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April 6, 2023

**RE: Minimum Pay for Food Delivery Workers Proposed Rules**

Local Law 115 of 2021 was clear: implement a fair minimum wage for delivery workers by January 1, 2023. I am deeply disappointed that the Department of Consumer and Worker Protection (DCWP) has caved to the demands of delivery app companies and failed to protect Deliveristas in a timely fashion. The newly proposed rule is not only months behind schedule, but would allow the app companies to continue to pay delivery workers far below the minimum wage rate.

Deliveristas are essential to New York City. These 65,000 New Yorkers work arduous hours ensuring that people are fed and helping our small businesses survive. We would not have made it through the pandemic without them and continue to rely on them daily. They deserve to make a living wage and be protected from corporate wage theft. Each additional day of delay is unacceptable.

The proposal to reduce workers' pay by \$3.60 per hour because they may keep several apps open while waiting for their next job, so-called "multi-apping," is premised on faulty assumptions and there is no evidence that this practice would impact pay. Delivery workers do not get paid during their on-call or waiting time, and therefore, like FHV drivers, they should not be penalized for waiting for jobs from several potential sources. Further, DCWP's proposed deduction is overinflated and based on outdated data about delivery driver activity.

Despite already being months behind the legal deadline to increase wages, the new proposed rule also continues to include a "phase in" to allow corporations to further delay paying fair wages for an additional two years. New York's \$15 minimum wage went into effect four years ago without a phase in, and TLC driver pay rules similarly went into effect immediately. There is no conceivable justification for allowing corporations to continue to profit on the backs of essential workers.

Additionally, corporations are already attempting to undermine proposed pay rates through practices such as "order bundling," which allow app companies to reduce workers' pay by sending multiple orders in one trip. Ignoring this and other potentially harmful business practices will undermine the intent of the law.

On top of these continued delays and carve outs, rising inflation costs are decreasing net pay to delivery workers who are already struggling to get by. We cannot continue to let large corporations undermine this process. I urge DCWP to promptly strengthen these rules and ensure Deliveristas finally start getting paid the wages they deserve.

A handwritten signature in black ink that reads "Lincoln Restler". The signature is written in a cursive, flowing style.

Lincoln Restler  
New York City Council Member, District 33  
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