that had never led to transactions; Grubhub was simply charging restaurants for every call lasting longer than 45 seconds. The lawsuit was thrown out for violating the arbitration clause of the contract in which Grubhub claimed it had obtained the restaurant's permission to charge for the phone calls, but not before numerous other restaurants discovered thousands of dollars in dubious phone charges on their invoices.[55]

Over and over again, Grubhub has justified its practices by characterizing them as "marketing services" provided to restaurant partners with their explicit permission to "help" them navigate the internet. This seems unlikely; no user Googling a restaurant by name needs that restaurant to be "marketed" to them. To the contrary, what Grubhub actually achieves by proliferating all these Grubhub-owned restaurant internet properties is simply the ability to take a cut out of every transaction a restaurant completes over the internet, charging that restaurant over and over again to access its own customers. These marketing services regularly drive commissions as high as 65%.[56]

The company also uses its dominance in search to retaliate against restaurant owners who cancel, downgrade, or refuse to sign contracts with Grubhub. A Grubhub client restaurant in New York told *TheCounter.org* that her order volume fell off whenever she attempted to opt out of the premium services that had led her Grubhub bill to exceed her rent. A Miami pizzeria that had cancelled its Grubhub contract and built its own online ordering platform told one journalist that Grubhub had adjusted all its websites to tell users, inaccurately, that their restaurant was not taking orders. Economic Liberties spoke to another restaurant owner in Portland,

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[55] Victor Fiorillo, "Grubhub Hit With Huge Class-Action Suit by Philly Indian Chain Tiffin," *Philadelphia Magazine*, January 4, 2019. https://www.phillymag.com/ news/2019/0104/grubhub-lawsuit-tiffin-indian-restaurant

[56] "Promotions" were the culprit for jacking up a Portland vegan restaurant's total Grubhub tab to 65%, a Chicago pizzeria's Grubhub tab for the month of April to 64% and a Pittsburgh diner's April Grubhub tab to 58%. See Tim Forster, "Grubhub and Postmates Are Actively Defying Portland's New Delivery Fee Law," *Eater Portland*, July 29, 2020 and Nick Kindelsperger, "Chicago restaurant chose the extras, Grubhub says," *Chicago Tribune*, May 1, 2020 and also Angie Moreschi, "Grubhub marketing fees leave Pittsburgh restaurant owner shocked, upset," Wxpi.com, May 18, 2020.

Oregon who said she was terrified to close her account precisely for this reason.[57] Similar to the deliberate proliferation of fake restaurant websites and fake restaurant phone numbers, it may also violate federal laws barring unfair and deceptive practices.

"Grubhub is unique among the delivery apps in that it has literally no sense of optics," one former company executive told Economic Liberties.

"Grubhub is unique among the delivery apps in that it has literally no sense of optics," one former company executive told Economic Liberties. It is also the only one of the apps that has ever turned a profit. Much of its corporate identity has been shaped by the private equity industry, which effectively acquired Grubhub in its 2013 merger with the private equity-owned Seamless.[58] Under this management, Grubhub fostered what the executive calls an "almost comically aggressive corporate culture" along with a classic private equity operational strategy known as the "roll-up," wherein a parent company acquires a string of companies in the same line of business in the theoretical pursuit of "economies of scale"—and in most cases, the actual pursuit of the opportunity to raise prices. After buying the OrderUp platform from its parent Groupon in 2017, Grubhub doubled the fees it charged restaurants to 30% from 15%, acccording to a group of Iowa City restaurant owners who responded by launching a rival service.[59]

Like the innumerable private equity-led rollups in the health care sector that consolidated over the same time period, Grubhub accompanied its acquisition spree with aggressive across-theboard price hikes, jacking up commissions by eight percentage points between 2014 and 2019.[60] Asked whether he would consider yet another merger in the interest of expanding his profit margins on a CNBC appearance in February, Grubhub CEO Matt Maloney became defensive. "We've bought ten companies in the past ten years, I'm very opportunistic," he said. "There are a lot of companies losing a lot of money and the industry is ripe for consolidation."[61] Three months later, he announced he would be selling the company to the European delivery app Just Eat Takeaway.

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57 Eliza Fisher, "What restaurateurs need to know about third-party delivery services and Google 'Hijacking'," *UsFoods*.

58 The private equity consortium had taken control of Seamless via a 2006 leveraged buyout of the Philadelphia institutional food provider Aramark, which owned Seamless and spun it off to its owners as a dividend in 2012. The PE group acquired roughly 65% of Grubhub's shares in 2013 in what at the time was billed as a merger of equals between Grubhub and Seamless, though they allowed Grubhub CEO Matt Maloney to keep the CEO title. See Telis Demos and James MacMillan, "GrubHub Seamless Joins the Tech IPO Crush," *Wall Street Journal*, February 20, 2014.

59 Katherine Carlon, "Squeezed by big guys, CHOMP bites back," *Corridor Business Journal*, October 30, 2017.

60 Calculated by dividing revenues by gross food sales reported in Grubhub's 2013 vs. 2018 fiscal years: http://d18rn0p25nwr6d.cloudfront.net/CIK0001594109/60b07f77-6b46-44d6-83e0-dceacbb3d36e.pdf

61 CNBC, "Grubhub CEO Matt Maloney on coronavirus, its new membership program and more," February 26, 2020.

DOORDASH: INDUSTRIAL-SCALE TRADEMARK INFRINGEMENT AND BIG DINING DATA

The youngest of the dominant delivery apps, DoorDash quickly became the biggest of all the delivery app companies thanks to the easy Silicon Valley money and “opportunistic” approach to the intellectual property of others that has defined its existence. It was founded by Stanford Business School students at the famous YCombinator “startup accelerator” camp in Mountain View, California, in 2013, the year one venture capital coined the term “unicorn” to describe the increasingly common phenomenon of startups valued at more than a billion dollars.[62] DoorDash achieved unicorn status within the first three years of its existence and ultimately raised $2.5 billion, nearly ten times the amount of funding Grubhub ever had.[63]

While DoorDash has borrowed tactics from many companies[64] over the course of its short life, the core of its business model is cribbed from Amazon. By the middle of the decade, Amazon had spent billions of dollars subsidizing free and fast delivery in a strategy that transformed consumer behavior, solidified its domination over all retail, and taught investors that long-term losses could yield dividends in the form of market power. DoorDash bet that it could pull off a similar strategy with restaurants by combining the logistical platform and workforce of a company like Uber with the revenue model of Grubhub.[65]

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62 Aileen Lee, “Welcome to the Unicorn Club: Learning from Billion Dollar Startups,” *TechCrunch*, November 2, 2013. https://techcrunch.com/2013/11/02/ welcome-to-the-unicorn-club/

63 9 According to Crunchbase, DoorDash has raised $2.5 billion in venture funding as a private company, while Grubhub has raised a mere $284 million inclusive of its public stock offerings—and only ever raised $85 million in the five rounds of funding it did as a private company.

64 The company articulated its original business idea in 2013 as “a local, on-demand Fedex” in a 2013 Medium post https://medium.com/@DoorDash/thedoordash-story-b370c2bb1e5f But Fedex, founded in 1971 by the heir to a restaurant and bus company fortune, was the product of a vastly different generation of venture capital economics and was turning a healthy profit by 1974, despite start-up costs that included a fleet of planes and a full-time staff of pilots who did not pay for their own fuel.

65 Grubhub did not offer its own delivery services until around 2014, when the emergence of Doordash inspired it to roll out its own delivery network in spite of its leaders’ belief it was a “shitty business.” See Brian Solomon, “Why GrubHub Is Building What Its CEO Calls ‘A S***** Business’,” *Forbes*, April 20, 2016. https://www.forbes.com/sites/briansolomon/2016/04/20/why-grubhub-is-building-what-its-ceo-calls-a-s-business/#51ff9a101124

By 2019 DoorDash had eclipsed Grubhub's share of the restaurant delivery market,[66] thanks largely to a move the company borrowed from Postmates: offering consumers delivery services from restaurants that did not offer delivery and were unaware of the existence of this new Silicon Valley subsidized business model. DoorDash developers scraped the internet night and day for menu content the company then would quickly repurpose into unauthorized DoorDash "microsites" to give users the illusion of a full, comprehensive network of choices. Nor did it stop at scraping menu items and prices. According to lawsuits filed by the restaurant chains Legal Sea Foods and In-N-Out Burger, DoorDash had illustrated its menus on its website with slightly altered versions of their logos and in the case of In-N-Out, DoorDash had also sent employees to its physical locations to blanket the stores with fliers boasting about the new delivery service.[67] Orders that came through the app's platform were then manually placed by call center agents impersonating customers and delivered by couriers who were specifically instructed to leave their branded company gear in their cars.

As the lawsuits explain, restaurants resented DoorDash for its unauthorized deliveries because the people who used the app were likely to post reviews on Yelp and TripAdvisor if their orders showed up cold or somehow incorrect—or not at all, because the platform's scraping algorithms had failed to detect that the restaurant in

While DoorDash has borrowed tactics from many companies over the course of its short life, the core of its business model is cribbed from Amazon.

[66] DoorDash controlled 33% of the American food delivery market in 2019, according to the reserarch group Second Measure. https://www.cnbc.com/2020/01/17/ doordash-took-the-lead-in-the-food-delivery-wars-in-2019.html Although it has yet to turn a profit, the company has burned cash effectively enough to secure itself 11 rounds of venture capital cash worth $2.5 billion. See CrunchBase https://www.crunchbase.com/organization/doordash/company_financials

[67] *See Legal Sea Foods v. DoorDash Inc.* https://www.courtlistener.com/docket/4276311/legal-sea-foods-llc-v-doordash-inc/ and In N Out Burgers v. DoorDash Inc. https://www.courtlistener.com/docket/4153605/in-n-out-burgers-v-doordash/ In 2018 the company was also the subject of a similar lawsuit filed by the Chicago chain Burger Antics, see Robert Channick, "Suburban restaurant in DoorDash Lawsuit: Stop Delivering our food", *Chicago Tribune*, January 10, 2018. https://www.chicagotribune.com/business/ct-biz-doordash-restaurant-food-delivery-lawsuit-20180109-story.html

question was actually closed.[68] And while arguably less harmful than taking a third of their revenues, DoorDash exploited the widespread frustration with its “disruptive” services as an opportunity to sell restaurant owners on a formal partnership, wherein DoorDash would make some recommendations about increasing order volume and send its couriers with insulated bags in exchange for a 30% commission on all the sales it processed.

In formalizing its relationship with restaurants, DoorDash shifts the burden of subsidizing the delivery from its deep-pocketed Silicon Valley backers to struggling restaurants, in much the way Amazon has shifted the tremendous costs of subsidizing one and two day delivery to Prime customers onto its third party vendors, who are now all but required to use the platform’s expensive fulfillment services if they want to maintain sales on its marketplace.

But subsidizing cheap (and anonymous) delivery services is not in the long-term interest of restaurants, which survive on the strength of their personal relationships with consumers— relationships that the third party delivery apps sever, usurp, then all too often monetize for their own purposes. Which brings us to the existential threat DoorDash’s Amazonification of restaurants presents, which is “vertical integration” along the lines of the Amazon private label department that antitrust enforcers are currently investigating.

THE SPECTER OF GHOST KITCHENS

“Dark kitchens” or “ghost kitchens” are anonymous commissary kitchens, often serviced by strategically located heating stations, that produce food exclusively for the delivery apps. A journalist touring one Los Angeles ghost kitchen found that it was selling its food through the apps under no fewer than 127 fake “virtual restaurant” names.[69]

UberEats, Grubhub and DoorDash all have busy “virtual restaurant” departments, with DoorDash’s dark kitchen executive boasting in an interview that the company’s superior and

[68] In fact, as your analyst was composing this report her husband, the chef of a hotel restaurant that has been closed for two months, received a phone call from a concierge reporting that a courier representing a delivery app he refused to name had arrived to pick up a pizza and chicken entree that had been ordered over one of the platforms, none of which he had ever entered into a contract.

[69] Matt Newberg, “My Testimony for the Nation’s First Hearing on Ghost Kitchens,” *Medium*, February 6, 2020. https://medium.com/hngry/my-testimony-fornations-first-hearing-on-ghost-kitchens-c999c76dad19

"highly specific" data on "hundreds of variables"[70] regarding who eats what, when and where— CEO Tony Xu likes to boast that his company collects "hundreds of millions of data points"[71][72]— could thoroughly "de-risk" the process of founding a new restaurant.[73]

Amazon's private label division repeatedly and systematically used sales data to identify, copy and reproduce the most popular goods sold by its third party, ultimately bankrupting countless small businesses.[74] But while Amazon has recently come under scrutiny over this practice, the rise of dark kitchens in the midst of an unprecedented restaurant industry bloodbath has attracted virtually no scrutiny. Former Grubhub head of innovation Collin Wallace tells Economic Liberties the combination of the pandemic and the ensuing rash of fee cap laws has ushered in a "dark kitchen land grab" he worries could spell doom for all but the most high-profile Michelin-caliber restaurants,[75] and that the dark kitchen sector as it is currently constituted is rife with blatant "umpire player" conflicts of interest.

With this in mind, the delivery app cabal has worked hard to portray dark kitchens as an easy, low-risk way for chefs to open a "restaurant" without raising huge amounts of capital, with CloudKitchens most notably telling prospective partners that they only need $30,000 to start a "virtual restaurant" in one of their spaces. The reality for indie dark kitchens is much harsher: one study commissioned by a group of dark kitchen investors determined that when the labor costs and delivery app commissions were factored in, a dark kitchen needed to generate $675,000 in annual sales simply to break even.

In lieu of culinary variety, delivery apps have sought out celebrity affiliations for their dark kitchens to give users the illusion of choice: UberEats has an exclusive virtual fried chicken chain modeled after the fictional methamphetamine front Los Pollos Hermanos in the television series "Breaking Bad"[76]; GrubHub's virtual

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70 "Data at DoorDash: Transparent, Ubiquitous, and Still Just Getting Started," *Medium*, October 21, 2016. https://medium.com/@DoorDash/data-at-doordashtransparent-ubiquitous-and-still-just-getting-started-acc598f2660c

71 Sara Salinas and John Fortt, "DoorDash CEO Tony Xu: 'We need to know about about every pothole and parking space to perfect our food delivery," *CNBC*, March

72 , 2018. https://www.cnbc.com/2018/03/24/doordash-ceo-tony-xu-we-need-to-know-every-pothole-parking-space.html

73 Peter Romeo, "How DoorDash's Ghost Kitchen Works," *Restaurant Business*, October 16, 2019. https://www.restaurantbusinessonline.com/operations/howdoordashs-ghost-kitchen-works

74 Dana Mattioli, "Amazon Scooped Up Data From Its Own Sellers to Launch Competing Products," *Wall Street Journal*, April 23, 2020. https://www.wsj.com/ articles/amazon-scooped-up-data-from-its-own-sellers-to-launch-competing-products-11587650015

75 Michelin-starred restaurants aren't immune from the consequences of dark kitchen disruption, however; the Michelin-starred Thai restaurant Kin Khao briefly had its identity stolen from a food truck based dark kitchen owned by the Softbank-funded Reef Kitchens. See Chris Hua, "Softbank funded the Kin Khao Impersonator," "Optimism of the Will" SubStack, January 27, 2020. https://hua.substack.com/p/softbank-funded-the-kin-khao-impersonator

76 Samantha Leffler, "Food From Breaking Bad's Los Pollos Hermanos Chain Is Now Available Via Uber Eats: 'No Way!'" *Us Magazine*, October 29, 2019. https:// www.usmagazine.com/food/news/breaking-bads-los-pollos-hermanos-is-now-on-uber-eats/

fried chicken chain is called Tyga Bites, after the celebrity rapper.[77] In the absence of national name recognition, Jim Collins, whose Pasadenabased company Kitchen United is one of the biggest dark kitchen operators, says he deliberately seeks out partnerships with established regional chains and shuns independent operators without multiple locations.

The companies that will succeed in dark kitchens will in all likelihood have deep pockets and financial connections to the delivery apps. The biggest dark kitchen startup in America, CloudKitchens, for example, was founded by Uber founder Travis Kalanick with some $700 million in cash and $2.1 billion in credit from investors including a Saudi sovereign wealth fund and Goldman Sachs.[78] The country's second fastest-growing dark kitchen chain, the Reef Kitchens, is a subsidiary of the parking lot chain ParkJockey and has hundreds of millions of dollars in funding from Softbank, the single biggest investor in both DoorDash and Uber, whose managing director Michael Ronen told the Financial Times in 2019 that the "success of UberEats [and] DoorDash" had led his firm to "try and stand up supply that is more efficient against that demand."[79] Kitchen United, got its seed investment and much of its Series A funding from Google Ventures,[80] and Collins says he makes a conscious effort to "play nice" with delivery apps.[81] The brother of the chief executive officer of Walmart's e-commerce division recently launched another dark kitchen startup focused on using food trucks to prepare upscale big-city dishes for wealthy suburbanites.[67] And Amazon itself is a substantial if quiet player in dark kitchens via its 16% stake in Deliveroo, a vertically integrated delivery app/dark kitchen conglomerate.[82] Together with the in-house dark kitchen ventures run by DoorDash, Grubhub and UberEats, all the major dark kitchen startups have access not simply to vast pools of funding the restaurants don't have, but data they don't

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77 "Tyga Opening Virtual Chicken Restaurants," *TMZ*, July 29, 2020. https://www.tmz.com/2020/07/29/tyga-bites-chicken-virtual-restaurant-launch-tendersnuggets-grubhub/

78 Jennifer Marston, "Uber Eats Is doing Ghost Kitchens: Here's How That Could Change Food Delivery," *The Spoon*, March 12, 2019. https://thespoon.tech/ubereats-is-doing-ghost-kitchens-heres-how-that-could-change-food-delivery/

79 Tim Bradshaw, "The start-ups building 'dark kitchens' for Uber Eats and Deliveroo," *Financial Times*, May 21, 2019. https://www.ft.com/content/a66619b077e4-11e9-be7d-6d846537acab

80 I-Chun Chen, "Google-backed Kitchen United raises $40 million," *Los Angeles Business Journal*, September 19, 2019. https://www.bizjournals.com/losangeles/ news/2019/09/19/google-backed-kitchen-united-raises-40-million.html

81 Connie Loizos , "In the heated cloud kitchens race, Kitchen United aims to kill with kindness; here's its playbook," *TechCrunch*, November 19, 2019. https:// techcrunch.com/2019/11/19/in-the-ghost-kitchen-race-gv-backed-kitchen-united-aims-to-kill-with-kindness-heres-its-playbook/ 67 Matt Newburg, "Walmart Exec Bets Big on Suburbs in Stealth Ghost Kitchen Startup," *Medium*, February 26, 2020.

82 Amazon shut down its own restaurant delivery service the month after announcing its Deliveroo investment, citing the fierce competition of the delivery apps but probably in response also to the concerns of European antitrust regulators.
See Sam Shead, "Amazon is one step closer to taking a 16% stake in UK delivery app Deliveroo," *CNBC*, June 24. 2020 https://www.cnbc.com/2020/06/24/amazonis-one-step-closer-to-taking-a-16percent-stake-in-deliveroo.html

have—even though for the most part it was generated by them, and will now likely be used to copy and destroy their businesses.

SOLUTIONS

Ensuring that restaurants and communities can connect through new technologies while preventing predatory practices by middlemen will require the deliberate structuring of markets by local, state, and/or Federal authorities. Not every city needs to adopt the same policy framework, but the principles of fair commerce, transparency, and no conflicts of interests will serve consumers, restaurants, and workers well. Below are nine policy ideas to aid in creating healthy restaurant markets.

1. **Investigate and prosecute the apps' systematic unfair and deceptive practices**

Restaurants work hard to build trust and loyalty among their customers, and delivery apps capitalize on that relationship for profit while poisoning that trust. From creating phantom websites and fake phone numbers for partnered restaurants to using slightly altered logos and rampant flyering to give customers the illusion of complicity with unaffiliated restaurants, the delivery apps have built multibillion dollar businesses around deliberately misleading and deceiving consumers. The Federal Trade Commission and/or state attorneys general and local officials with jurisdiction should investigate and prosecute these harmful practices.

2. **Prohibit delivery apps from imposing no price competition clauses.**

"No Price Competition Clauses" prohibit restaurants from charging different prices across different platforms or even to on-premise or phone-in customers. The result has harmed both restaurants and their customers in two ways: First, it forces restaurants to penalize the on-premise consumers who are most profitable to the restaurant, by forcing those customers to pay the same price that Grubhub and UberEats users pay, despite the wildly different impact between either activity on the restaurant's bottom line. Second, by removing the ability of the restaurant to differentiate its prices in line with the costs it sustains from using any of the apps and thus guaranteeing price uniformity across the internet, the clauses spare the apps most of the trouble of having to compete with one another's prices. These clauses also have helped dramatically alter consumer behavior in a way that is detrimental to restaurants by not forcing consumers to internalize the cost of delivery.

3. **Ban further anti-competitive mergers in the sector.**

Grubhub and DoorDash are together the agglomeration of more than 20 companies that were until recently independent, roughly three quarters of which did roughly the same thing. These mergers were executed to reduce competition within the industry and enable the apps to lower courier wages and raise prices without offering any improvement in service. Federal enforcers or state attorneys general should block any further consolidation and potentially look to reverse past mergers.

Regulators should keep in mind that the so-called “economies of scale” invariably invoked as the motivation for such consolidation are unusually elusive in the delivery app business, because both independent restaurants and “last mile” delivery derive little significant operational benefit from the national scale of a company like Grubhub or DoorDash.

4. **Enforce and expand local laws curbing predatory commissions and other delivery app abuses into broad state and local licensing regimes empowered to ensure compliance with all laws governing food service and alcohol sales.**

In the wake of the COVID-19 pandemic dozens of cities, states and other municipalities have enacted emergency legislation capping delivery app commissions, mandating greater transparency regarding the fees associated with ordering over the apps, and—in Seattle—requiring the delivery apps to pay a $2.50 per order hazard surcharge to couriers. But the apps have broadly flouted the measures in cities and states where their lobbyists have detected loopholes in the language used and/or inadequate resources for enforcement. Sources close to the apps also say the delivery apps are preparing to sue many of the municipalities in question for violating their constitutional right to avoid uncompensated “takings” of the spoils of interstate commerce.

One possibility is to establish licensing regimes for delivery apps, within the food service licensing authorities of county health departments and/or state liquor control boards. Local regulators can determine what commission structures and contracts are fair, impose fines and penalties on violators, and establish and enforce clear guidelines for contending with consumer complaints and refund demands. Just as critically, a licensing regime can ensure compliance with other laws routinely broken by the delivery apps, from improper collection of sales taxes to health department prohibitions on the consumption of food in a food handling environment.

Local legislators, regulators and prosecutors should design regulation of the delivery apps with the intention of nurturing local services with a vested interest in the growth and support of local restaurants, specifically those that explicitly refuse to pursue national-scale strategies or venture capital financing, both of which lend little to delivery services’ marketing or operational effectiveness but typically invite predatory and anti-competitive practices.

5. **Prohibit delivery apps from using loss-leader pricing to harm competition and incentivize consumers to abandon on-premise dining**

From Amazon Prime to Uber and Lyft to DoorDash and Grubhub, deep-pocketed Wall Street and Silicon Valley-backed corporations have been subsidizing free and cheap “last mile” transportation services with the intent of driving out rivals and amassing market power. Until the 1980s, this business model was commonly understood to constitute “predatory pricing,” which violates statutes against anti-competitive and monopolistic behavior, because the number of companies that can afford to run losses for a sustained period of time is inherently limited. But predatory pricing doctrine has been substantially defanged by a series of narrow Supreme Court interpretations that force victims to meet onerously high burdens of proof, allowing predatory pricing to become an increasingly ubiquitous tactic among cash burning venture-backed startups from Lyft to WeWork.

Proving predatory pricing has been hindered by the artificially high thresholds set forth in the 1993 Supreme Court decision Brooke Group v. Brown and Williamson Tobacco, which requires victims not only to prove that a company's pricing is losing money for the company and that it is doing so with the express intent of running a competitor out of business, but that the company specifically will also recoup the losses at some point in the near future by raising prices. This 'recoupment test' presents an impossible burden for plaintiffs. Congress should amend this doctrine to bring the thresholds for proving predatory pricing in line with what is realistically provable by a competing firm—losing money for a sustained period on any specific product or service is inherently anticompetitive and should be illegal, period.

6. **Eliminate "independent contractor" loopholes and force the third party delivery giants to give their workers the wages, protections and benefits required of employers.**

Along with anti-competitive pricing, the business models of the third party delivery apps rely on their continuing ability to drastically under-compensate their workers by intentionally misclassifying them as "independent contractors." In its 2018 decision Dynamex Operations West Inc. v Superior Court, the California Supreme Court established a strict and sensible three part litmus test for determining whether "contractors" were actually de facto employees, and in January 2020 the state legislature codified the guidelines, requiring companies like Uber and DoorDash to begin treating its drivers as employees, with the attendant stability, benefits and wage protections to which the law entitled them. But the third party delivery apps, along with the rideshare operators, chose to simply ignore the new law while spending tens of millions on lobbying and advertising in an effort to pass a ballot initiative carving out an exemption for themselves in November.

Allowing these companies to build their empires on the backs of illegally underpaid drivers unjustly penalizes not just the workers themselves but all companies that abide by labor law— including restaurants that employ, or have considered employing, their own delivery drivers. Congress should move to nationalize the litmus test established in Dynamex to protect both workers and law-abiding businesses that do not violate their rights in the name of "disruption."

7. **Require delivery apps to restrict the use of data collected from restaurants to limited and specific purposes, and explicitly prohibit them from leveraging data collected from transactions conducted over their marketplace platforms to compete with and disadvantage restaurants.**

Delivery app executives boast of collecting "hundreds of millions [of] points" of data from the restaurants on their platforms with virtually no restrictions on their use. Restaurants regularly complain that selling through delivery apps severs their relationships and ability to communicate with their customers. The apps, by their own admission, also use their data for another purpose: to develop "dark kitchens" in neighborhoods of high demand with menus specifically tailored to cannibalize the businesses of their existing restaurant partners.

Regulators should issue guidance mandating that delivery apps share data they collect on restaurants with the relevant restaurant partners, and specifically restricting the use of their aggregate data to operations pertaining to their function as a neutral marketplace for restaurants. Such a ‘purpose limitation’ on the use of restaurant data comports with the Fair Information Practice Principles proposed by the U.S. government in 1973, forming the basis for such laws as the Privacy Act and the Fair Credit Reporting Act.

8. Mandate search neutrality within apps and bar payola style arrangements between apps and restaurants.

Along Delivery apps feature three types of restaurants on their platforms: partner restaurants that have signed contracts and paid a flat fee for access to the platform, partner restaurants that have (often unwittingly) agreed to pay for additional marketing and advertising support on those platforms, and restaurants with no relationship whatsoever with the delivery apps but from whom the apps have have chosen to offer delivery service to bolster the popularity of their marketplaces. Currently the formulas the apps use to determine which restaurants receive preferential exposure on their platforms are opaque and there is no way for either consumers or restaurants to determine what goes into a given restaurant’s search engine.

The FTC should order the delivery apps to comply with guidances issued to generic search engines by clearly delineating between the three different tiers of inclusion on their platforms. Consumers have a right to know which restaurant listings are presented because of advertising or paid relationships and which are organic results conforming to the expectation that the app is delivering the most relevant result.

9. Separate platform and commerce in two ways: (1) Prohibit the combination of online ordering apps and delivery/logistics services (2) Online ordering apps and dark kitchens.

As Amazon private label’s systematic appropriation of product designs and concepts of its thirdparty seller demonstrates, there is an anti-competitive danger in allowing companies that own or control marketplaces of vendors to compete against those vendors using the superior proprietary information gleaned from their status as an industry “umpire.” Legislators should strictly prohibit third party delivery apps from owning or effectively controlling through contract arrangements “dark kitchens,” food trucks and other purveyors of prepared food that could unduly benefit from promotional or informational support.

CONCLUSION

Running a restaurant is a difficult business. Nevertheless, over the past couple of decades it has lured in thousands of entrepreneurs because people have passion for making food and serving their communities.

Now those businesses are under siege—from a once-in-a-century public health calamity, but also a clique of monopolistic, rent-seeking predators who see them as just another vehicle for extracting dollars, and are exploiting the surge in demand for delivery services to raise more money, do more mergers, and roll out their own production facilities.

The delivery apps have burned billions of dollars and broken dozens of laws with impunity while making it harder and harder for small restaurants to break even, and their vertical integration via the “dark kitchens” could displace small restaurants entirely.

But while their tactics and strategies are cribbed from Google and Amazon, the delivery apps are not that powerful yet. There is still time to save America’s independent restaurants from going the way of our bookshops and toy stores. Our regulators, antitrust enforcers, and legislators must show the resolve to enforce our laws with all the determination and zeal with which the delivery apps have flouted them.

AMERICAN ECONOMIC LIBERTIES PROJECT

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PROJECT

The American Economic Liberties Project is a non-profit and non-partisan organization fighting against concentrated corporate power to secure economic liberty for all. We do not accept funding from corporations. Contributions from foundations and individuals pay for the work we do.

economicliberties.us

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May 26, 2023

To the New York City Department of Consumer and Worker Protection,

I am writing on behalf The Brooklyn Chamber of Commerce to share how our members have been able to grow their businesses by taking full advantage of the tools and resources offered by third-party delivery platforms.

The Brooklyn Chamber of Commerce serves as an advocacy organization in New York, having spent the last hundred years developing and promoting policies that drive economic development and advance its members economic survival. The Chamber is the voice of Brooklyn's business community, offering the resources, programs, tools and direct support businesses need to continue creating jobs and opportunities in their communities. The Brooklyn Chamber of Commerce is the borough's leading economic development and business advocacy organization. The Brooklyn Chamber of Commerce connects small business owners to resources to help them sustain their businesses and help their communities thrive. Brooklyn Chamber of Commerce programs bring together community business stakeholders through commercial revitalization projects and community-wide planning efforts.

The Brooklyn Chamber of Commerce believes that New York City restaurants need to be able to continue to access important resources and services that can help them expand their reach in an increasingly online economy. Third-party delivery platforms have supported the restaurants we represent through challenging times, allowing these businesses to meet customers where they are or take advantage of new opportunities to increase their revenue.

This includes having the ability to select the products and services that best support their needs, resources that can be especially important for small businesses to help them differentiate themselves and better compete with bigger brands that have greater visibility outside of these platforms.

As the city considers changes to the fee cap, finding the right balance to empower restaurant owners to make strategic decisions that are right for them is critical. Importantly, restaurants that want access to low-cost options would still have access to the services that platforms would be required to offer. These options, which provide restaurants access to thousands of customers across New York City, allow small businesses to utilize crucial services that would otherwise be cost prohibitive compared to operating their own delivery fleet.

Meanwhile, as the Agency looks ahead, it must also consider the harmful unintended consequences of these price controls under the status quo. If the current rules remain in place, it could mean that platforms eventually reduce service options or increase costs, higher prices that would inevitably be passed along by restaurants, which would mean fewer orders being placed on delivery apps — a bad outcome for consumers, restaurants, and the business community as a whole.

As champions for the small businesses that power our communities, [ORGANIZATION] knows that every business is unique, and that's true for their operations and needs in the marketplace. When it comes to enabling restaurants to maximize the impact of using local delivery, we believe it's important for business owners to maintain control over how they use third-party delivery platforms.

In an ever-changing digital marketplace, we encourage the Agency to support efforts that would ensure delivery services remain accessible for local businesses and every business across the five boroughs is able to decide what is best for their own needs.

Thank you for the opportunity to submit testimony.

Sincerely,

Randy Peers
President & CEO
Brooklyn Chamber of Commerce
P.H. 718-875-1000 x 101

NEW YORK CITY HISPANIC CHAMBER OF COMMERCE
159 East 116th Street, 2nd Floor | New York, New York, 10029

May 26, 2023

To the New York City Department of Consumer and Worker Protection,

I am writing on behalf of the New York City Hispanic Chamber of Commerce to share how our members have been able to grow their businesses by taking full advantage of the tools and resources offered by third-party delivery platforms.

The New York City Hispanic Chamber of Commerce believes that New York City restaurants need to be able to continue to access important resources and services that can help them expand their reach in an increasingly online economy. Third-party delivery platforms have supported the restaurants we represent through challenging times, allowing these businesses to meet customers where they are or take advantage of new opportunities to increase their revenue.

This includes having the ability to select the products and services that best support their needs, resources that can be especially important for small businesses to help them differentiate themselves and better compete with bigger brands that have greater visibility outside of these platforms.

As the city considers changes to the fee cap, finding the right balance to empower restaurant owners to make strategic decisions that are right for them is critical. Importantly, restaurants that want access to low-cost options would still have access to the services that platforms would be required to offer. These options, which provide restaurants access to thousands of customers across New York City, allow small businesses to utilize crucial services that would otherwise be cost prohibitive compared to operating their own delivery fleet.

Meanwhile, as the Agency looks ahead, it must also consider the harmful unintended consequences of these price controls under the status quo. If the current rules remain in place, it could mean that platforms eventually reduce service options or increase costs, higher prices that would inevitably be passed along by restaurants, which would mean fewer orders being placed on delivery apps — a bad outcome for consumers, restaurants, and the business community as a whole.

As champions for the small businesses that power our communities, The New York City Hispanic Chamber of Commerce knows that every business is unique, and that’s true for their operations and needs in the marketplace. When it comes to enabling restaurants to maximize the impact of using local delivery, we believe it's important for business owners to maintain control over how they use third-party delivery platforms.

In an ever-changing digital marketplace, we encourage the Agency to support efforts that would ensure delivery services remain accessible for local businesses and every business across the five boroughs is able to decide what is best for their own needs.

Sincerely,

Cindy Rubi Estrada

Cindy Rubi Estrada
Executive Director
New York City Hispanic Chamber of Commerce

THE NEW BRONX CHAMBER *of* COMMERCE, INC.

May 24, 2023

RE: Third Party Delivery Fee Cap - Marketing

To the New York City Department of Consumer and Worker Protection:

I am writing on behalf of The Bronx Chamber of Commerce to share how our members have been able to grow their businesses by taking full advantage of the tools and resources offered by third-party delivery platforms.

The Bronx Chamber of Commerce mobilizes members, the private sector, and philanthropic partners to build equitable economic opportunities for Bronx businesses and residents which build community wealth and chart a forward thinking, results-driven economic future for Bronxites. The organization was established in 1894 and is one of New York City's oldest economic development agencies serving as a voice for over 27,000 Bronx-based businesses.

The Bronx Chamber of Commerce is rooted in holistic community and economic development which advances economic opportunity and growth, innovation, and comprehensive business planning for the Bronx.

We organize and build coalitions, provide strategic business services, participate in and publish research and data analysis, and support targeted advocacy efforts that strengthen the business community, and help to win economic development policies which advance the borough's economic agenda. The Bronx Chamber has developed an active civic spirit fostering robust dialogue between business, government, and the civic sector to achieve a more inclusive and vibrant economy.

The Bronx Chamber of Commerce believes that New York City restaurants need to be able to continue to access important resources and services that can help them expand their reach in an increasingly online economy. Third-party delivery platforms have supported the restaurants we represent through challenging times, allowing these businesses to meet customers where they are or take advantage of new opportunities to increase their revenue.

This includes having the ability to select the products and services that best support their needs, resources that can be especially important for small businesses to help them differentiate themselves and better compete with bigger brands that have greater visibility outside of these platforms.

As the city considers changes to the fee cap, finding the right balance to empower restaurant owners to make strategic decisions that are right for them is critical. Importantly, restaurants that want access to low-cost options would still have access to the services that platforms would be required to offer. These options, which provide restaurants access to thousands of customers across New York City, allow small businesses to utilize crucial services that would otherwise be cost prohibitive compared to operating their own delivery fleet.

1200 Waters Place, Suite 106, Bronx, NY 10461 | T: 718-828-3900 • F: 917-540-6478

www.bronxchamber.org

THE NEW BRONX CHAMBER *of* COMMERCE, INC.

Meanwhile, as the Agency looks ahead, it must also consider the harmful unintended consequences of these price controls under the status quo. If the current rules remain in place, it could mean that platforms eventually reduce service options or increase costs, higher prices that would inevitably be passed along by restaurants, which would mean fewer orders being placed on delivery apps — a bad outcome for consumers, restaurants, and the business community as a whole.

As champions for the small businesses that power our communities, The Bronx Chamber knows that every business is unique, and that's true for their operations and needs in the marketplace. When it comes to enabling restaurants to maximize the impact of using local delivery, we believe it's important for business owners to maintain control over how they use third-party delivery platforms.

In an ever-changing digital marketplace, we encourage the Agency to support efforts that would ensure delivery services remain accessible for local businesses and every business across the five boroughs is able to decide what is best for their own needs.

Thank you for the opportunity to submit testimony.

Sincerely,

Lisa Sorin

Lisa Sorin
President

1200 Waters Place, Suite 106, Bronx, NY 10461 | T: 718-828-3900 • F: 917-540-6478
www.bronxchamber.org

May 24, 2023

Department of Consumer and Worker Protection
42 Broadway
New York, New York

Re: Chamber of Progress Letter in Response to New York City's Department of Consumer and Worker Protection (DCWP) Third-Party Food Delivery Service Laws

On behalf of Chamber of Progress – a tech industry association working to ensure all Americans benefit from technological leaps – I write in regard to New York City's Department of Consumer and Work Protections (DCWP) study on the impact of the commission cap on fees charged by third-party delivery apps.

Chamber of Progress supports public policies at the federal and state level that seek to build a fairer, more inclusive country in which all Americans benefit from technological leaps. As the city considers changes to the fee cap, **we encourage New York City to adopt a rule that considers fee caps effects on consumers, drivers, and small minority-owned restaurants.**

App-based delivery provides a safe and convenient alternative for families to get their meals and provides consumers with security and peace of mind by conducting thorough driver background checks, secure credit card processing, and exceptional customer service. App services also provided logistical assistance for a network of drivers and provided smaller, independent, and minority-owned restaurants the opportunity to connect with customers and generate business in tough times.

In Spring 2020, when COVID-19 forced rapid changes to restaurant and delivery app business models, a number of cities implemented temporary commission fee caps in an attempt to ease some of the pressure on restaurants losing out on revenue from in-person dining. Those cities give us a firsthand look at how fee caps hurt families, drivers, and restaurants.

Cities with fee caps saw big, national, chain restaurants like McDonald's thrive and small, mom & pop, independent restaurants decline. After analyzing 14 U.S. cities that implemented temporary or permanent fee caps, Boston College economics professor Zhuoxin Li and University of Delaware economics professor Gang Wang found that national chains fared better while independent restaurants fared worse. The demand for chain restaurants in cities with a cap was 3.6% higher than in cities without a cap. In those same cities with a cap, demand for independent restaurants was 6.8% lower.[83]

The authors conclude that these changes were driven by the increase in delivery fees put on consumers and changes in how platforms market independent restaurants. Since then, the vast majority of those cities with caps have allowed them to lapse as restaurants reopened.

If the current rules remain in place, it could mean that platforms reduce service options or increase costs, higher prices that would inevitably be passed along by restaurants, which would mean fewer orders being placed on delivery apps — a bad outcome for consumers and restaurants.

Data shows that families will begin to place smaller or less frequent orders, driving down demand, leading to an even greater loss in wages for resident-delivery drivers, and raising prices for customers to compensate across the board. A recent paper by Yale Ph.D. candidate Michael Sullivan found that a 15% commission cap resulted in a net increase in prices for consumers.[1]

While it may have once been a common practice, imposing a permanent delivery fee cap misses the mark. Cities like San Francisco, Chicago, and Philadelphia that have previously implemented permanent fee caps have more recently pivoted to adopt a compromise approach. **This compromise allows restaurants to exceed the 15% fee cap limit in exchange for higher tiers of service.**

Delivery services with tiered services beyond the 15% threshold can now o er restaurant packages that include more promotion through in-app marketing services. For small businesses and local restaurants, access to these services could be transformative – as they are more likely to benefit from visibility on the platform than a widely known chain restaurant in the community.

Policymakers should support carry-out, curbside pickup, and delivery on demand as the new norms. We encourage the Agency to amend the delivery fee cap to adopt similar approaches that have proven to be more effective. We look forward to exploring opportunities for collaboration among third-party delivery providers, restaurants, and community members for innovative solutions that will propel communities forward.

Sincerely,

Alain Xiong-Calmes
Director of State & Local Public Policy, Northeast
Chamber of Progress

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[83] Zhuoxin Li & Gang Wang, *Regulating Powerful Platforms: Evidence from Commission Fee Caps in On-Demand Services*, (Nov. 2021) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3871514

05/23/2023

To the New York City Department of Consumer and Worker Protection,

I am writing on behalf of the Haitian American Caucus to share how our members have been able to grow their businesses by taking full advantage of the tools and resources offered by third-party delivery platforms.

The Haitian American Caucus-US, Inc. (HAC) is a global community development nonprofit whose mission is to provide Haitian communities worldwide with access to information and resources to foster self-development and success.

Our goal is to improve the reputation and visibility of minorities by breaking the barriers they face while living in America. HAC is dedicated to educating its members and member communities by providing them with essential tools to ensure success in their personal and professional lives and engaging in collective action to empower the youth in the struggle for social and economic justice.

HAC believes that New York City restaurants need to be able to continue to access important resources and services that can help them expand their reach in an increasingly online economy. Third-party delivery platforms have supported the restaurants we represent through challenging times, allowing these businesses to meet customers where they are or take advantage of new opportunities to increase their revenue.

This includes having the ability to select the products and services that best support their needs and resources, which can be especially important for small businesses to help them differentiate themselves and better compete with bigger brands that have greater visibility outside of these platforms.

As the city considers changes to the fee cap, finding the right balance to empower restaurant owners to make strategic decisions that are right for them is critical. Importantly, restaurants that want access to low-cost options would still have access to the services that platforms would be required to offer. These options, which provide restaurants access to thousands of customers across New York City, allow small businesses to utilize crucial services that would otherwise be cost-prohibitive compared to operating their own delivery fleet.

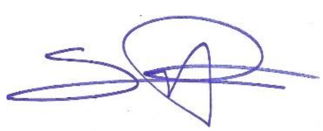
Meanwhile, as the Agency looks ahead, it must also consider the harmful unintended consequences of these price controls under the status quo. If the current rules remain in place, it could mean that platforms eventually reduce service options or increase costs, higher prices that would inevitably be passed along by restaurants, which would mean fewer orders being placed on delivery apps — a bad outcome for consumers, restaurants, and the business community as a whole.

As champions for the small businesses that power our communities, HAC knows that every business is unique, and that’s true for their operations and needs in the marketplace. When it comes to enabling restaurants to maximize the impact of using local delivery, we believe it's important for business owners to maintain control over how they use third-party delivery platforms.

In an ever-changing digital marketplace, we encourage the Agency to support efforts that would ensure delivery services remain accessible for local businesses and every business across the five boroughs is able to decide what is best for their own needs.

Thank you for the opportunity to submit testimony.

Sincerely,



Samuel M. Pierre
Haitian American Caucus-US, Inc.
spierre@hacus.org www.hacus.org

May 26, 2023

Dear New York City Department of Consumer and Worker Protection,

I am writing on behalf of the Yemeni American Merchants Association to share how our members have been able to grow their businesses by taking full advantage of the tools and resources offered by third-party delivery platforms.

The Yemeni American Merchants Association (YAMA) provides services citywide. YAMA serves as a valuable community resource, offering programs that provide technical assistance to small business owners, cultural and after-school programs to youth,leadership training to young women and mental health and well being services. We are the only merchants association/small business nonprofit in New York City that provides services in multiple Arabic dialects as well as in Spanish. As a merchant-serving organization, we work to build bridges between Yemeni American bodega owners and workers and the communities in which their stores are located---many of which are low-income communities of color. YAMA serves over 5000 people yearly and nearly 70 percent of those served are below the federal poverty level and receive social service assistance.

Yemeni American Merchants Association believes that New York City restaurants need to be able to continue to access important resources and services that can help them expand their reach in an increasingly online economy. Third-party delivery platforms have supported the restaurants we represent through challenging times, allowing these businesses to meet customers where they are or take advantage of new opportunities to increase their revenue.

This includes having the ability to select the products and services that best support their needs, resources that can be especially important for small businesses to help them differentiate themselves and better compete with bigger brands that have greater visibility outside of these platforms.

As the city considers changes to the fee cap, finding the right balance to empower restaurant owners to make strategic decisions that are right for them is critical. Importantly, restaurants that want access to low-cost options would still have access to the services that platforms would be required to offer. These options, which provide restaurants access to thousands of customers across New York City, allow small businesses to utilize crucial services that would otherwise be cost prohibitive compared to operating their own delivery fleet.

Meanwhile, as the Agency looks ahead, it must also consider the harmful unintended consequences of these price controls under the status quo. If the current rules remain in place, it could mean that platforms eventually reduce service options or increase costs, higher prices that would inevitably be passed along by restaurants, which would mean fewer orders being placed on delivery apps — a bad outcome for consumers, restaurants, and the business community as a whole.

As champions for the small businesses that power our communities, Yemeni American Merchants Association Knows that every business is unique, and that's true for their operations and needs in the marketplace. When it comes to enabling restaurants to maximize the impact of using local delivery, we believe it's important for business owners to maintain control over how they use third-party delivery platforms.

In an ever-changing digital marketplace, we encourage the Agency to support efforts that would ensure delivery services remain accessible for local businesses and every business across the five boroughs is able to decide what is best for their own needs.
Thank you for the opportunity to submit testimony.

Sincerely,

Joel Feliciano
Chief Operating Officer
Yemeni American Merchants Association

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Why government-imposed restaurant delivery fee caps hurt independent restaurants, delivery workers, consumers, and delivery app companies

Prof. Arun Sundararajan

New York University Stern School of Business

Contact: digitalarun@nyu.edu

Response to the NYC Dept of Consumer and Worker Protection's request for feedback on delivery fee caps

May 2023

Executive Summary

- The long-term survival of New York City independent restaurants is threatened by the delivery and marketing fee caps enacted during the COVID-19 pandemic.

- When they were enacted, these fee caps (effectively, government price controls) were a well-meaning intervention during a health and economic emergency.

- However, such fee caps trigger unintended economic effects that harm independent restaurants, delivery workers, consumers, and delivery apps.

Background and Credentials

I am Dr. Arun Sundararajan, a New York City resident (Greenwich Village). Professionally, I am the Harold Price Professor of Entrepreneurship and Professor of Technology, Operations, and Statistics at NYU's Stern School of Business, and author of the award-winning book *The Sharing Economy* (2016, MIT Press), which is about a reorganization of the economy around "peer to peer" and "gig" interactions. I have also published over 50 scientific papers and over 40 op-eds, many related to the regulation and governance of digital platforms and apps. I received my Ph.D. in Business Administration from the Simon School of Business at the University of Rochester in Rochester, NY.

Findings and Discussion

My research has led me to conclude that the long-term survival of New York City (NYC) independent restaurants is threatened by the delivery and marketing fee caps enacted during the COVID-19 pandemic. When enacted, these price controls were a well-meaning intervention during a nationwide health and economic emergency, but it is now clear that they have outlived their usefulness. In fact, these NYC price controls will - and most likely already have to some degree - trigger unintended economic effects that harm the entire NYC food delivery ecosystem of local independent restaurants, part-time delivery workers, consumers who order food for delivery, and the delivery platforms/apps themselves (e.g., Uber Eats, DoorDash, Grubhub, and others licensed in NYC - which I will refer to as "delivery apps" here). I present evidence for my conclusions below.

Delivery platforms were critical in allowing independent restaurants to survive and thrive during the pandemic. My research paper (with Manav Raj and Calum You), "COVID-19 and Digital Resilience: Evidence from Uber Eats," showed that usage of delivery apps during the COVID-related lockdowns led to economic resilience for independent restaurants. The economic research in this same paper also demonstrated that independent restaurants that delivered more meals using delivery apps during the lockdown era had a higher survival rate a year later.

NYC's existing fee caps prevent delivery apps from charging a fair-market price for marketing services. Such marketing services include improved in-app placement (for example, rankings in consumer searches) and restaurant promotion (deals or discounts). Preventing smaller and independent restaurants from accessing these value-adding services increases restaurant inequality. Importantly, the caps disadvantage smaller and independent restaurants relative to larger corporate restaurant chains that have better access to alternative marketing channels (e.g., television, billboards, etc.).

Indeed, in "Regulating Powerful Platforms: Evidence from Commission Fee Caps in On-Demand Services," Professors Zhuoxin Li and Gang Wang show that fee caps' main economic effect is shifting demand away from small, independent restaurants and towards larger chains. Fee caps hurt smaller restaurants and delivery app companies by restricting their ability to sell marketing services, resulting in less direct revenue for the companies. The authors found that after governments in 14 states and localities imposed fee caps, the orders for smaller independent restaurants decreased by almost 7%, with accompanying reductions in revenues and net profit. In contrast, the delivery demand for larger chain restaurants increased by 3.6%.

When a delivery app company faces a fee cap, it must either lower the wages it pays delivery workers or raise delivery fees on consumers placing the orders (or both). Under the first scenario – delivery app companies compensate for the fee cap by lowering wages – delivery workers are economically harmed. If NYC's proposal to guarantee minimum pay to delivery workers goes into effect, it would become impossible for delivery apps to reduce delivery worker wages. At that point, the only alternative for delivery apps would be to increase consumer fees (the only unregulated part of this economic equation), absorb the losses resulting from the combination of capped fees and minimum wages, or perhaps cease operating in NYC and invest in more business-friendly markets.

Under the second scenario in which delivery app companies raise delivery fees on the consumers placing the orders, consumers would naturally shift their restaurant/food towards restaurant self-pickup. All of this lowers economic opportunities for part-time delivery workers. These scenarios also have the side effect of favoring restaurants that have multiple locations (i.e., large corporate chains) compared to small independent restaurants. In summary, fee caps harm consumers, small independent restaurants, and delivery workers.

If delivery and marketing fee caps persist, that will open the door to the rise of "ghost kitchens" owned and operated by delivery app companies. As described above, one of the economic consequences of fee caps is harm to smaller, independent restaurants. One possible - and even likely - side effect is that it creates a market gap that could be filled by "ghost kitchens" (restaurants without a storefront that rely exclusively on platform delivery). Moreover, it seems likely that delivery app companies will own and operate such ghost kitchens, vertically integrating their operations and saving money. However, this scenario could actually hurt consumers by lowering restaurant delivery choices in the NYC market.

Alternatively, if delivery and marketing fee caps persist, a more extreme scenario is that some delivery app companies will choose to leave the NYC market altogether. One real-life example is Uber Eats threatening to suspend service in Alameda, CA, due to its passing a more permanent delivery fee cap in March 2023.

Conclusions

Virtually every economist - liberal or conservative - will argue against governments instituting price controls (here, fee caps) in a market with many competitors. In NYC, there are three prominent delivery apps (Uber Eats, DoorDash, and Grubhub), around two dozen other licensed delivery apps with various offerings, and many restaurants that employ their own delivery workers – reflecting low barriers to entry and healthy competition.

To sum up, fee caps on restaurant delivery apps negatively affect small independent restaurants, delivery workers, consumers, and restaurant delivery app companies. NYC's independent and specialty dining is the envy of the rest of the country and reflects the unique diversity of its population. Our restaurants should be allowed to grow and thrive, pursuing robust multichannel strategies that reach local diners and more distant delivery loyalists alike. NYC should follow the lead of other major cities by rolling back these pandemic-era restrictions.

From:	Delawn.Khudan <Delawn.Khudan@mail.citytech.cuny.edu>
Sent:	Wednesday, May 24, 2023 12:17 PM
To:	rulecomments (DCWP)
Cc:	Delawn Khudan
Subject:	[EXTERNAL] Delivery Cap Response May 24, 2024

You don't often get email from delawn.khudan@mail.citytech.cuny.edu. Learn why this is important

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Good morning DCWP NYC,

My name is Delawn Khudan, I am a Food Delivery worker and have been doing deliveries while attending college since 2019.

I believe delivery fees should be capped and the guidelines mentioned should be played out.

Currently Food Delivery Apps are notifying it's users to fight against these restrictions. Falsely claiming it will do us more harm. I strongly believe food delivery apps are powered off the labor of hard working delivery workers, often people who may not have other work options.

But in my experience I have saw that the "delivery fee" does not go to the worker. It causes a lot of misconception because customers assume this fee is directly paid to the driver/worker. When in reality the app/company is pocketing this charge.

We often get paid a base fare of around $3. And this remains a constant pay and salary per order. There if I'm only able to complete a max of 2 or 3 orders in an hour due to wait times and distance to deliver. I will only make single digits per hour. Especially because if there are no tips that generally means extremely low pay.

The reality is tips are paying more than my wages paid directly from the delivery app.
Sometimes doubling or tripling what I would be paid by these greedy companies.

I found these companies are willing to do everything to save money and find more ways to pocket and earn more money. At disregard to the workers that power their organization.

I was removed from Grubhub due to being inactive during a school semester. It seems they aren't hiring anyone in my zone and that shows they're not willing to pay for any additional workers, and are actively looking to cut their work force.

Therefore, I agree with the DWCP and feel these changes need to be made to protect the workers that remain.

I appreciate the work you are doing DWCP NYC,

We should not have to survive solely on the generosity and kindness of people leaving a tip, we should receive fair wages that can help alleviate the cost of surging prices and cost of living in New York City

Thank you,
Delawn Khudan (CUNY Student/ Food Delivery Worker) 2

From: Michael Mandel <mmandel@ppionline.org>
Sent: Friday, May 26, 2023 12:12 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Comment on delivery fee caps

As the chief economist of the Progressive Policy Institute, a policy organization devoted to growth and innovation that benefits all, I would like to respond to your request for comments on NYC's food delivery fee caps.

The national public health emergency ended May 11, 2023. The national restaurant emergency appears to be over as well. Despite being pounded by the pandemic, the restaurant industry is emerging into daylight again. Weekly hours worked in restaurants and drinking places are just below February 2020 levels. The number of eating and drinking establishments is up over pre-pandemic levels. And according to the Bureau of Economic Analysis, real consumer spending on purchased meals and beverages (not including school meals), is up 11% compared to the last full pre-pandemic quarter.

With the restaurant industry no longer under pandemic-related stress, there is no compelling reason for government intervention in the food delivery market, just like there is no compelling reason for government intervention in restaurant menu prices. For a more extensive set of arguments against delivery fee caps, see our February 2021 paper, "Price Controls Won't Fix What's Ailing the Restaurant Industry."
(https://www.progressivepolicy.org/publication/price-controls-wont-fix-whats-ailing-the-restaurantindustry/).

Is it possible that New York City is a special case? Certainly it's possible, in the same way that NYC is always a special case. But the high density of the city should intensify the competition among delivery services, making the case against delivery fee caps even stronger.

Thank you

Dr. Michael Mandel
Chief Economist and Vice President
Progressive Policy Institute

--
Dr. Michael Mandel
Chief Economist and Vice President
Progressive Policy Institute
1156 15th St NW, Suite 400
Washington DC 20005

From: Mark Drapeau <mark@datacatalyst.org>
Sent: Thursday, May 25, 2023 5:17 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Data Catalyst Institute - Feedback on NYC Fee Caps
Attachments: Breaking the Model- Analysis of the NYC Restaurant Delivery Economy, Including Government-Proposed Fee Caps and Wage Hikes - May 2023.pdf

Hello:

The Data Catalyst Institute's feedback on NYC fee caps on restaurant delivery services is attached. A summary of our memo is as follows.

- NYC has imposed fee caps (price controls) on third-party restaurant delivery apps. Separately but interrelatedly, NYC has also proposed guaranteed minimum pay for restaurant food deliverers.
- While well-intentioned, the combination of industry-specific maximum prices and industry-specific minimum pay is unprecedented in regulatory history. It will potentially break delivery companies' financial model and will certainly cause extremely negative economic effects on restaurants, deliverers, and diners.
- Resilient and dynamic market-based solutions are the most efficient way to create and sustain the most value for the most people in the long term. Individual government interventions like price controls and minimum wages can solve short-term problems, but they almost always reduce long-term value for stakeholders and are very problematic in combination.

Thank you for the opportunity to share our thoughts.

Sincerely,
Mark Drapeau

--

Mark Drapeau, Ph.D.
Editor In Chief, Data Catalyst Institute

202.378.0346
mark@datacatalyst.org

Breaking the Model:
Analysis of the NYC Restaurant Delivery Economy, Including Government-Proposed Fee Caps and Wage Hikes

Response to the NYC Dept of Consumer and Worker Protection's request for feedback on delivery fee caps

Data Catalyst Institute
May2023

Executive Summary

- NYC has imposed fee caps (price controls) on third-party restaurant delivery apps. Separately but interrelatedly, NYC has also proposed guaranteed minimum pay for restaurant food deliverers.

- While well-intentioned, the combination of industry-specific maximum prices and industry-specific minimum pay is unprecedented in regulatory history. It will potentially break delivery companies' financial model and will certainly cause extremely negative economic effects on restaurants, deliverers, and diners.

- Resilient and dynamic market-based solutions are the most efficient way to create and sustain the most value for the most people in the long term. Individual government interventions like price controls and minimum wages can solve short-term problems, but they almost always reduce long-term value for stakeholders and are very problematic in combination.

Analysis and Discussion

Restaurant delivery apps, such as DoorDash, Uber Eats, and Grubhub, are what economists call "multi-sided marketplaces." They connect several stakeholders – diners, restaurants, and deliverers – and handle various tasks, including marketing, order-taking, collecting payments, coordinating deliveries, balancing real-time supply and demand, managing customer service, and collecting reviews.

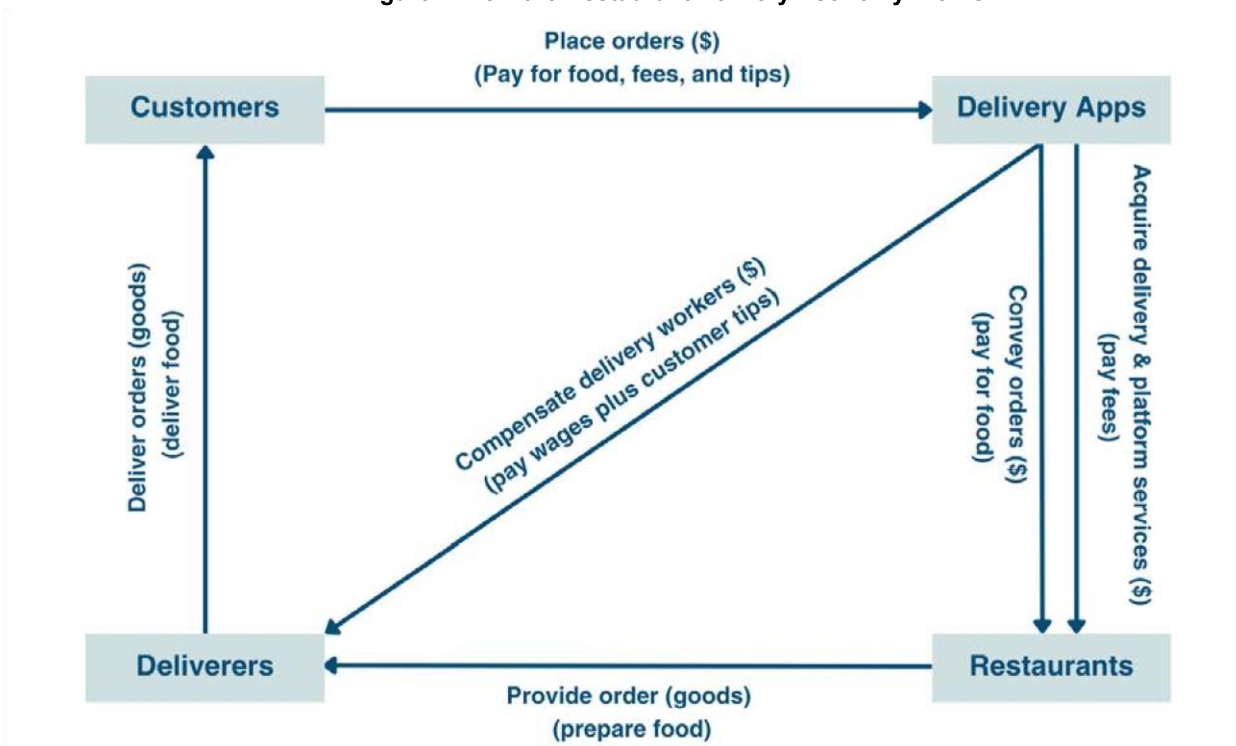
Balancing these diverse stakeholders and tasks is incredibly complex because the ecosystem is interdependent, and changing one input or activity will affect many others. Thus, when NYC imposed a permanent cap on fees that restaurant delivery apps can collect for both delivery and marketing services, the impacts rippled through the system and affected all stakeholders.

In this paper, we briefly describe how the NYC Restaurant Delivery Economy works and then show how targeted changes such as fee caps and wage increases harm all stakeholders, potentially break the restaurant delivery business model, and undermine the entire Restaurant Delivery Economy.

Understanding the Restaurant Delivery Economy

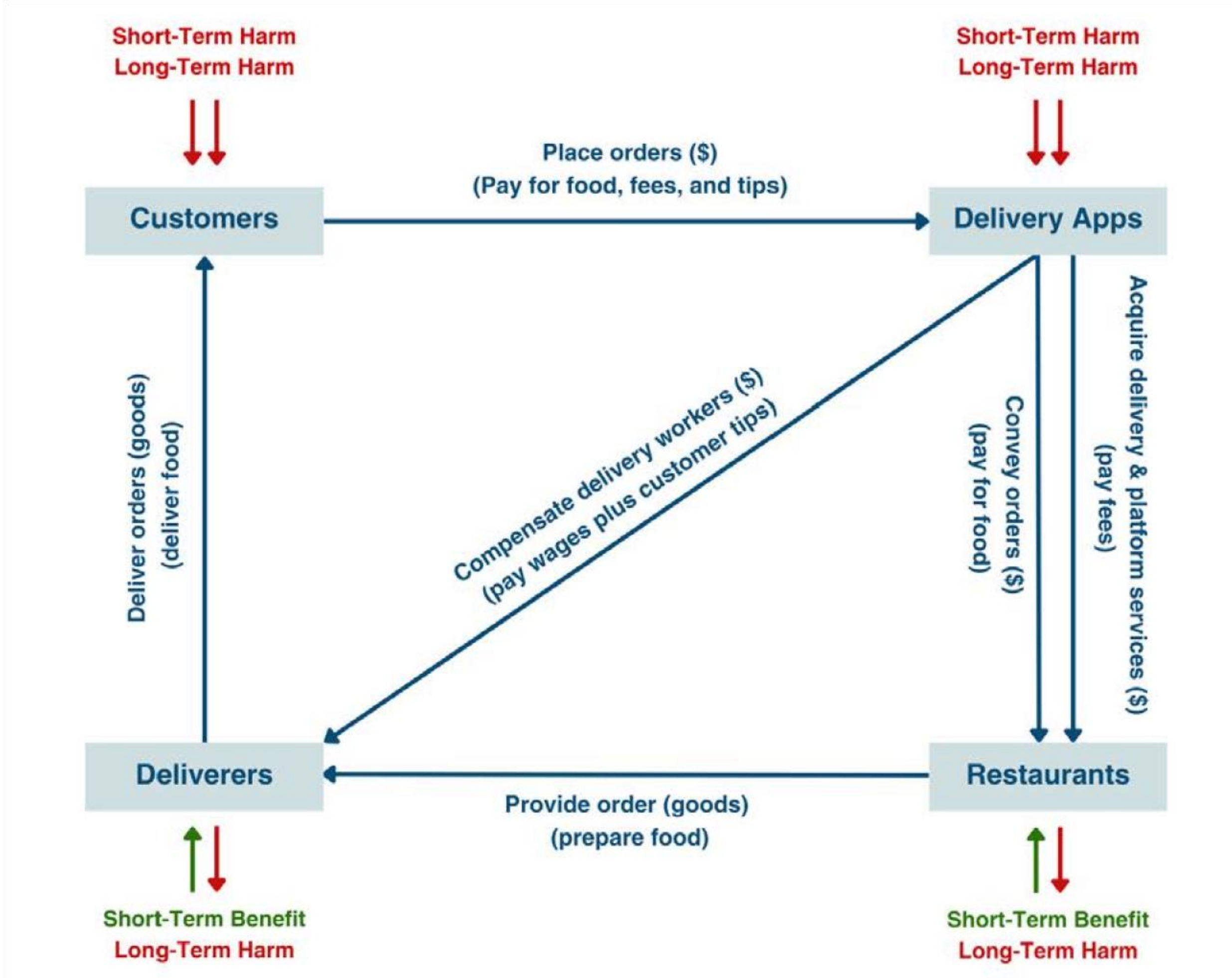
The graphic below demonstrates how Restaurant Delivery Economy stakeholders – diners, apps, restaurants, and deliverers – are connected through the transfer of money and goods. Restaurants pay fees to be listed in the app and for delivery and marketing services. Diners discover restaurants, place orders on the app, pay restaurants, tip deliverers, pay delivery and order fees to the app, and pay government-imposed fees and taxes. The apps remit funds to the restaurants, pay deliverers, and pass through tips. And deliverers transport food from restaurants to customers.

Figure 1. How the Restaurant Delivery Economy Works



The economics of this system reaches an equilibrium when customers are satisfied with the food and delivery service they receive for the amount of money they pay, deliverers are satisfied with their compensation for the services they perform, restaurants are satisfied with their sales for the amount they pay to apps, and the apps generate sufficient revenues to offset their costs and earn reasonable returns for investors. The next graphic shows the downstream economic effects of government-mandated fee caps and wage increases on the Restaurant Delivery Economy. It's clear that while some stakeholders enjoy the short-term benefits of these government actions, the overwhelming impact of negative short and long-term consequences creates an unsustainable future for all stakeholders.

Figure 2. How the Restaurant Delivery Economy Works With Fee Caps and Mandatory Wages



In the short-term, two categories of stakeholders benefit:

- Restaurants pay lower fees and should have higher margins.
- Deliverers may receive more pay for doing the same work (and in some cases, when the guaranteed wages apply to extended periods of time between deliveries, they are paid more for doing no work).

There are, however, offsetting short-term harms to two other categories of stakeholders:

- Apps have reduced revenue and increased labor costs – an unsustainable combination.
- Customers will pay more due to increased or new delivery app fees – as a way for apps to mitigate the effect of restaurant fee caps.

Additionally, the combination of government-mandated fee caps and wage increases causes long-term harm to all stakeholders:

- Customers will reduce delivery orders due to increased costs and reduced selection.

- Restaurants will suffer due to fewer marketing options (as they are prohibited from paying for more), reduced delivery orders, and diminished competition among apps, as some local apps either exit the market or consolidate.
- Deliverers will have fewer orders to deliver (and fewer apps to deliver for), and earn less money.
- Delivery service apps' revenue will be reduced, forcing consolidation, layoffs of employees and delivery workers, and likely reducing investment in New York City.

Additionally, there will be secondary or downstream harms from restaurant delivery app companies' reduced investment in New York City. These could include diminished competition that raises consumer prices, reduces orders, and forces more deliverer layoffs. Consumers in underserved neighborhoods are likely to be disproportionately affected by these negative downstream effects, given that lower-margin areas would be the front-line casualties of, for instance, delivery app companies reducing their geographic service areas to cover only higher-profit areas of the city. We also envision the potential for delivery services to invest in wholly-owned ghost kitchens that compete for food deliveries with small local restaurants, because delivery or marketing fee caps and service limits will not restrict such ghost kitchens.

Additional Data and Analysis on Fee Caps and Minimum Pay

In addition to our own analysis, there have been several studies on the impacts of restaurant delivery apps, fee caps, and wage mandates.

Restaurant delivery apps helped restaurants survive the earliest stage of the COVID-19 pandemic lockdowns

- A research paper utilizing data from Uber Eats documented the power of delivery apps to support independent restaurants, and not only in the short term. The authors demonstrated that the utilization of delivery apps made independent restaurants stronger, more resilient, and more likely to survive a full year of pandemic health restrictions. [*June 2020: Manav Raj (University of Pennsylvania) and Arun Sundararajan (NYU Stern School of Business)*]

Fee caps form an artificial price ceiling on what delivery apps can charge for services, which ultimately hurts small restaurants themselves and their customers

Several research projects have measured the negative impacts of restaurant delivery fee caps, particularly on small, independently-owned restaurants.

- A nationwide study of 200,000 restaurants, including 60,000 chain restaurants, found that after governments in 14 states and localities imposed fee caps, smaller independent restaurants experienced a 6.8 percent reduction in delivery demand and suffered reductions in overall revenues and net profit. In contrast, chain restaurants' delivery demand *increased* by 3.6 percent. Most likely, state and local legislators did not intend to promote chain restaurants and punish locally-owned restaurants. [*July 2021: Zhuoxin Li (University of Wisconsin-Madison School of Business) and Gang Wang (University of Delaware)*]

- A study of restaurant delivery ecosystems in 14 U.S. metropolitan statistical areas utilized 2020-21 data to determine that fee caps diminish market participants' welfare by 6.2% on average, primarily due to price increases imposed on consumers. [*January 2023: Michael Sullivan (Yale University)*]

- Delivery app Grubhub published data documenting those small NYC restaurants with lowered delivery service fees because of the law not only weren't benefiting but were also seeing far less growth than competitors that did not have their fees capped. Restaurants whose fees were above 15% pre-cap and had them lowered because of the cap saw modest 6 percent order growth after the cap went into effect. In contrast, restaurants whose fees were always below 15% and were not impacted by the cap saw order growth explode to nearly 80%. [*August 2022: Grubhub*]

- Similarly, delivery app DoorDash published data on the effects of fee caps in nearby Westchester County during the month of March 2021. The company noted that in areas where state and local governments instituted a fee cap, it began charging customers an *additional* fee (just as our model shows). The results in Westchester County were clear, as DoorDash restaurants experienced nearly a 4 percent monthly decrease in order volume, translating into over $45,000 less in monthly tips. [*April 2021: DoorDash*]

Government-mandated wage floors increase consumer costs and decrease consumer choice, which ultimately backfires against the workers whose wages were boosted

In addition to capping how much delivery service apps can charge restaurants, NYC has also proposed guaranteeing minimum pay for deliverers. This combination of the government raising the cost of providing a service while simultaneously capping the price that can be charged for that same service is unprecedented in the history of economic regulation.

- We are unaware of a specific study of restaurant deliverer wages, but a study of downtown Chicago ride-sharing fees is analogous. A 2022 study of per-ride fees imposed on ride-sharing apps showed that more than 100% of the fee amounts were passed through to consumers. During the period studied, ride-sharing cost increases associated with government fees exceeded $315,000 daily, and it isn't surprising that the study documented customers shifting to other methods of transportation, which harmed both ride-sharing companies and drivers. [*April 2022, Mario Leccese (University of Maryland)*]

Just like with fee caps, a government-mandated wage floor imposes extra costs on restaurant delivery apps, which can be passed on to consumers. This will harm restaurants and delivery workers when customers place fewer delivery orders and/or diminish the order amount. In sum, academic research suggests that wage floors will likely increase customer costs to the detriment of deliverers, restaurants, and customers.

Alternative approaches to improving the Restaurant Delivery Economy for small restaurants, their customers, and delivery workers

NYC's remarkably competitive Restaurant Delivery Economy is unsuitable for extra regulatory attention. First, there are many delivery service competitors. Second, the barriers to entry for new delivery competitors are relatively low. Finally, consumers, deliverers, and restaurants can and do use multiple delivery apps, which promotes competition.

Liad Wagman (Stuart School of Business, Illinois Institute of Technology) explains in a 2022 paper that government-imposed fee caps have not helped – and likely have hurt – NYC's small, independent restaurants in a post-COVID world. Instead, he proposes that NYC lawmakers aiming to support local restaurants should instead consider policies that (1) promote delivery app competition (including by increasing incentives and/or reducing barriers to entry for new delivery services), (2) encourage consumers and restaurants to use multiple platforms, and

(3) provide direct support (i.e., access to capital) to smaller restaurants.

The fee cap policies in NYC and elsewhere offer cautionary tales of how policymakers who ignore economics and empirical research when regulating emerging technologies and marketplaces can harm constituents. It would be preferable for policymakers to use their oversight power to learn about new markets and then encourage market-driven solutions (e.g., tiered fees) that are dynamic, evolving with the industry, and are not confined to a particular geographic area.

About the Data Catalyst Institute

The Data Catalyst Institute (DCI) supports policymakers and other stakeholders as they undertake the important and difficult work of enacting sound public policy governing the use of technology and data. DCI reports on regulatory and legislative proposals to celebrate good policy and identify relevant challenges.

Proposals often evolve – before and even after enactment. DCI will monitor amendments, court cases, and other changes to adjust our analyses and conclusions to reflect future changes. Our objective is not to criticize or condemn but rather to support a better, broader understanding among all stakeholders.

Contact: Dr. Mark Drapeau, Editor In Chief, Data Catalyst Institute (mark@datacatalyst.org

From: Sarah Mitchell <sarah.mitchell@ext.doordash.com>
Sent: Thursday, May 25, 2023 9:32 AM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Comment on New York City's Fee Caps

To the New York City Department of Consumer and Worker Protections:

I am writing to submit a comment on New York City's Fee Caps on behalf of Maria Notaro, Owner of Laguli Pastry Shop. Please see the comment below:

To the New York City Department of Consumer and Worker Protection,

I am the owner of Laguli Pastry Shop, a small business in Astoria that has been serving customers since 1937. I am encouraged by the city's efforts to amend its pandemic-era fee caps for delivery platforms, which would maintain opportunities for local restaurants to reach new customers and grow their businesses.

Food delivery became crucial to survival during some of the most challenging times we faced in recent years, especially smaller independent restaurants like mine. It has helped my business offer delivery as an option to my customers.

Although the worst of the pandemic is behind us and the city is starting to recover, many restaurant owners like myself continue to rely on the benefits of delivery, and it has now become a fundamental part of our business. Food delivery services helped transform our local economy, providing opportunities for restaurants to grow their business and increasing earning opportunities for delivery workers. We see about 1% of our business come through third-party platforms, and it's important to be able to take advantage of these tools to reach even more customers outside of our neighborhood, which is essential in New York City.

That is why I am concerned that if the pandemic-era cap stays in place much longer, it is going to begin to create unintended consequences for the restaurant owners it has been meant to protect. Without changes to the current rule, platforms might be forced to cut services or increase delivery prices, making delivery more expensive for our customers and resulting in fewer orders and lost revenue for restaurants.

We're encouraged that the City Council is now considering making changes to the permanent rule that will offer flexibility to restaurants to use these delivery services and choice in how we use these platforms that have become critical to our operations. Small business owners like myself need to leverage every opportunity we can get to engage with customers, and it doesn't make sense to continue with the current pandemic-era policies that would only limit our flexibility to use delivery platforms in the way that works best for us.

It is important to note that the city will soon be implementing a higher minimum pay rate for delivery workers, which also has the potential to raise delivery costs. In these difficult economic times many restaurants like mine, which now see delivery as an important part of our business, may not be able to survive having so many customers priced out of delivery due to various city regulations.

1

I encourage the Agency to consider what will happen to restaurants if these caps are not amended to reflect our current situation. Running an independent restaurant is challenging enough without having restrictions on how we can access needed resources that are key to our survival, and the city should be open to adapting its rules to support small businesses owners.

Sincerely,
Maria Notaro
Laguli Pastry Shop

From: Matthew Moore <matthew.ryan.moore@outlook.com>
Sent: Friday, May 12, 2023 10:41 AM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Consumer Feedback

Have you seen any informa on about fee caps when using an
app? No.

Do app fees affect how much you p the delivery worker?
Some mes. If there is a delivery fee charged by the restaurant then I would p less or not at all as I expect that money is going to the delivery worker.

Do app fees affect if you order online or call a restaurant directly?
I rarely order delivery and prefer to order directly from a restaurant and pick up my food because delivery fees and expecta ons around pping are out of control. I understand pping a server in a restaurant, but I think restaurants, coffee shops, etc. should be expected to pay a market rate salary to the people actually preparing food vs. shi ing the burden to consumers through ps and fees. It seems like a bait and switch when you order food through a delivery app. For example, you're ordering a $25 pizza and by the me you factor in app fees, delivery fees, taxes, and p you're paying $45-50.

Are the fee caps too high, too low, or about right?
I would be willing to pay 20% for delivery, but I would expect not to be asked to p on top of that. I disagree with fee caps on other fees and instead I think restaurants should have to bake the true cost into the price shown. These are an consumer junk fees like resort fees at hotels and processing fees for concerts.

Matthew Moore
SearchOne Advisors, LLC
561 7th Avenue, 18th Floor
New York, NY 10018 (212)
382-0716 www.search1.com

From: Barbara Sibley <tacosgotham@gmail.com>
Sent: Friday, May 12, 2023 11:43 AM

To: rulecomments (DCWP)
Subject: [EXTERNAL] Third Party Fee cap

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- How have app fees affected your business? Before the cap it would be impossible for me to afford the fees
- Have apps refused service because of the fee caps? Not yet but they are forcing me to sign agreements that have the caps removed as a way to promote that restaurants do not care. I chose not to re-sign with Doordash because I felt it was a bait and switch
- Have apps charged more than the fee caps? Not to my knowledge
- Do apps charge per order using a flat fee or some other method? As I deliver my own orders through Relay the fees are all flat fee. I would not be able to afford a percentage that I cannot show my customers transparently on each order
- What percentage of an order's purchase price do you typically pay an app? 15%
- Do you make a profit from online orders from apps? No but it provides marketing
- Do you use apps for services other than delivery? If yes, what fees do you pay for other services? No I have tried it for marketing but they don;t make a difference
- Is using an app necessary to compete for customers? unfortunately yes
- Have you tried to reduce using apps to reduce the fees you pay them? Yes - I try to reduce the amount of business on the apps because I lose money on every order but I feel that if I am not present on the apps for marketing purposes I lose more business so it is constantly a balance
- Have you declined to use an app because the fees are too high? YES!!
- Are the fee caps too high, too low, or about right? They are still too high. They definitely are making money on the credit card fees and there is no transparency on what they are paying credit card companies for example.

These third party apps are predatory and parasitic but unfortunately we are at their mercy unless we have help from the Dept of Consumer Affairs. Thank you for taking my comments into account.

Barbara Sibley
Chef Owner
La Palapa Tacos Gotham
600 11th Avenue
NY NY 10036
917-273-7833

From: Holiday Manager <managerholiday75@gmail.com>
Sent: Friday, May 12, 2023 11:45 AM

To: rulecomments (DCWP)
Subject: [EXTERNAL] Third Party Fee Cap Comments

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Barbara Sibley
Barbara Sibley
Manager

--
Holiday Cocktail Lounge
75 Saint Marks Place
New York, NY 10003

212-777-9637

Holiday Cocktail Lounge holds the city's 50th licensed bar when Prohibition ended in 1933. Almost 100 years old, this iconic East Village watering hole has pioneered "Dive Elegance", where craft cocktails and a warm welcome meet. The bar has been a gritty dive bar frequented in the 1990s by The Ramones and The Bouncing Souls, who immortalized it in their "Holiday Cocktail Lounge" song. In the 1980s, Madonna, Iggy Pop and Keith Richards frequented its bar stools. Poets Allen Ginsburg and W.H. Auden were regulars in the 1970s, as was Godlis, who documented the punk rock scene,
Frank Sinatra and Shelly Winters made it their haunt in the 1960s. Holiday Cocktail Lounge opened in 1950, succeeding The Ali Baba Burlesque, which entertained guests in the 1940s. The venue began its libational history back in 1919 as a speakeasy hidden in Ann's Beauty Shop, attracting the likes of Russian revolutionary Leon Trotsky during his East Village sojourn.

https://www.holidaycocktaillounge.bar/

From: John Rigos <john@aurifybrands.com>
Sent: Monday, May 15, 2023 6:52 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Delivery Service Fee Cap Survey

Fee caps are a must.

3rd parties have now pushed their focus to advertising revenue, making it hard to compete without spending dollars on advertising on the marketplace.

So even though there is a cap, most operators are spending more then the cap with funds going into pay to play advertising. They're likely making more then before the cap existed.

--

John Z. Rigos Aurify Brands co-CEO john@aurifybrands.com
Melt Shop | Fields Good Chicken | The Little Beet | Little Beet Table | Le Pain Quotidien | Five Guys

From: Daury Del <Daury.Del.614788079@p2a.co>
Sent: Tuesday, May 23, 2023 1:07 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Daury Del
38 W Gun Hill Rd
The Bronx, NY 10467

From: Diana Stevens <Diana.Stevens.614741700@p2a.co>
Sent: Tuesday, May 23, 2023 1:08 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

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Regards,
Diana Stevens
12 E 31st St
New York, NY 10016

From: Zahed Uddin <Zahed.Uddin.405772672@p2a.co>
Sent: Tuesday, May 23, 2023 1:11 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

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Regards,
Zahed Uddin
350 E 137th St
The Bronx, NY 10454

From: Darrel Barno <Darrel.Barno.462802387@p2a.co>
Sent: Tuesday, May 23, 2023 1:13 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

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Regards,
Darrel Barno
3288 Perry Ave
The Bronx, NY 10467

From: Sumaira Riaz <Sumaira.Riaz.614962660@p2a.co>
Sent: Tuesday, May 23, 2023 1:15 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Sumaira Riaz
26-06 18th St
Queens, NY 11102

From: James Turzio <James.Turzio.614739514@p2a.co>
Sent: Tuesday, May 23, 2023 1:15 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
James Turzio
178 Avenue D
New York, NY 10009

From: Mina Bedaba <Mina.Bedaba.615125208@p2a.co>
Sent: Tuesday, May 23, 2023 1:20 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Mina Bedaba
61-20 Madison St
Queens, NY 11385

From: Wei Chen <Wei.Chen.614859575@p2a.co>
Sent: Tuesday, May 23, 2023 1:28 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Wei Chen
35 Orchard St
New York, NY 10002

From: Jeorick Liew <Jeorick.Liew.614785469@p2a.co>
Sent: Tuesday, May 23, 2023 1:38 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

You don't often get email from jeorick.liew.614785469@p2a.co. Learn why this is important

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Jeorick Liew
167 Sands St
Brooklyn, NY 11201

From: Gilbert Torres <Gilbert.Torres.615304786@p2a.co>
Sent: Tuesday, May 23, 2023 1:41 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Gilbert Torres
2965 E 196th St
The Bronx, NY 10461

From: Mosaraf Hossain <Mosaraf.Hossain.615043362@p2a.co>
Sent: Tuesday, May 23, 2023 2:03 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

You don't often get email from mosaraf.hossain.615043362@p2a.co. Learn why this is important

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To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Mosaraf Hossain
135 Autumn Ave
Brooklyn, NY 11208

From: Victor Nunez <Victor.Nunez.405737761@p2a.co>
Sent: Tuesday, May 23, 2023 2:05 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Victor Nunez
278 Humboldt St
Brooklyn, NY 11206

From:	Tenzy Dosowok <Tenzy.Dosowok.615394372@grsdelivery.com>
Sent:	Tuesday, May 23, 2023 2:10 PM
To:	rulecomments (DCWP)
Subject:	[EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Tenzy Dosowok
104-64 39th Ave
Queens, NY 11368

From: Ibrahima diallo <Ibrahima.diallo.462867944@p2a.co>
Sent: Tuesday, May 23, 2023 2:10 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Ibrahima diallo
100 W 142nd St
New York, NY 10030

From: Daniel compaore <Daniel.compaore.405580224@p2a.co>
Sent: Tuesday, May 23, 2023 2:16 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Daniel compaore
3229 Bruner Ave
The Bronx, NY 10469

From: Johnny Andina <Johnny.Andina.615402633@p2a.co>
Sent: Tuesday, May 23, 2023 2:21 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

You don't often get email from johnny.andina.615402633@p2a.co. Learn why this is important

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To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Johnny Andina
50-15 66th St
Queens, NY 11377

From:	Enrique Quezada <Enrique.Quezada.615209836@p2a.co>
Sent:	Tuesday, May 23, 2023 2:24 PM
To:	rulecomments (DCWP)
Subject:	[EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Enrique Quezada
2170 Quimby Ave
The Bronx, NY 10473

From: ABDULLAH TARIF <ABDULLAH.TARIF.615133858@p2a.co>
Sent: Tuesday, May 23, 2023 2:27 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
ABDULLAH TARIF
90-39 179th St
Queens, NY 11432

From: Dillon Ingram <Dillon.Ingram.462827470@p2a.co>
Sent: Tuesday, May 23, 2023 2:33 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Dillon Ingram
861 Madison St
Brooklyn, NY 11221

From: WEILILIANG Li <WEILILIANG.Li.405746851@p2a.co>
Sent: Tuesday, May 23, 2023 2:36 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
WEILILIANG Li
57 Lincoln Rd
Brooklyn, NY 11225

From: Edgar Olmeda <Edgar.Olmeda.614803882@p2a.co>
Sent: Tuesday, May 23, 2023 2:41 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Edgar Olmeda
1851 3rd Ave
New York, NY 10029

From: Kanfiaguin Djekoibgue <Kanfiaguin.Djekoibgue.615382285@p2a.co>
Sent: Tuesday, May 23, 2023 2:54 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Kanfiaguin Djekoibgue
1660 Eastburn Ave
The Bronx, NY 10457

From: Stephane Elie <Stephane.Elie.614907076@p2a.co>
Sent: Tuesday, May 23, 2023 3:12 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Stephane Elie
895 Jamaica Ave
Brooklyn, NY 11208

From: Yuqiong Yang <Yuqiong.Yang.405794092@p2a.co>
Sent: Tuesday, May 23, 2023 3:13 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

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To the Department of Consumer and Worker Protection:

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Regards,
Yuqiong Yang
6976 Eliot Ave
Queens, NY 11379

From: Rogelio De <Rogelio.De.614886601@p2a.co>
Sent: Tuesday, May 23, 2023 3:17 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

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Regards,
Rogelio De
46-14 Junction Blvd Queens,
NY 11368

From: Wendgouda F <Wendgouda.F.405761737@p2a.co>
Sent: Tuesday, May 23, 2023 3:21 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Wendgouda F
952 Sherman Ave
The Bronx, NY 10456

From: MD MAHMUD <MD.MAHMUD.615179632@p2a.co>
Sent: Tuesday, May 23, 2023 3:21 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
MD MAHMUD
128-29 N Conduit Ave Queens,
NY 11420

From: Muhibur Rahman <Muhibur.Rahman.615033462@p2a.co>
Sent: Tuesday, May 23, 2023 3:55 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Muhibur Rahman
10940A 156th St
Jamaica, NY 11433

From: Marre Aminata <Marre.Aminata.405647158@p2a.co>
Sent: Tuesday, May 23, 2023 4:16 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Marre Aminata
1071 Teller Ave
The Bronx, NY 10456

From: Norris Nelson <Norris.Nelson.615100764@p2a.co>
Sent: Tuesday, May 23, 2023 4:32 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Norris Nelson
306 Marion St
Brooklyn, NY 11233

From: Germain Zongo <Germain.Zongo.462824437@p2a.co>
Sent: Tuesday, May 23, 2023 4:49 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Germain Zongo
1359 Findlay Ave
The Bronx, NY 10456

From:	Fanny Lopez <Fanny.Lopez.405759253@p2a.co>
Sent:	Tuesday, May 23, 2023 5:39 PM
To:	rulecomments (DCWP)
Subject:	[EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Fanny Lopez
69-47 Grand Ave
Queens, NY 11378

From: sarah montero <sarah.montero.615379702@p2a.co>
Sent: Tuesday, May 23, 2023 5:45 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
sarah montero 1207
Ogden Ave
The Bronx, NY 10452

From: Antoine Ilboudo <Antoine.Ilboudo.405569632@p2a.co>
Sent: Tuesday, May 23, 2023 5:49 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Antoine Ilboudo
1143 St Lawrence Ave The
Bronx, NY 10472

From: Adelina rodriguez <Adelina.rodriguez.615309673@p2a.co>
Sent: Tuesday, May 23, 2023 6:05 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

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To the Department of Consumer and Worker Protection:

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Regards,
Adelina rodriguez
2931 Frederick Douglass Blvd
New York, NY 10039

From: Omar Adames <Omar.Adames.615058636@p2a.co>
Sent: Tuesday, May 23, 2023 6:16 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Omar Adames
66-17 Woodhaven Blvd Queens,
NY 11374

From:	Gabriel Esteban <Gabriel.Esteban.614777819@p2a.co>
Sent:	Tuesday, May 23, 2023 7:22 PM
To:	rulecomments (DCWP)
Subject:	[EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Gabriel Esteban
608 W 192nd St
New York, NY 10040

From: David Perez <David.Perez.615154657@p2a.co>
Sent: Tuesday, May 23, 2023 7:26 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City’s cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I’m sure that wasn’t what the City Council intended when it first passed the law. That’s why I’m reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
David Perez
1935 Holland Ave
The Bronx, NY 10462

From: Mousa kamara <Mousa.kamara.405779846@p2a.co>
Sent: Tuesday, May 23, 2023 7:40 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Mousa kamara
1721 Hobart Ave
The Bronx, NY 10461

From: Antonio Flores <Antonio.Flores.614777981@p2a.co>
Sent: Tuesday, May 23, 2023 8:06 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Antonio Flores
27 W 118th St
New York, NY 10026

From:	Juan Santos <Juan.Santos.405743313@p2a.co>
Sent:	Tuesday, May 23, 2023 8:54 PM
To:	rulecomments (DCWP)
Subject:	[EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Juan Santos
17-18 Greene Ave
Queens, NY 11385

From:	Mouhammadou Moustapha <Mouhammadou.Moustapha.462863164@p2a.co>
Sent:	Tuesday, May 23, 2023 9:01 PM
To:	rulecomments (DCWP)
Subject:	[EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Mouhammadou Moustapha
1105 Tinton Ave
The Bronx, NY 10456

From: Farvej Alam <Farvej.Alam.615291934@p2a.co>
Sent: Wednesday, May 24, 2023 3:08 AM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Farvej Alam
1511 Fulton St
Brooklyn, NY 11216

From:	Shaquaya Daniels <Shaquaya.Daniels.614831665@p2a.co>
Sent:	Wednesday, May 24, 2023 7:59 AM
To:	rulecomments (DCWP)
Subject:	[EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Shaquaya Daniels
1909 Amsterdam Ave New
York, NY 10032

From:	Margens Antoine <Margens.Antoine.615080055@p2a.co>
Sent:	Wednesday, May 24, 2023 8:02 AM
To:	rulecomments (DCWP)
Subject:	[EXTERNAL] Please amend the proposed rules and support delivery workers

You don't often get email from margens.antoine.615080055@p2a.co. Learn why this is important

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Margens Antoine
1961 Edenwald Ave
The Bronx, NY 10466

From: Mario huma <Mario.huma.614933536@p2a.co>
Sent: Wednesday, May 24, 2023 9:14 AM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Mario huma
2070 Creston Ave
The Bronx, NY 10453

From:	Rutilio Vivar <Rutilio.Vivar.615267300@p2a.co>
Sent:	Wednesday, May 24, 2023 9:24 AM
To:	rulecomments (DCWP)
Subject:	[EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Rutilio Vivar
835 E 156th St
The Bronx, NY 10455

From:	Josue Martinez <Josue.Martinez.614864281@p2a.co>
Sent:	Wednesday, May 24, 2023 9:52 AM
To:	rulecomments (DCWP)
Subject:	[EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Josue Martinez
111-31 44th Ave
Queens, NY 11368

From: Tony Benitez <Tony.Benitez.405740019@p2a.co>
Sent: Wednesday, May 24, 2023 10:07 AM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Tony Benitez
47-07 39th St
Queens, NY 11104

From:	Luis Beltran <Luis.Beltrn.615244639@p2a.co>
Sent:	Wednesday, May 24, 2023 10:23 AM
To:	rulecomments (DCWP)
Subject:	[EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Luis Beltrán
130-21 129th St
Queens, NY 11420

From: Jarrell Kershaw <Jarrell.Kershaw.615302085@p2a.co>
Sent: Wednesday, May 24, 2023 10:26 AM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Jarrell Kershaw
185 Nevins St
Brooklyn, NY 11217

From: Warner feliz <Warner.feliz.614834239@p2a.co>
Sent: Wednesday, May 24, 2023 11:01 AM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Warner feliz
25 Randolph St
Yonkers, NY 10705

From: Ziyen Lengani <Ziyen.Lengani.405726574@p2a.co>
Sent: Wednesday, May 24, 2023 11:29 AM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Ziyen Lengani
1665 Macombs Rd
The Bronx, NY 10453

From:	angelo frias <angelo.frias.615196552@p2a.co>
Sent:	Wednesday, May 24, 2023 12:56 PM
To:	rulecomments (DCWP)
Subject:	[EXTERNAL] Please amend the proposed rules and support delivery workers

You don't often get email from angelo.frias.615196552@p2a.co. Learn why this is important

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards, angelo frias
3810 Bailey Ave
The Bronx, NY 10463

From: Oumar Diallo <Oumar.Diallo.405813748@p2a.co>
Sent: Wednesday, May 24, 2023 1:31 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

You don't often get email from oumar.diallo.405813748@p2a.co. Learn why this is important

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Oumar Diallo
77 Sullivan Pl
Brooklyn, NY 11225

From:	Muhammad Saad <Muhammad.Saad.614946398@p2a.co>
Sent:	Wednesday, May 24, 2023 9:32 PM
To:	rulecomments (DCWP)
Subject:	[EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Muhammad Saad
121 Freeman St
Brooklyn, NY 11222

From: Benjamin Ramos <Benjamin.Ramos.615056629@p2a.co>
Sent: Wednesday, May 24, 2023 11:48 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Benjamin Ramos
3020 Yates Ave
The Bronx, NY 10469

From:	Maxwel Usiel <Maxwel.Usiel.462817327@p2a.co>
Sent:	Thursday, May 25, 2023 8:40 AM
To:	rulecomments (DCWP)
Subject:	[EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Maxwel Usiel
228 E 116th St
New York, NY 10029

From: Ramon PERALTA <Ramon.PERALTA.405669479@p2a.co>
Sent: Thursday, May 25, 2023 9:51 AM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Ramon PERALTA
2180 Holland Ave
The Bronx, NY 10462

From: Dale Neil <Dale.Neil.614861635@p2a.co>
Sent: Thursday, May 25, 2023 10:07 AM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Dale Neil
296 E 93rd St
Brooklyn, NY 11212

From: Abul k <Abul.k.405604704@p2a.co>
Sent: Thursday, May 25, 2023 12:20 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Abul k
244 E 8th St
Brooklyn, NY 11218

From:	Carlos Chavez <carlos1991am@gmail.com>
Sent:	Thursday, May 25, 2023 12:39 PM
To:	correspondence@cityhall.nyc.gov; rulecomments (DCWP); SpeakerAdams@council.nyc.gov; Forman, Adam
Subject:	[EXTERNAL] Exclude Relay From Minimum Wage Increase

[You don't o en get email from carlos1991am@gmail.com. Learn why this is important at h ps://aka.ms/LearnAboutSenderIden fica on]

CAUTION: This email originated from outside of the organiza on. Do not click links or open a achments unless you recognize the sender and know the content is safe. Forward suspect email to phish@o .nyc.gov<mailto:phish@o .nyc.gov> as an a achment (Click the More bu on, then forward as a achment).

To whom it may concern -

I am reaching out to you today because I am a courier for Relay Delivery and am extremely concerned with the new minimum pay rule the DCWP is likely soon enac ng.

By ignoring the gratui es we earn, the law and subsequent rule will inevitably translate into consumers leaving no gratuity at all.

On average, we're already earning almost $30/hour working with Relay.

Our fear is that consumers will righ ully believe it is unnecessary to con nue pping, especially since Third Party apps will add a "Minimum Pay Surcharge" fee to consumers in response to this rule. We've seen them do this in other ci es already.

If consumers stop pping, then we risk actually earning significantly less than what we earn today.

Even though Relay also has couriers, its business model is fundamentally different from the other Big delivery apps. This is something that the DCWP has failed to acknowledge or take into considera on.

We understand that the law and rule are well inten oned, however, no one seems to actually be listening to us - the very group this law and rule were supposed to help.

We urge you to please reconsider how this is being implemented.

Sincerely
Carlos Chavez

Enviado desde

From: Tamer Ahmed <tamer9177561734@gmail.com>
Sent: Thursday, May 25, 2023 12:40 PM
To: correspondence@cityhall.nyc.gov; rulecomments (DCWP); SpeakerAdams@council.nyc.gov; Forman, Adam
Subject: [EXTERNAL] Exclude Relay From Minimum Wage Increase

You don't often get email from tamer9177561734@gmail.com. Learn why this is important

To whom it may concern -

I am reaching out to you today because I am a courier for Relay Delivery and am extremely concerned with the new .minimum pay rule the DCWP is likely soon enacting

By ignoring the gratuities we earn, the law and subsequent rule will inevitably translate into consumers leaving no gratuity at all.

On average, we're already earning almost $30/hour working with Relay.

Our fear is that consumers will rightfully believe it is unnecessary to continue tipping, especially since Third Party apps will add a "Minimum Pay Surcharge" fee to consumers in response to this rule. We've seen them do this in other cities already.

If consumers stop tipping, then we risk actually earning significantly less than what we earn today.

Even though Relay also has couriers, its business model is fundamentally different from the other Big delivery apps. This is something that the DCWP has failed to acknowledge or take into consideration.

We understand that the law and rule are well intentioned, however, no one seems to actually be listening to us - the very group this law and rule were supposed to help.

We urge you to please reconsider how this is being implemented.

Sincerely
tamer Ahmed

Sent from my iPhone

From: Robinson Ramirez <Robinson.Ramirez.614737705@p2a.co>
Sent: Thursday, May 25, 2023 2:28 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Robinson Ramirez
601 W 190th St
New York, NY 10040

From:	xinzhi zhen <xinzhi.zhen.628183057@p2a.co>
Sent:	Thursday, May 25, 2023 4:39 PM
To:	rulecomments (DCWP)
Subject:	[EXTERNAL] Fee Limits on Delivery Platforms May Hurt My Earnings

Dear NYC DCWP,

My name is xinzhi and I am a Dasher in New York City. I am writing to share my concern with the city's current fee limits on delivery platforms, which may harm my earnings and limit options available to restaurants.

NYC's permanent commission cap, if left in place unchanged, will likely lead to higher customer fees, reduced service options for restaurants to attract new customers and grow their business, and ultimately fewer earning opportunities for drivers like me as a result. Plus, restaurants already have access to low-cost options for partnering with delivery platforms for delivery, pickup, and other services, so the fee limits are no longer necessary.

While the City's intention is good, the current commission cap could harm the very restaurants it was designed to protect—including those in low-income communities and communities of color—and New Yorkers who look to these earning opportunities to help bring in extra income. Please also consider the unintended consequences it could have on app-based delivery workers like myself. Thank you.

Sincerely,

Xinzhi zhen
14 Thistle Ct
Staten Island, NY 10304

From: Anyeny Martinez <Anyeny.Martinez.628184786@p2a.co>
Sent: Thursday, May 25, 2023 4:49 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Fee Limits on Delivery Platforms May Hurt My Earnings

Dear NYC DCWP,

My name is Anyeny and I am a Dasher in New York City. I am writing to share my concern with the city's current fee limits on delivery platforms, which may harm my earnings and limit options available to restaurants.

NYC's permanent commission cap, if left in place unchanged, will likely lead to higher customer fees, reduced service options for restaurants to attract new customers and grow their business, and ultimately fewer earning opportunities for drivers like me as a result. Plus, restaurants already have access to low-cost options for partnering with delivery platforms for delivery, pickup, and other services, so the fee limits are no longer necessary.

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Sincerely,

Anyeny Martinez
3045 Villa Ave
The Bronx, NY 10468

From: Kevin Clemons <Kevin.Clemons.588252712@p2a.co>
Sent: Thursday, May 25, 2023 5:00 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Fee Limits on Delivery Platforms May Hurt My Earnings

Dear NYC DCWP,

My name is Kevin and I am a Dasher in New York City. I am writing to share my concern with the city's current fee limits on delivery platforms, which may harm my earnings and limit options available to restaurants.

NYC's permanent commission cap, if left in place unchanged, will likely lead to higher customer fees, reduced service options for restaurants to attract new customers and grow their business, and ultimately fewer earning opportunities for drivers like me as a result. Plus, restaurants already have access to low-cost options for partnering with delivery platforms for delivery, pickup, and other services, so the fee limits are no longer necessary.

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Sincerely,

Kevin Clemons
250 Hawthorne St
Brooklyn, NY 11225

From: Lizdianny abreu <Lizdianny.abreu.628187666@p2a.co>
Sent: Thursday, May 25, 2023 5:08 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Fee Limits on Delivery Platforms May Hurt My Earnings

Dear NYC DCWP,

My name is Lizdianny and I am a Dasher in New York City. I am writing to share my concern with the city's current fee limits on delivery platforms, which may harm my earnings and limit options available to restaurants.

NYC's permanent commission cap, if left in place unchanged, will likely lead to higher customer fees, reduced service options for restaurants to attract new customers and grow their business, and ultimately fewer earning opportunities for drivers like me as a result. Plus, restaurants already have access to low-cost options for partnering with delivery platforms for delivery, pickup, and other services, so the fee limits are no longer necessary.

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Sincerely,

Lizdianny abreu
2460 Belmont Ave
The Bronx, NY 10458

From:	Saturnino Garcia <Saturnino.Garcia.588179156@p2a.co>
Sent:	Thursday, May 25, 2023 5:11 PM
To:	rulecomments (DCWP)
Subject:	[EXTERNAL] Fee Limits on Delivery Platforms May Hurt My Earnings

Dear NYC DCWP,

My name is Saturnino and I am a Dasher in New York City. I am writing to share my concern with the city's current fee limits on delivery platforms, which may harm my earnings and limit options available to restaurants.

NYC's permanent commission cap, if left in place unchanged, will likely lead to higher customer fees, reduced service options for restaurants to attract new customers and grow their business, and ultimately fewer earning opportunities for drivers like me as a result. Plus, restaurants already have access to low-cost options for partnering with delivery platforms for delivery, pickup, and other services, so the fee limits are no longer necessary.

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Sincerely,

Saturnino Garcia
223 Wyckoff Ave
Brooklyn, NY 11237

From: Kelvin Tavares <Kelvin.Tavares.628195342@p2a.co>
Sent: Thursday, May 25, 2023 5:39 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Fee Limits on Delivery Platforms May Hurt My Earnings

Dear NYC DCWP,

My name is Kelvin and I am a Dasher in New York City. I am writing to share my concern with the city's current fee limits on delivery platforms, which may harm my earnings and limit options available to restaurants.

NYC's permanent commission cap, if left in place unchanged, will likely lead to higher customer fees, reduced service options for restaurants to attract new customers and grow their business, and ultimately fewer earning opportunities for drivers like me as a result. Plus, restaurants already have access to low-cost options for partnering with delivery platforms for delivery, pickup, and other services, so the fee limits are no longer necessary.

While the City's intention is good, the current commission cap could harm the very restaurants it was designed to protect—including those in low-income communities and communities of color—and New Yorkers who look to these earning opportunities to help bring in extra income. Please also consider the unintended consequences it could have on app-based delivery workers like myself. Thank you.

Sincerely,

Kelvin Tavares
3327 Fulton St
Brooklyn, NY 11208

From:	Domenic Manning <Domenic.Manning.628196332@p2a.co>
Sent:	Thursday, May 25, 2023 5:42 PM
To:	rulecomments (DCWP)
Subject:	[EXTERNAL] Fee Limits on Delivery Platforms May Hurt My Earnings

Dear NYC DCWP,

My name is Domenic and I am a Dasher in New York City. I am writing to share my concern with the city's current fee limits on delivery platforms, which may harm my earnings and limit options available to restaurants.

NYC's permanent commission cap, if left in place unchanged, will likely lead to higher customer fees, reduced service options for restaurants to attract new customers and grow their business, and ultimately fewer earning opportunities for drivers like me as a result. Plus, restaurants already have access to low-cost options for partnering with delivery platforms for delivery, pickup, and other services, so the fee limits are no longer necessary.

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Sincerely,

Domenic Manning
1141 FDR Dr
New York, NY 10009

From: Titus Bogba <Titus.Bogba.470887871@p2a.co>
Sent: Thursday, May 25, 2023 5:46 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Fee Limits on Delivery Platforms May Hurt My Earnings

Dear NYC DCWP,

My name is Titus and I am a Dasher in New York City. I am writing to share my concern with the city's current fee limits on delivery platforms, which may harm my earnings and limit options available to restaurants.

NYC's permanent commission cap, if left in place unchanged, will likely lead to higher customer fees, reduced service options for restaurants to attract new customers and grow their business, and ultimately fewer earning opportunities for drivers like me as a result. Plus, restaurants already have access to low-cost options for partnering with delivery platforms for delivery, pickup, and other services, so the fee limits are no longer necessary.

While the City's intention is good, the current commission cap could harm the very restaurants it was designed to protect—including those in low-income communities and communities of color—and New Yorkers who look to these earning opportunities to help bring in extra income. Please also consider the unintended consequences it could have on app-based delivery workers like myself. Thank you.

Sincerely,

Titus Bogba
516 Main St
New York, NY 10044

From:	Stavros Perkins <Stavros.Perkins.427151217@p2a.co>
Sent:	Thursday, May 25, 2023 5:53 PM
To:	rulecomments (DCWP)
Subject:	[EXTERNAL] Fee Limits on Delivery Platforms May Hurt My Earnings

Dear NYC DCWP,

My name is Stavros and I am a Dasher in New York City. I am writing to share my concern with the city's current fee limits on delivery platforms, which may harm my earnings and limit options available to restaurants.

NYC's permanent commission cap, if left in place unchanged, will likely lead to higher customer fees, reduced service options for restaurants to attract new customers and grow their business, and ultimately fewer earning opportunities for drivers like me as a result. Plus, restaurants already have access to low-cost options for partnering with delivery platforms for delivery, pickup, and other services, so the fee limits are no longer necessary.

While the City's intention is good, the current commission cap could harm the very restaurants it was designed to protect—including those in low-income communities and communities of color—and New Yorkers who look to these earning opportunities to help bring in extra income. Please also consider the unintended consequences it could have on app-based delivery workers like myself. Thank you.

Sincerely,

Stavros Perkins
3530 Edson Ave
The Bronx, NY 10466

From: Jorge Estrada <Jorge.Estrada.519170764@p2a.co>
Sent: Thursday, May 25, 2023 5:55 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Fee Limits on Delivery Platforms May Hurt My Earnings

Dear NYC DCWP,

My name is Jorge and I am a Dasher in New York City. I am writing to share my concern with the city's current fee limits on delivery platforms, which may harm my earnings and limit options available to restaurants.

NYC's permanent commission cap, if left in place unchanged, will likely lead to higher customer fees, reduced service options for restaurants to attract new customers and grow their business, and ultimately fewer earning opportunities for drivers like me as a result. Plus, restaurants already have access to low-cost options for partnering with delivery platforms for delivery, pickup, and other services, so the fee limits are no longer necessary.

While the City's intention is good, the current commission cap could harm the very restaurants it was designed to protect—including those in low-income communities and communities of color—and New Yorkers who look to these earning opportunities to help bring in extra income. Please also consider the unintended consequences it could have on app-based delivery workers like myself. Thank you.

Sincerely,

Jorge Estrada
1208 Clay Ave
The Bronx, NY 10456

From: Martin Victoriano <Martin.Victoriano.588658820@p2a.co>
Sent: Thursday, May 25, 2023 6:07 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Fee Limits on Delivery Platforms May Hurt My Earnings

Dear NYC DCWP,

My name is Martin and I am a Dasher in New York City. I am writing to share my concern with the city's current fee limits on delivery platforms, which may harm my earnings and limit options available to restaurants.

NYC's permanent commission cap, if left in place unchanged, will likely lead to higher customer fees, reduced service options for restaurants to attract new customers and grow their business, and ultimately fewer earning opportunities for drivers like me as a result. Plus, restaurants already have access to low-cost options for partnering with delivery platforms for delivery, pickup, and other services, so the fee limits are no longer necessary.

While the City's intention is good, the current commission cap could harm the very restaurants it was designed to protect—including those in low-income communities and communities of color—and New Yorkers who look to these earning opportunities to help bring in extra income. Please also consider the unintended consequences it could have on app-based delivery workers like myself. Thank you.

Sincerely,

Martin Victoriano
3131 Decatur Ave
The Bronx, NY 10467

From: Vincent Hernandez <Vincent.Hernandez.628209472@p2a.co>
Sent: Thursday, May 25, 2023 6:14 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Fee Limits on Delivery Platforms May Hurt My Earnings

Dear NYC DCWP,

My name is Vincent and I am a Dasher in New York City. I am writing to share my concern with the city's current fee limits on delivery platforms, which may harm my earnings and limit options available to restaurants.

NYC's permanent commission cap, if left in place unchanged, will likely lead to higher customer fees, reduced service options for restaurants to attract new customers and grow their business, and ultimately fewer earning opportunities for drivers like me as a result. Plus, restaurants already have access to low-cost options for partnering with delivery platforms for delivery, pickup, and other services, so the fee limits are no longer necessary.

While the City's intention is good, the current commission cap could harm the very restaurants it was designed to protect—including those in low-income communities and communities of color—and New Yorkers who look to these earning opportunities to help bring in extra income. Please also consider the unintended consequences it could have on app-based delivery workers like myself. Thank you.

Sincerely,

Vincent Hernandez
831 Gerard Ave
The Bronx, NY 10451

From: Michael Crawford <Michael.Crawford.463368839@p2a.co>
Sent: Thursday, May 25, 2023 6:23 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Fee Limits on Delivery Platforms May Hurt My Earnings

Dear NYC DCWP,

My name is Michael and I am a Dasher in New York City. I am writing to share my concern with the city's current fee limits on delivery platforms, which may harm my earnings and limit options available to restaurants.

NYC's permanent commission cap, if left in place unchanged, will likely lead to higher customer fees, reduced service options for restaurants to attract new customers and grow their business, and ultimately fewer earning opportunities for drivers like me as a result. Plus, restaurants already have access to low-cost options for partnering with delivery platforms for delivery, pickup, and other services, so the fee limits are no longer necessary.

While the City's intention is good, the current commission cap could harm the very restaurants it was designed to protect—including those in low-income communities and communities of color—and New Yorkers who look to these earning opportunities to help bring in extra income. Please also consider the unintended consequences it could have on app-based delivery workers like myself. Thank you.

Sincerely,

Michael Crawford
133-07 140th St
Queens, NY 11436

From: CAROLINA Castro <CAROLINA.Castro.615002420@p2a.co>
Sent: Thursday, May 25, 2023 8:00 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
CAROLINA Castro
685 Georgia Ave
Brooklyn, NY 11207

From:	Charles Jenkins <Charles.Jenkins.614824456@p2a.co>
Sent:	Friday, May 26, 2023 2:58 AM
To:	rulecomments (DCWP)
Subject:	[EXTERNAL] Please amend the proposed rules and support delivery workers

You don't often get email from charles.jenkins.614824456@p2a.co. Learn why this is important

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Charles Jenkins
526 W 47th St
New York, NY 10036

From: Timothy Fraser <Timothy.Fraser.614947991@p2a.co>
Sent: Friday, May 26, 2023 8:07 AM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

You don't often get email from timothy.fraser.614947991@p2a.co. Learn why this is important

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Timothy Fraser
14704 Foch Blvd
Queens, NY 11436

From: José Rodriguez <Jos.Rodrguez.610683240@p2a.co>
Sent: Friday, May 26, 2023 12:19 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Fee Limits on Delivery Platforms May Hurt My Earnings

Dear NYC DCWP,

My name is José and I am a Dasher in New York City. I am writing to share my concern with the city's current fee limits on delivery platforms, which may harm my earnings and limit options available to restaurants.

NYC's permanent commission cap, if left in place unchanged, will likely lead to higher customer fees, reduced service options for restaurants to attract new customers and grow their business, and ultimately fewer earning opportunities for drivers like me as a result. Plus, restaurants already have access to low-cost options for partnering with delivery platforms for delivery, pickup, and other services, so the fee limits are no longer necessary.

While the City's intention is good, the current commission cap could harm the very restaurants it was designed to protect—including those in low-income communities and communities of color—and New Yorkers who look to these earning opportunities to help bring in extra income. Please also consider the unintended consequences it could have on app-based delivery workers like myself. Thank you.

Sincerely,

José Rodríguez
515 52nd St
Brooklyn, NY 11220

From: Warren Grant <Warren.Grant.366205873@p2a.co>
Sent: Friday, May 26, 2023 12:23 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Fee Limits on Delivery Platforms May Hurt My Earnings

Dear NYC DCWP,

My name is Warren and I am a Dasher in New York City. I am writing to share my concern with the city's current fee limits on delivery platforms, which may harm my earnings and limit options available to restaurants.

NYC's permanent commission cap, if left in place unchanged, will likely lead to higher customer fees, reduced service options for restaurants to attract new customers and grow their business, and ultimately fewer earning opportunities for drivers like me as a result. Plus, restaurants already have access to low-cost options for partnering with delivery platforms for delivery, pickup, and other services, so the fee limits are no longer necessary.

While the City's intention is good, the current commission cap could harm the very restaurants it was designed to protect—including those in low-income communities and communities of color—and New Yorkers who look to these earning opportunities to help bring in extra income. Please also consider the unintended consequences it could have on app-based delivery workers like myself. Thank you.

Sincerely,

Warren Grant
120-37 144th St
Queens, NY 11436

From: yalin fernandez <yalin.fernandez.615122418@p2a.co>
Sent: Friday, May 26, 2023 7:15 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
yalin fernandez
2015 Newbold Ave
The Bronx, NY 10462

From: Alberto lucas <Alberto.lucas.614793000@p2a.co>
Sent: Sunday, May 28, 2023 7:08 PM
To: rulecomments (DCWP)
Subject: [EXTERNAL] Please amend the proposed rules and support delivery workers

To the Department of Consumer and Worker Protection:

New York City's cap on marketing services for third-party delivery apps means fewer orders and tips for earners like me. I'm sure that wasn't what the City Council intended when it first passed the law. That's why I'm reaching out to urge you to change the law, so that restaurants see more orders and the NYC delivery community continues to see the earning opportunities and tips we rely on.

Regards,
Alberto lucas
473 Malcolm X Blvd
New York, NY 10030