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**Regarding minimum payments for third party delivery workers**

Good afternoon.  My name is Kathleen Reilly, and I am the NYC Government Affairs Manager for the New York State Restaurant Association. We are a trade association representing food and beverage establishments in New York City and State. We are the largest hospitality trade association in the State, and we have advocated on behalf of our members for over 80 years. Our members represent a large and widely regulated constituency in New York City, and our industry continues to be disproportionately hurt by the lingering impact and losses of the Covid-19 pandemic.

We understand that the Department of Consumer and Worker Protection has carried out a study regarding the current pay conditions for food delivery workers who are independent contractors with the third-party delivery platforms active in New York City – prominently, Grubhub, Doordash, UberEats, and Relay. We understand the Department’s intentions to better compensate these workers and bring their pay better in line with other minimum wages present in the city. We know that the proposed pay rate of $23.82 per hour would apply to delivery workers who are independent contractors, rather than delivery workers directly employed by our member restaurants. All of that said, we would still like to point out several consequences of this proposed pay rate rule that we anticipate impacting our membership.

If third-party delivery platforms are required to pay their delivery workers at a higher rate, and not just for time spent on deliveries but also for “on call” time, we anticipate these platforms responding with some combination of the following: passing on much higher delivery costs to customers; creating more regimented and less flexible work opportunities for drivers; reducing or eliminating delivery fulfillment in New York City. Each one of these responses would negatively impact restaurants. If consumers are hit with much higher delivery fees, they will likely reduce their demand for delivery orders. If third-party platforms implement more regimented and less flexible work opportunities, for instance, placing a low cap on how many drivers can have the app open at once, or setting more rigorous delivery-per-hour metrics, we foresee slower delivery times and rushed or unsafe delivery driving. If the platforms choose to simply reduce or eliminate delivery fulfillment in New York City, many restaurants will be cut off from the opportunity to deliver altogether, if hiring their own staff delivery worker is not feasible.

The provision of “on-call” time at the same rate of pay is justified in the statement of basis and purpose by arguing, “the rule will also incentivize apps to increase the amount of time workers spend engaged in trips and reduce the amount of time workers spend waiting for trip offers.” We agree, platforms will be forced to minimize “on-call” time waiting for trip offers, but we foresee this optimization will come at the cost of broad worker opportunity and flexibility in participating on the apps. As it stands, driving for delivery platforms has been a pretty accessible entry point into employment, particularly for recent arrivals to the United States, or to people who lose or change jobs and need something to earn money in the interim. We want to warn that forcing the delivery platforms’ hand, by requiring the same rate of pay for “on-call” time, will likely result in optimizations that limit the accessibility of entering and participating in this workforce.

In conclusion, the New York State Restaurant Association would simply urge the Committee to consider these consequences, and to consider working with the delivery platforms to settle on an on-call rate of pay that is agreeable to all parties. While we are only indirectly impacted by this rule change, we want to limit any negative spillover effects on the restaurant industry, which is still struggling to recover from the negative impacts of the pandemic. Thank you for considering our feedback, and we remain dedicated partners in building a fair, transparent, and productive food delivery market in New York City.

Respectfully Submitted,

Kathleen Reilly

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