

**Comments on the NYC Department of Consumer and Worker Protection's
Proposed Rules Establishing Minimum Pay for Food Delivery Workers**
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My name is Nevin Cohen, and I am an Associate Professor at the CUNY Graduate School of Public Health and Health Policy and the Director of the CUNY Urban Food Policy Institute. The Institute conducts research, education, and action to advance just, healthy, and resilient urban food systems, which includes the health and wellbeing of food workers. My colleagues and I have been examining the health disparities of algorithmic management experienced by app-based food delivery workers and wish to offer the following comments based on our research.

The Department of Consumer and Worker Protection's (DCWP) proposed rules to establish minimum payments for food delivery workers by third-party food delivery services aim to ensure that New York City's estimated 61,000 food delivery workers receive fair, adequate, and consistent pay for the essential, yet often poorly compensated and dangerous, work that they do. Currently, delivery workers' average hourly net pay is \$4.03 and their net earnings, including tips, is \$11.12, significantly below the New York State minimum wage of \$15.00 per hour. Since workers are only paid for time that they are actively completing a delivery gig, companies have been able to shift the costs of this uncompensated time to workers, depressing their effective compensation. In addition, because they are classified as independent contractors, app-based food delivery workers are not entitled to paid safe and sick leave, unemployment insurance, workers' compensation, and employer contributions to Medicare and Social Security, an additional \$6.00 per hour worth of benefits received by conventional employees, not app-based delivery workers. Compensation through tips can be highly variable and are based on the whims of customers who may be biased or unhappy about aspects of their food that are completely out of the delivery worker's control.

In addition to receiving below minimum wage compensation, app-based delivery workers face significant risks in the form of financial uncertainty due to variable schedules and unpredictable gigs, dependence on tips that both vary and may be mis-appropriated by the delivery companies, and vehicle repair and replacement costs due to theft. The occupational safety risks of food delivery work include higher levels of injuries and fatalities than even the riskiest occupations like construction work. There is also a growing body of evidence to suggest that the stresses associated with being managed by algorithms, including variable gig scheduling, changing compensation levels, management decisions based on customer ratings, gig acceptance, and delivery speed, contribute to poor mental health, especially among the more

than three-quarters (77%) of e-bike delivery workers for whom food delivery is their sole or main source of income. And because 91% of app-based delivery workers are non-white and/or Hispanic, these impacts are likely to exacerbate New York City's racial and ethnic income inequality and health disparities.

We commend the DCWP for its efforts towards establishing fair compensation standards and offering protections that will hopefully improve the lives of delivery workers, and for conducting a groundbreaking study of New York City's food delivery workers to establish these rules. However, we urge DCWP to reconsider its proposed two-year phase in of the minimum compensation rate. While we understand the desire to provide time for the platform companies to adjust their pricing and deployment algorithms, we are concerned about potential unintended negative consequences for existing workers. The proposed phase in of the \$23.82 per hour pay rate will likely result in enormous stress for workers as the delivery companies attempt to fill their orders with fewer people and deactivate large numbers of workers to reduce costs. We urge DCWP to shorten the time to reach the mandated compensation. In addition, we understand from delivery worker representatives that the amount for hourly expenses is lower than the actual costs to delivery workers, especially when the costs of more expensive mopeds and motorcycles are included, and therefore urge DCWP to increase the amount of the minimum pay attributed to expenses by approximately \$5.

As the new rule is implemented, it is critical for DCWP to collect and provide access to data that will enable workers, labor organizations, and researchers, as well as DCWP staff, to evaluate the rule's effectiveness at ensuring that delivery workers receive fair compensation and that the new minimum compensation level results in financial gains and health and wellbeing co-benefits. Careful evaluation will prevent unintended negative consequences to workers. With respect to the recordkeeping requirements of the proposed rule, we recommend requiring third party food delivery or courier services to collect and report to DCWP data on worker equipment theft and breakage and on-the-job accidents and injury. Although self-reported, such data would enable DCWP to assess the need to re-evaluate the hourly expense component of the minimum compensation rate and whether additional regulations are required to improve the safety of food delivery work.

Thank you for the opportunity to present our comments today. We welcome the opportunity to clarify or elaborate on our remarks and look forward to assessing the effects of these proposed rules on the lives of the city's food delivery workforce.