

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON SMALL BUSINESS JOINTLY
WITH THE COMMITTEE ON CONSUMER
AFFAIRS AND BUSINESS LICENSING

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April 29, 2020
Start: 1:10 p.m.
Recess: 6:36 p.m.

HELD AT: Remote Hearing

B E F O R E: Mark Gjonaj,
Chairperson of the Committee on
Small Business

Andrew Cohen,
Chairperson of the Committee on
Consumer Affairs and Business
Licensing

COUNCIL MEMBERS:

Speaker Corey Johnson
Helen K. Rosenthal
Justin Brannan
Carlina Rivera
Brad Lander
Karen Koslowitz
Francisco Moya
Margaret Chin
Adrienne Adams

COUNCIL MEMBERS (CONT.):

Kalman Yeger
Steven Matteo
Peter Koo
Keith Powers

A P P E A R A N C E S

Greg Bishop
Commissioner of the New York City Department of
Small Business Services

Lorelei Salas
Commissioner of the Department of Consumer and
Worker Protection

Jackie Mallon
First Deputy Commissioner

Steven Edinony[SP?]
Executive Director

Mike Tiger
Deputy General Counsel

Evan Franca
Merchant Member of the North Flatbush Business
Improvement District

Jessica Lappin
New York City Business Leader

Andrew Riggie
Vice Chair of Community Board 7

Robert Bookman
New York City Hospitality Alliance

Amy Healy
Senior Director Public Affairs of Grubhub

A P P E A R A N C E S (CONT.)

Josh Gold
Director, Public Affairs for Uber

Max Rettig
Global Head of Public Policy at Door Dash

Vignesh Ganapathy on behalf of Postmates for
Vikrum Dave Aiyer

Lisa Sorin
Head of Bronx Chamber of Commerce

Karen Narefsky
ANHD Senior Organizer for Equitable Economic
Development

Jo-Ann Yoo
Executive Director of the Asian American
Federation

Ahyoung Kim
Small Business Project Manager at the Asian
American Federation

Ryan Monell
Director of City Legislative Affairs for the Real
Estate Board of New York

Steven Choi
Executive Director at the New York Immigration
Coalition

A P P E A R A N C E S (CONT.)

Mohamad Attia
Executive of the Street Vendor project at the
Urban Justice Center

Michael Brady
Chief Executive Officer of the Third Avenue
Business Improvement District

Pablo Benson Silva
New York City Network of Worker Cooperatives

Jennifer Tausig
Co-Chair of the New York City Bid Association

Matt Newberg
Founder and Author of HNGRY

Antitrust Lawyer
Partner of the New York City Law Firm Frank LLP

Yin Kong
Director of Think Chinatown

Alice Lu
Small Business Owners in Chinatown

Julian Hill
Supervising Attorney at TakeRoot Justice

Brendan Martin
Executive Director of the Working World

Ryan Roy
Small Business Owner in Greenpoint, Brooklyn

A P P E A R A N C E S (CONT.)

Andrew Ding
Owner of the Expat

Carlos Martinez
Member of Sunset Scholars LLC

Rahim Ali
Chelsea Papaya

Mojito Iaba[SP]
Small business owner

Shawday Swift[SP?]
Rebellious Root

Robert S. Altman
Represent the Queens and Bronx Building
Association and the Building Industry
Association of New York City

1
2 CHAIRPERSON GJONAJ: [Gavel] We want to comply
3 with the full guidelines during the hearing. First,
4 we ask that cameras be places on viewing mode , so
5 that we are able to identify all parties in
6 attendance. Second, we ask that your microphones be
7 muted until it's your turn to speak. Finally, we ask
8 for all background noises to be limited when unmuted
9 including cell phones.

10 If you are unable to filter out noises, we'll ask
11 you to submit your testimony via email to
12 counciltestimony@nyc.gov. I repeat,
13 counciltestimony@nyc.gov. Should you choose not to
14 follow these guidelines, the Sergeant at Arms will
15 block your video and possibly remove you from the
16 remote hearing. Thank you for your kind cooperation
17 in this matter.

18 Mr. Chair?

19 CHAIRPERSON GJONAJ: Chair Gjonaj. Thank you all
20 for joining our virtual hearing today on the effects
21 of COVID-19 and the city's small business.

22 First off, I'd like to acknowledge that we've
23 been joined by our Speaker Corey Johnson and to you
24 Speaker, a belated Happy Birthday. Many more
25 healthy, Happy Birthdays and looking forward to be

1 COMMITTEE ON CULTURAL AFFAIRS, LIBRARIES AND
INTERNATIONAL INTERGROUP RELATIONS

8

2 able to celebrate with you under different
3 circumstances.

4 I'd like to also acknowledge my other colleagues
5 who have joined us so far today. Council Member
6 Brannan, Council Member Chin, Council Member Rivera,
7 Council Member Adams, Council Member Lander, Council
8 Member Yeger, Council Member Koslowitz.

9 I'm going to turn it over to the Committee
10 Counsel Stephanie Jones to go over some procedural
11 items.

12 STEPHANIE JONES: Thank you. I'm Stephanie
13 Jones, Counsel to the Small Business Committee of the
14 New York City Council. Before we begin, I want to
15 remind everyone that you will be on mute until you
16 are called on to testify when you will unmuted by the
17 host.

18 I will be calling on panelists to testify.
19 Please listen for your name to be called. I will be
20 periodically announcing who the next panelist will
21 be. The first two panels to give testimony will be
22 Greg Bishop Commissioner of the New York City
23 Department of Small Business Services followed by
24 Lorelei Salas Commissioner of the New York City
25

1 COMMITTEE ON CULTURAL AFFAIRS, LIBRARIES AND
2 INTERNATIONAL INTERGROUP RELATIONS

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2 Department of Consumer and Worker Protection. I will
3 call you when it is your turn to speak.

4 For the question and answer period only, we will
5 also be joined by First Deputy Commissioner Jackie
6 Mallon from the Department of Small Business
7 Services. As well as Executive Director Steven
8 Edinony[SP?] and Deputy General Council Mike Tiger
9 from the Department of Consumer and Worker
10 Protection.

11 During the hearing, if Council Members would like
12 to ask a question of the Administration or a specific
13 panelist, please use the Zoom raise hand function and
14 I will call on you in order. We will be limited
15 Council Member questions to five minutes, which
16 includes the time it takes to answer your questions.

17 Please note, that for ease of this virtual
18 hearing, we will not be allowing a second round of
19 questions for each panelist.

20 Thank you. I'll now pass to the Speaker to give
21 an opening statement.

22 SPEAKER COREY JOHNSON: Thank you Stephanie.
23 Thank you Chair's Gjonaj and Cohen for holding this
24 hearing today. There are a lot of bills on deck, so
25 I will be brief but I wanted to say that as we all

1 know, small businesses make our neighborhoods feel
2 like home for residents and they show tourists why
3 we're the greatest city in the world.
4

5 So, we have no choice but to make sure they are
6 able to weather this unbelievably painful storm. It
7 is too important for New York City. I can't imagine
8 my neighborhood or any neighborhood without our local
9 small businesses and I'm sure every New Yorker would
10 agree with that sentiment. But they're not just a
11 critical part of making New York special. Small
12 businesses employ 26 percent of New Yorkers and if
13 they close down, hundreds of thousands of workers
14 will permanently lose their jobs and the city loses
15 out on billions of dollars in sales tax, property tax
16 and income tax revenue. Our economy runs on small
17 businesses and now they are facing unprecedented
18 losses. This could be the worst economic disaster
19 that New York City has seen since the great
20 depression.

21 Many businesses will be forced to shut down for
22 good if they don't get more help. That won't just
23 devastate business owners and their workers, it will
24 further destabilize our economy, our neighborhoods,
25 and the lives of so many New Yorkers.

2 Congress made some improvements to the Paycheck
3 Protection program but those loans are still too hard
4 to access in their ensured supply and I'm not
5 confident that they will end up helping the vast
6 majority of New York City small businesses.

7 This is particularly true for the city's
8 immigrant owned small businesses. They face
9 significant obstacles in accessing loans because of
10 language barriers, documentation requirements and
11 eligibility criteria. We absolutely need more
12 federal support here but there are some things that
13 the city can do.

14 We've got a large package of bills that we're
15 hearing today including bills that would give
16 desperately needed help to restaurants by capping
17 delivery app fees. I want to give the sponsors time
18 to discuss, so I'll just briefly mention two bills
19 that I'm co-sponsoring. Introduction 1914, which I
20 co-sponsored with Council Member Adrienne Adams,
21 would make threatening an impacted commercial tenant
22 a form of harassment punishable by a civil penalty of
23 between \$10,000 or \$50,000. And Introduction 1932
24 which I co-sponsored with Council Member Rivera,
25 would suspend personal liability clauses, so that

1 COMMITTEE ON CULTURAL AFFAIRS, LIBRARIES AND
INTERNATIONAL INTERGROUP RELATIONS

12

2 city business owners don't face the loss of their
3 businesses and also personal bankruptcy. I want to
4 thank everyone who has joined us, I know it is
5 especially challenging for small business owners to
6 take time to be here today and I know we can't solve
7 all of the issues that you are facing but I want you
8 to know the City Council is committed to doing
9 everything we can as quickly as we can and I will now
10 turn it back over to the Chairs.

11 Thank you very much.

12 CHAIRPERSON GJONAJ: Thank you so much Speaker
13 Johnson. I'd like to acknowledge that we've been
14 joined by colleagues since the start of the hearing
15 and we've been joined by Council Member Matteo and
16 Council Member Moya.

17 Good afternoon. I'm Council Member Mark Gjonaj,
18 Chair of the Committee on Small Business and I'd like
19 to welcome you to our remote joint hearing today with
20 the Committee on Consumer Affairs and Business
21 Licensing Chaired by my dear friend Council Member
22 Andy Cohen.

23 As Chair of this Committee, I've had the honor of
24 being a voice in the City Council to advocate for and
25 support the over 200,000 small businesses in New York

1 City. The small businesses in the city are the
2 living environment of what makes New York great.
3 Nearly half of our small businesses are immigrant
4 owned and, in some neighborhoods, these immigrant
5 business owners employ up to 40 percent of the
6 community. Our small businesses deliver cultural,
7 relevant goods that can't be found in larger
8 businesses or in big box stores. They beautify our
9 neighborhoods and serve as a meeting place for
10 citizen, city's residents to socialize.
11

12 Micro businesses with nine employees or fewer
13 capture the more common conception of the mom and pop
14 shop. They are a symbol of the what hard work and an
15 entrepreneurial spirit can accomplish in our great
16 city.

17 The COVID-19 crisis perhaps presents the greatest
18 threat to our economy and small businesses in modern
19 history. Our non-essential businesses are currently
20 closed and they must now decide whether they can
21 continue paying their staff rent, debt, real estate
22 taxes, sewer and water charges throughout the
23 duration of this crisis.

24 Our essential businesses may also be struggling
25 with the declined business and sales and now, have

1
2 the added burden of providing personal protective
3 equipment or PPE to protect their staff and
4 customers.

5 I look forward to hearing from Commissioner
6 Bishop about the SBS's Loan and Grant program and
7 their success and failures in getting necessary
8 financial resources into the hands of small business
9 owners.

10 I believe with the right amount of resources and
11 leeway; you could have done more to save our
12 businesses and you still can. I have a number of
13 questions for the Commissioner, specifically how SBS
14 engaged without immigrant small business owners. Why
15 these programs close so quickly and to get a
16 breakdown of which types of businesses and
17 neighborhoods benefited the most from these programs.
18 It is well documented that this virus had a
19 tremendous negative impact on the communities of
20 color. And I want to make sure that the issuance of
21 financial relief did not disproportionately benefit
22 business owners living in certain areas or working in
23 certain industries or of a certain size. And while
24 I'm eager to get answers from the Commissioner on the
25 Grant Loan program, I'd like to be honest. I have

1 COMMITTEE ON CULTURAL AFFAIRS, LIBRARIES AND
INTERNATIONAL INTERGROUP RELATIONS

15

2 deep concerns that the Mayor may have taken his eye
3 off the ball in protecting New York City small and
4 micro businesses. While he's out busy playing
5 national politics, struggling business owners are
6 left wondering if he would do his job and focus on
7 protecting them during a crisis.

8 To say he was MIA, we'd be putting it mildly.
9 The Mayor needs to realize that he must work with
10 this body to ensure that we can maximize the city's
11 response. Norkman[SP?] reminds us of when Washington
12 told New York City to go to hell in the 1970's by
13 allocating only \$49 million in aid to our small
14 business. In essence, he has told New York City
15 small businesses they can go to hell and they are not
16 relevant.

17 To put things in perspective, \$49 million of the
18 200,000 businesses in New York City, equates to \$245
19 per business. We spend more on parades in New York
20 City. This Administration spent more on parades.
21 This Administration is a \$62.4 million in the FY 2021
22 Budget for Department of Transportation Executive at
23 Administration on other than personal service debt.

24 \$172 million in contracts for legal services.
25 \$129 million for contracts for security services.

COMMITTEE ON CULTURAL AFFAIRS, LIBRARIES AND
INTERNATIONAL INTERGROUP RELATIONS

16

1 \$45.6 million for printing contracts and \$30 million
2 for advertising. I suggest this Administration focus
3 on the lifeblood of our economy. Our small
4 businesses contribute billions annually to our digit.
5 They deserve more, they are entitled to more. The
6 city must be there for them in this time of crisis.
7 This hearing is also a legislative one. We will be
8 hearing a package of bills today and intended to
9 provide immediate relief to our struggling small
10 businesses during this crisis. We will be hearing
11 eight bills today that relate to third-party delivery
12 platforms. We've had two oversight hearings on this
13 topic this legislative session and have spent almost
14 a year working on this legislation. The bills we're
15 hearing today will ensure that the restaurants will
16 be able to weather the storm and reopen for business
17 after this crisis is over.

19 I'm especially proud of my bills, Intro.'s 1895,
20 1896, 1897, 1898, and 1921. I am also co-sponsor of
21 my colleagues bill Council Member Francisco Moya's
22 bills Intro. 1907 and 1908. The Committee will also
23 be hearing Into. 1914 and 1932. I look forward to
24 beginning a dialogue with SBS and our advocates here
25 today on all these bills as they continue the

1
2 legislative process. The package of bills we're
3 hearing today will provide small businesses with the
4 essential relief they need and deserve.

5 I fear after we open back up this city and life
6 begins to return to a new normal, we will see our
7 commercial corridors decimated and empty. There were
8 signs of this before this crisis. We can't even
9 imagine what our commercial corridors will look like
10 after this crisis.

11 We must prevent mass retail vacancies. We must
12 save mom and pop shops; we must take advantage and
13 legislative action to ensure small businesses are
14 protected. Now is the time to be proactive. I
15 created a petition calling for City Hall in Albany to
16 wake up and delay business income tax, sales tax,
17 payroll tax, real estate taxes and water and sewer
18 charges. Nearly 20,000 New Yorkers agreed that this
19 must be done. With that said, I'd like to thank the
20 Speaker of the Council for adapting to this new
21 normal and allowing the Council to resume our work
22 despite these challenges.

23 I want to thank my Chief of Staff Regi Johnson,
24 our Legislative Council Stephanie Jones, our Policy

COMMITTEE ON CULTURAL AFFAIRS, LIBRARIES AND
INTERNATIONAL INTERGROUP RELATIONS

18

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2 Analyst Noah Meixler and Financial Analyst Aliya Ali
3 for their hard work in preparing for this hearing.

4 I'd like to turn it over to Chair Cohen, who
5 Chairs the Committee on Consumer Affairs and Business
6 Licensing to say a few words and give an opening
7 statement. Chair Cohen?

8 CO-CHAIR COHEN: Mark, it's good to see your
9 face.

10 CHAIRPERSON GJONAJ: Same here.

11 CO-CHAIR COHEN: Alright, good afternoon. My
12 name is Andrew Cohen and I am the Chair of the
13 Committee on Consumer Affairs and Business Licensing.
14 I'd like to thank everyone who has managed to join us
15 for this remote hearing and thank you Council Member
16 Gjonaj for convening this important hearing together.

17 The scope of today's hearing is extensive and it
18 has been mentioned, it is both an oversight hearing
19 and an opportunity to gather feedback on numerous
20 pieces of legislation. I look forward to hearing
21 directly from small business owners about the impact
22 that this pandemic on their operations and their
23 experiences navigating government programs meant to
24 assist them.

25

1
2 Small businesses are the lifeblood of our economy
3 but we all know that even before this pandemic hit,
4 maintaining a profitable one in the city was
5 incredibly difficult. So, it is hard to comprehend
6 to tenacious small business owners are making it
7 happen now.

8 But many of you still are. We've heard
9 incredible stories of ingenuity and innovation in the
10 ways that you have been able to utilize technology to
11 reach your customers. I hear that there are bodega's
12 in the Bronx that are now taking orders online while
13 others such as restaurants and food trucks are still
14 operating and sending food to our frontline
15 healthcare workers.

16 While it is inspiring to hear about the
17 generosity and resilience of our small business
18 owners, we do not want you to bear this weight alone.
19 Many of you have called for very specific legislation
20 and governmental support to help you navigate this
21 unprecedented crisis. In response, Chair Gjonaj,
22 myself and my fellow Council Members introduced a
23 package of legislation geared toward reducing the
24 burden on small business to help you maintain your
25 operation and get through this crisis.

2 My bill Intro. 1916 will require the Department
3 of Consumer Affairs to waive and refund all fees
4 related to sidewalk café licenses for the remainder
5 of this year. Sidewalk café's cost restaurant owners
6 thousands of dollars in fees annually. There are
7 approximately 1,400 sidewalk café's in the city
8 representing an annual cost to the industry of
9 between \$11 and \$12 million. It simply does not make
10 sense for the city to collect these fees when
11 restaurants are one of the hardest hit industries.

12 I look forward to hearing from Commissioner Salas
13 and the Administration regarding this legislation.
14 I'm also proud to be a co-sponsor on several of my
15 colleagues bills including the bills limiting the
16 fees, the commissions that restaurants and grocery
17 stores have to pay third party food delivery
18 companies.

19 In this time of need, these businesses and their
20 workers continuously put themselves on the front line
21 to help New Yorkers acquire basic necessities. It is
22 distressing to hear that their already slim profit
23 margins are further diminished by exploitatively high
24 commissions and fees.

3 Finally, before we begin to hear the testimony, I
4 would like to thank all the City Council staff who
5 helped make this virtual hearing possible. Specific
6 from Consumer Affairs Balqees Mihirig, Senior Counsel
7 Leah Skrzypiec, I hope I said that right and Policy
8 Analyst Sebastian Bacchi, Senior Finance Analyst as
9 well as my Legislative Director Patty Vandenack and a
10 particular thank you to all the IT people who are
11 really making this miracle of technology take place.

12 These certainly are trying times but I hope New
13 Yorkers find it reassuring to know that the Council
14 can continue its work to serve the people of this
15 city.

16 I believe that Council Member Gjonaj acknowledged
17 all the members of my Committee. I'm not sure he
18 acknowledged Council Member Koo, who has joined us
19 also.

20 And with that Mark, I'm going to turn it back
21 over to you.

22 CHAIRPERSON GJONAJ: Thank you Council Member. I
23 also want to acknowledge that with us, we have public
24 advocate Jumaane Williams and we've been joined by
25 Council Member Powers. I want to acknowledge Council
Members Moya, who is a sponsor of Introduction 1907

1 and 1908. Council Member Adams the sponsor of Intro.
2
3 1914, Council Member Matteo the sponsor of the pre-
4 considered bill, Council Member Rivera the sponsor of
5 Intro. 1932 and the Public Advocate who is the
6 sponsor of the Resolution Number 1049.

7 For ease of this virtual hearing, we will be
8 limiting opening statements to five minutes for each
9 sponsor. I'd like to turn it over to Council Member
10 Moya for some remarks followed by Council Member
11 Adams. Council Member Moya?

12 COUNCIL MEMBER MOYA: Thank you Chair Gjonaj. I
13 want to start by thanking my colleagues and of course
14 the Speaker of the City Council and Chair Gjonaj for
15 partnering with me on the package of legislation to
16 protect New York City's local restaurants that we are
17 going to be discussing here today.

18 When I introduced these bills back in February,
19 we lived in a much different city. At the time, we
20 were concerned about family owned restaurants
21 struggling to keep their doors open because
22 commission fees from apps like Grubhub were really
23 causing an issue for them.

24 Now restaurants have no choice but to keep their
25 doors closed. Many have already closed for good

1 because of the devastating effects of the COVID-19
2 crisis. With no one sitting down at their
3 restaurants, countless front and back of house staff
4 have been laid off. Every restaurant felt the
5 pressure to partner with third party food service
6 apps, like seamless before but now, they have no
7 choice. Some people treated these apps like saviors
8 for restaurants allowing them to reach customers who
9 were staying home and social distancing.
10

11 In March Grubhub made headlines when it announced
12 it would suspend commission fees as the restaurant
13 struggled to cope with the pandemic. Good news for
14 restaurants on the brink of failure. Outlets like
15 CNBC and others reported that Grubhub would and I
16 quote, for go or waive commission fees. Except it
17 wasn't true. In fact, there was so much confusion
18 and misrepresentation about what Grubhub was doing
19 that it later had to clarify its statement.

20 No, it wasn't waiving fees, it was just deferring
21 them to a later date. So, another words, they were
22 telling restaurants, we hope you survive long enough
23 to pay us our money. How generous of them.

24 Is there anyone who actually believes that these
25 restaurants barely hanging on will be able to pay off

1 the commission fees by some unidentified date? Of
2 course not. It's disingenuous to act otherwise.

3
4 Restaurants needed help before COVID-19 epidemic.
5 They are getting swallowed up by the exorbitant
6 commission fees that reach as high as 30 percent and
7 exceed the slim perfect margins most restaurants
8 operate in.

9 Now, as they perform the essential functions of
10 feeding New Yorkers, they need this help more than
11 ever. This is why we've added a section to Intro.
12 1908, which would place a ten percent cap on
13 commission fees from third party food vendor services
14 to specifically address the needs during a crisis
15 like COVID.

16 The new section mandates that in times of
17 declared emergencies, where restaurants are limited
18 to pick up or delivery only, apps could only charge
19 restaurants for actually delivering meals. When we
20 introduced this package of bills, I already could see
21 a nightmare version of New York that had nothing but
22 chain restaurants on every block because no locally
23 owned place could survive the cost of doing business
24 here. Without putting in place the protections these
25 bills would create, that nightmare seems almost

1 impossible to avoid. Restaurants and the workers who
2 keep them running in the community that they serve
3 are demanding that we do something to give them a
4 chance at survival. This was true before the
5 pandemic; it turned the world upside down but now
6 more than ever there is a greater urgency to get this
7 done.
8

9 So, I want to take this opportunity again to
10 thank the Speaker, Chair Gjonaj and my colleagues for
11 being a leader on this issue and a champion for New
12 York City small businesses and I urge my colleagues
13 to join us in supporting these bills. Thank you
14 Chair Gjonaj for the opportunity to speak.

15 CHAIRPERSON GJONAJ: Thank you Council Member
16 Moya. I'd like to call on Council Member Adams for
17 some remarks, followed by Council Member Matteo.
18 Council Member Adams.

19 COUNCIL MEMBER ADAMS: Thank you so much and good
20 afternoon. I'd like to start by thanking Chair's
21 Gjonaj and Cohen for today's important hearing on the
22 impact of COVID-19 on New York City. I'm proud to
23 sponsor Introduction 1914 with Speaker Johnson. This
24 bill would make threatening a commercial tenant based
25 on their status as a COVID-19 impacted business or

1 person a form of harassment punishable by a civil
2 penalty of \$10,000 to \$50,000. Our businesses,
3 especially small businesses are extremely vital to
4 the pulse of our neighborhoods. Small businesses are
5 suffering right now as they are forced to adapt to a
6 new normal. We need to act now to protect the
7 businesses that make our neighborhoods vibrant and
8 maintain the history and character of our communities
9 across the city.
10

11 Unfortunately, thousands of businesses in our
12 city are suffering as they've been forced to close
13 due to COVID-19. As availability of federal loans is
14 limited, many businesses are unable to pay their
15 rent. This leaves them vulnerable to harassment from
16 landlords in search of ways to collect or in essence
17 force the incumbent tenant to voluntarily abandon the
18 property, so that new tenants willing to pay higher
19 rents can move on in.

20 The threat of harassment will particularly impact
21 the city's small independently owned and immigrant
22 owned businesses, many of which were operating on
23 thin margins and struggling to pay rent even before
24 this crisis.
25

2 So, I thank the Speaker for his leadership and
3 partnership and I certainly thank my colleagues for
4 considering Intro. 1914 to protect our small
5 businesses and protect commercial tenants.

6 Thank you, Chair's.

7 COUNCIL MEMBER GJONAJ: Thank you so much Council
8 Member. I'd like to call on Council Member Matteo to
9 give his remarks followed by Council Member Rivera.
10 Council Member Matteo?

11 COUNCIL MEMBER MATTEO: Thank you Chair's Cohen
12 and Gjonaj for holding today's joint hearing. Thank
13 you to the staff that has helped make it possible,
14 truly appreciate all your hard work.

15 Every one knows how terrible this pandemic has
16 been. It has kept families and friends apart; it has
17 taken so many loved ones from us. The toll on our
18 physical and mental health continues to be felt and
19 the hardship of this place and our small businesses
20 has also been unprecedented.

21 Small businesses are the backbone of our
22 communities and the engine of our economy. They
23 employ more than half our city's workforce and most
24 of our residents. They support non-for-profits that
25

1
2 enhance our neighborhoods quality of life to a level
3 that government can never accomplish on its own.

4 We have to support them to get back on their feet
5 so they can continue to fill that vital role in New
6 York City. That is why I have introduced this pre-
7 considered Intro. I appreciate that license and
8 permits have been extended during the duration of
9 these emergency but the agency response to Executive
10 Order 107 of 2020 has been uneven at best. Some
11 agencies maintain that permits have to be renewed at
12 the expense of small businesses, so we need the Mayor
13 to clarify which permits and licenses have been
14 extended.

15 We also much ensure that our small businesses are
16 not burdened with red tape just as we are starting to
17 allow them to reopen. That is why no permit or
18 license should have to be renewed for 90 days after
19 this emergency is over. This will give small
20 businesses, our mom and pop establishments, our local
21 restaurants and others at least some breathing room
22 as they try to restart and to operate without
23 worrying about paper or a fine from the city.

24 I look forward to hearing from the Administration
25 and working with them to make sure that this burden

1
2 is lifted from small businesses before it hobbles
3 them in their come back.

4 Thank you, Chair's.

5 COUNCIL MEMBER GJONAJ: Thank you Council Member
6 Matteo. I'd like to call on Council Member Rivera
7 for some remarks, followed by Public Advocate
8 Williams. Council Member Rivera.

9 COUNCIL MEMBER RIVERA: Thank you. Good
10 afternoon, I am Council Member Carlina Rivera and I'd
11 like to thank Chair Gjonaj and Chair Cohen and
12 members of the Small Business and Consumer Affairs
13 Committee's for letting me speak briefly at this
14 hearing on my bill, Introduction 1932 which would
15 prohibit the enforcement of personal liability
16 provisions in commercial leases or rental agreements
17 involving a COVID-19 impacted tenant.

18 This pandemic has already left a profound impact
19 on our city. One that will be felt for years if not
20 decades. No where will this long term effect be felt
21 more than in our small business community where
22 countless owners are facing the very real possibility
23 that their stores may never return.

24 We must do everything in our power through
25 legislation and advocacy to help these pillars of our

1 communities and the thousands of New Yorkers they
2 employ. My bill will ensure that business owners,
3 should they be forced to walk away or temporarily
4 shutter their stores, through no fault of their own
5 can do so without facing personal liability, ensuring
6 that one day they may be able to return and relaunch
7 or create a new thriving business in our
8 neighborhoods.
9

10 Sadly, I am already hearing from small businesses
11 in my district that some landlords who I understand
12 maybe suffering as well are going after small
13 business owners life savings and personal assets
14 during this national pandemic. These are folks like
15 my constituents Mario, the owner of Follia, an
16 amazing Italian restaurant on 3rd Avenue. Mario is
17 already getting rent due notices and threats from his
18 landlord that the personal liability clause in his
19 lease will soon be acted upon. He has no where to
20 turn right now.

21 No matter the need, it is a moral and unethical
22 failure for landlords to seek such restitution for
23 people who have already lost their life's work. Any
24 small business owners that's taken the right steps in
25 incorporating their business should be protected by

1
2 this bill and I encourage all members of these
3 committees to please support Intro. 1932.

4 I also want to recognize that that bill's we are
5 hearing today wont do enough for every small business
6 owner and that this crisis has only deepen the
7 challenges our small businesses have faced for
8 decades in our city.

9 We must continue to fight for the assistance we
10 need from Albany and Washington both in the form of
11 rental forgiveness for small business tenants and
12 financial assistance as well. And as part of any
13 relief package, our nonprofit and small landlords
14 must be taken into account through methods such as
15 property tax relief.

16 So, as long as they are actively working to
17 provide direct relieve to their tenants themselves.
18 When I go out to deliver food or assist folks in my
19 district, I have been both saddened and strengthened
20 by the store owners who while shuttered and stressed
21 continue to support and give back to their community
22 so selflessly. It's time we stepped up and gave back
23 to them in this time of crisis.

24 Thank you.
25

COMMITTEE ON CULTURAL AFFAIRS, LIBRARIES AND
INTERNATIONAL INTERGROUP RELATIONS

32

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2 CHAIRPERSON GJONAJ: Thank you Council Member
3 Rivera. I want to call on Public Advocate Williams
4 for some remarks. Public Advocate.

5 PUBLIC ADVOCATE WILLIAMS: Thank you so much
6 Chair Gjonaj and Chair Cohen.

7 CHAIRPERSON GJONAJ: Can't hear you.

8 PUBLIC ADVOCATE WILLIAMS: You can't hear me.
9 Can you hear me now? I want to thank Chair Gjonaj
10 and Chair Cohen for this. I apologize, I have to
11 keep the mask on. I'm in a crew distribution event
12 in Staten Island, but I'm used to the magic of
13 technology, I can still get my statement in this
14 hearing. So, I appreciate the opportunity to speak.

15 I do want to thank Speaker as well for working
16 with the Council to get there hearing online and
17 showing leadership for our legislature that act the
18 core of the country that this can be done and I'd
19 also like to say the Speakers quarantine barrier much
20 better in the mind, so I appreciate that as well.

21 And I appreciate the attention for Consumer
22 Affairs and Business Licensing and Small Businesses
23 for holding an oversight hearing on the impact of
24 small businesses in New York City. I know the
25 Committee is hearing several bills that will support

1
2 our restaurants and delivery workers in our small
3 businesses. I support my colleagues efforts and
4 thank them for introducing these bills.

5 I'd also like to thank our first responders and
6 frontline workers for helping our city battle
7 coronavirus, as well as keep this city moving. I'm
8 calling and working with the City Council to make
9 sure that our essential workers, who very often are
10 pushed out of [INAUDIBLE 31:37] for the rest of the
11 city will get the recourse that they need due to the
12 failures of our city exec, state exec and our federal
13 exec in decisions that were made.

14 To the residents of New York City, I want to
15 stress how important it is that we continue to
16 practice social distancing and stay home as much as
17 possible.

18 With that said, as this crisis continues, the
19 financial pressures on New Yorkers will only
20 increase. My Resolution, Resolution 1049 aims to
21 address the major root cause of one of the financial
22 issues that many New Yorkers face, confession of
23 judgement in business loans. A confession of
24 judgment is a written agreement which one signed by
25

1 the bar of monetary loan relinquishes the borrowers
2 right to dispute legal claims made by length.
3

4 In other words, a person is giving up their right
5 to due process if the debt is unpaid and there is a
6 dispute. While confessions of judgement allow
7 lenders to resolve and receive [INAUDIBLE 32:28] in a
8 timely manner, these agreements have also lead to
9 predatory practices. Lenders can use there
10 agreements to accuse borrowers of defaulting on their
11 loans and seize their assets without proof and prior
12 notification.

13 The Resolution calls on the Congress and New York
14 State to pass legislation to prohibit use of
15 confessions and judgement in business loans. There
16 have been some points in our federal government, it's
17 a step in the right direction but it does not
18 prohibit confessions of judgement from being filed
19 against an instate debtor which leads many New
20 Yorkers vulnerable to predatory living practices.

21 One group of New Yorkers who have made this
22 vulnerable population, taxi medallion owners. There
23 are 11,938 taxi medallions in New York City and
24 obtaining a taxi medallion is not a cheap endeavor.
25 With many taking out a business loan and they

1
2 couldn't afford it. Between 2002 and 2014, the price
3 of medallions \$200,000 to more than 1 million even
4 though city records show that the taxi driver incomes
5 barely change.

6 Can you still hear me? Sorry, the following
7 year, the cost of medallions began to fall as the
8 value of the taxi medallions fell, as the value of
9 the taxi medallions fell, lenders denied, borrows
10 appeals to refinance and instead issued confessions
11 of judgment. Allowing the lender to seize the
12 borrowers assets. In fact, several banks use
13 confessions of judgement in their lending activity
14 where the borrower has admitted to defaulting on a
15 loan even before borrowing any funds at all.

16 The ripple effect of the predatory lending
17 practices, much of which were based on confessions of
18 judgement have left taxi drivers and others who own
19 medallions and a lot of debt.

20 Incurably a number of medallion holders have
21 taken their lives due to the overwhelming stress from
22 their debt.

23 Now, the city has the opportunity to address this
24 outcome in a number of ways. The city should look to
25 offer a debt forgiveness course [inaudible 34:25] the

1 man the Council appointed the panel to uphold the
2 bill for thousands of drivers and we applaud that.
3 Although much of our city funds will be decimated to
4 address the COVID-19 related issues, we need to look
5 to how to make the promise bailout a reality for the
6 taxi drivers as well. Not only are they among the
7 front line workers who are going outside every day to
8 make sure people can get around safely, they are also
9 among those who are financially struggling during
10 this pandemic.
11

12 Small businesses are also at risk of confession
13 of judgments to use against them and probably even
14 more so as we move through this COVID responsive
15 recovery. Whether a local restaurant or retail
16 store, the reality that small business owners are
17 vulnerable to the predatory practice. This is the
18 especially true in our current environment as most
19 this is effectively stopping a steady stream of
20 income. Businesses already have very tough decisions
21 to make, businesses that have signed loans with high
22 interest rates cannot afford to on because of a
23 missed payment. The situation for these small
24 businesses that empower and strengthen our
25 communities is precarious at best.

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MODERATOR: Time.

PUBLIC ADVOCATE WILLIAMS: Losing and these small businesses will be a catastrophe and we expect it might be more. But it does not have to be this way and the legislation on a federal level and on the state, it's the best recourse.

New Yorkers under stress cannot wait any longer for, as their collectors continue to misuse confessions of judgement. So, I'm asking my colleagues to join me and this is just a resolution but I think it helps New York City Council to make sure that we are pushing as hard as we can in conjunction with the other bills. I think we will be moving in the right way in protecting all New Yorkers including all small businesses.

Thank you again. I appreciate it.

CHAIRPERSON GJONAJ: Thank you Public Advocate. Before I turn it over to the moderator, I want to acknowledge that we've been joined by Council Member Rosenthal.

Counsel Stephanie Jones?

STEPHANIE JONES: Thank you Chair. We will now call on members of the Administration to testify. First, Commissioner Greg Bishop of the Department of

COMMITTEE ON CULTURAL AFFAIRS, LIBRARIES AND
INTERNATIONAL INTERGROUP RELATIONS

38

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2 Small Business Services followed by Commissioner
3 Lorelei Salas of the Department of Consumer and
4 Worker Protection.

5 Before we begin, I will administer the oath.
6 Commissioner Bishop, Commissioner Salas, First Deputy
7 Commissioner Mallon, Executive Director Edinony and
8 Deputy General Counsel Tiger. I will call on each of
9 you individually for response to the oath.

10 Please raise your right hands. Do you affirm to
11 tell the truth, the whole truth and nothing but the
12 truth before these Committees and to respond honestly
13 to Council Member questions?

14 Commissioner Bishop?

15 GREG BISHOP: I do.

16 STEPHANIE JONES: Thank you. Commissioner Salas?

17 LORELEI SALAS: I do.

18 STEPHANIE JONES: Thank you. First Deputy
19 Commissioner Mallon?

20 JACQUELINE MALLON: I do.

21 STEPHANIE JONES: Thank you. Executive Director
22 Edinony?

23 STEVEN EDINONY: I do.

24 STEPHANIE JONES: Thank you. Deputy General
25 Counsel Tiger?

COMMITTEE ON CULTURAL AFFAIRS, LIBRARIES AND
INTERNATIONAL INTERGROUP RELATIONS

39

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MIKE TIGER: I do.

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4

STEPHANIE JONES: Thank you. Commissioner
Bishop, you may begin when ready.

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9

GREG BISHOP: Thank you. Good afternoon Mr.
Speaker, Mr. Public Advocate and of course Chair
Gjonaj, Chair Cohen and members of the Committee on
Small Business and the Committee on Consumer Affairs
and Business Licensing.

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My name is Greg Bishop and I'm the Commissioner
of the New York City Department of Small Business
Services. I'm joined by SBS First Deputy
Commissioner Jackie Mallon. First and foremost, this
has been such a difficult moment for our city and
especially our small business community. My staff
and I are working tirelessly for small businesses
through our programs and advocacy for additional
support. I'm so grateful for the Council's
enthusiastic partnership and engagement as we
continue to reach constituents in your districts that
need help and to better understand the involving
impacts of COVID-19 on the city's small businesses.

23

24

25

New York City small business owners are facing
unprecedented challenges. Our goal is to connect
them to the resources they need to preserve through

1 this crisis and come out on the other side stronger.

2 Based on the concerns we heard in January and
3 February, SBS worked quickly to launch two financial
4 assistance programs. The NYC Employee Retention
5 Grant and the NYC Business Continuity Loan Fund.
6

7 Through the NYC Employee Retention Grant, SBS has
8 approved financial assistance totaling more than 419
9 million for over 2,600 small businesses. SBS's New
10 York City and NYC Business Continuity Loan Fund, has
11 also seen an enormous demand.

12 We received thousands of applications and are
13 expecting to award about \$20 million in loans. Thus
14 far over 170 loans have been approved totaling more
15 than \$10 million for small businesses. However, the
16 overwhelming needs of our small business community
17 can only be met by the resources of the federal
18 government. To help New York City small business
19 owners access their fair share of federal funds from
20 the Care's Act, our agency has shifted our resources
21 to provide technical assistance of business owners
22 who need help applying to the U.S. Small Business
23 Administration's Emergency Response Products
24 including the Paycheck Protection Program. Which
25

1
2 reopened to applications earlier this week after
3 initial funding was exhausted.

4 Technical assistance ranges from overview of
5 available funding options to communicating directly
6 with lenders to address questions regarding
7 applications. SBS is providing this technical
8 assistance through virtual information sessions,
9 small group sessions in a one on one setting.

10 We will provide technical assistance in multiple
11 languages, so that immigrant entrepreneurs are not
12 excluded from these opportunities. Beyond these
13 initiatives SBS has shifted all our operations to
14 support the most pressing needs of our constituents
15 as we weather this pandemic.

16 Our NYC Business Solution Centers experts are
17 available remotely to connect business owners with
18 services including identify additional financial
19 opportunities through our network of more than 40
20 lenders and local philanthropic partners. Rent as we
21 heard, has been an enormous challenge for small
22 businesses. Our commercial lease assistance program
23 is available to support small business owners as they
24 engage with their landlords to discuss changes to
25 their lease obligations, which might include a rent

1 deferral, abatement or reduction among other actions.

2 CLA lawyers can help review leases to determine what

3 a business rights and obligations are, negotiate a

4 payment plan for arrears. And we know that Council

5 is also committed to providing additional support for

6 commercial tenants and we look forward to discussing

7 Intro. 1914 and Intro. 1932 further.

8 SBS is also providing targeted support for our

9 cities minority and women business enterprises. In

10 additions to connecting MWBE's with relevant

11 information about SBS and SBA COVID relief

12 opportunities, SBS rapidly transitioned its existing

13 programming workshops. One on one technical

14 assistance and contractor compliance operations to

15 remote service delivery. SBS has collaborated with

16 the Mayor's Office of Minority and Women Owned

17 Enterprise and Mayor's Office of Contract Services to

18 identify MWBE firms that supply essential services

19 such as medical staffing, IT goods, childcare

20 services, cleaning services and food services to

21 connect these in demand MWBE firms with emerging

22 contracting opportunities.

23 SBS's Workforce One career center staff are

24 available to provide job seekers with 101 assistance

1
2 regarding job searches and preparation as well as
3 unemployment insurance. We are focused on recruiting
4 for essential services such as healthcare, groceries,
5 pharmacies, and delivery companies as well as
6 identifying opportunities that are close to our job
7 seekers, so that's easier for them to travel to and
8 from work.

9 SBS is currently working with approximately 150
10 employees to fill 1,600 positions across the city.
11 We are building on these efforts by working with the
12 foods team to establish a workforce development
13 program that is specifically targeted towards the
14 essential businesses that sustain our food systems
15 including grocers.

16 To support the healthcare industry, SBS is
17 working directly with hospitals and nursing homes to
18 provide support in filling urgent staff needs and
19 develop a home health aid training to meet the ongoing
20 demand of the home care and long term care facility
21 centers.

22 Since the onset of the pandemic, SBS has worked
23 to ensure that our partners and constituents have
24 access to the information they critically need. We
25 share information through email correspondence,

1 social media, advertising campaigns and local and
2 national print, television and radio broadcast media.

3 We have created numerous resource pages with COVID
4 specific guidance for small business owners and job
5 seekers on our website. These new COVID related
6 patients have seen over 700,000 visits since the
7 beginning of March.
8

9 We have also activated our community partner
10 network to disseminate information and share details
11 regarding new or ongoing challenges faced by their
12 small business constituents and I have personally
13 held regular conference calls with elected officials
14 and with community partners and through our
15 neighborhood development team. SBS is in close
16 communication with bids and other community based
17 development organizations.

18 To continue providing critical support to
19 neighborhood commercial corridors across the five
20 boroughs, SBS has worked with all of our Neighborhood
21 360 and Avenue NYC grantees to rescope their efforts
22 to align with our COVID response and recovery
23 strategies.

24 By providing technical assistance and working
25 with our community partners, SBS is working to ensure

1
2 that New York City business owners have greater
3 access to federal funding opportunities. No matter
4 how we are able to improve the access challenges of
5 New York City small businesses, we must also
6 recognize and correct the structural problems of the
7 SBH, PPP, and idle programs.

8 For most among them, the timeline for loan
9 forgiveness needs to change to be fair to New York
10 City and businesses. Congress needs to follow
11 businesses that receive PPP funding to bring their
12 employees back when their city reopens giving them a
13 fighting chance to sustain their business without
14 taking an insurmountable debt.

15 We are advocating for the extension of these
16 federal loan terms as increasing the timeline or
17 repayment would provide companies with the necessary
18 breathing room to emerge from this pandemic
19 financially sound.

20 Furthermore, many business sectors, especially
21 restaurants and our hospitality industry need
22 additional assistance with their fixed costs, like
23 rent, mortgage, and utilities in addition to the
24 expense of employee retention which is the focus of
25 the PPP.

1
2 And following, the federal government needs to do
3 more to ensure that our smallest, most vulnerable
4 businesses have access to the resources they need by
5 developing financial tools and routing more money to
6 business owners that have been left out of early
7 federal funding rounds, including undocumented New
8 Yorkers, some nonprofits and religious institutions
9 who desperately need more support.

10 With your help and continued leadership for our
11 congressional delegation, we will continue to
12 identify these gaps in resources and advocate to the
13 federal government to ensure that future stimulus
14 packages capture the unique needs of New York City's
15 small business economy.

16 I applaud the Council's leadership in developing
17 local solutions especially related to third party
18 delivery applications but I do want to ensure we are
19 not putting additional regulatory burdens on small
20 business owners at this time. I look forward to
21 discussing further and continuing to work together to
22 effectively serve New Yorkers.

23 Thank you and I would be happy to take your
24 questions.

1 COMMITTEE ON CULTURAL AFFAIRS, LIBRARIES AND
INTERNATIONAL INTERGROUP RELATIONS

47

2 STEPHANIE JONES: Thank you Commissioner. Next,
3 we'd like to invite Commissioner Salas of the
4 Department of Consumer and Worker Protection to
5 testify. Commissioner Salas.

6 LORELEI SALAS: Thank you. Good afternoon
7 Speaker Johnson and Chair's Cohen and Gjonaj and
8 members of the Committee. I am Lorelei Salas,
9 Commissioner for the Department of Consumer and
10 Worker Protection. First, I'd like to state that I
11 hope that each of you and your loved ones are staying
12 safe and healthy during this crisis.

13 My office has been in regular contact with many
14 of your offices but I look forward to at this hearing
15 officially update you on the work that my agency has
16 been doing.

17 The economic cost of COVID-19 crisis is
18 tremendous, as my colleague Greg Bishop just
19 testified to. But for the over 200,000 small
20 businesses in New York City, including thousands of
21 DCWP Licensees, revenue streams are strained or
22 nonexistent.

23 Under this Administration, DCWP has been
24 especially attentive to small business needs by
25 promoting a culture of compliance through

1 presentations, round table meetings and business. In
2 fact, just last month at our Preliminary Budget
3 hearing, I testified to yet another consecutive year
4 of decreased fines on businesses.
5

6 DCWP's mission to protect and enhance the daily
7 economic lives of New Yorkers to create thriving
8 communities is more important than ever before. This
9 is why DCWP has and will continue to work to provide
10 guidance to small businesses and work in good faith
11 to address unforeseen matters of concern.

12 In compliance with New York State on pause DCWP
13 suspended in person customer visits to the New York
14 City small business support center in Jamaica in our
15 lower Manhattan main office on March 16th.

16 Instead of in person visits, DCWP published
17 guidance advising customers to use a suite of online
18 services and published public facing contacts to
19 further guide customer questions on issues including
20 business compliance, collections and licensing. This
21 notice remains on our website home page and is
22 available in multiple languages. Less than three
23 weeks after New York calls to extend that to June
24 30th, upcoming license terms and provided additional
25

1
2 grace periods for licensees to submit renewal
3 applications.

4 The Mayor has of course also issued Executive
5 Order 107 which extends license terms for the
6 duration of the state of emergency and if the state
7 of emergency extends beyond June 30th, we will extend
8 our deadlines accordingly.

9 DCWP has also been responsive to stakeholders.
10 Although prohibited by state statute from extending
11 the license expiration date of employment agencies,
12 we acted where we could and extend that the renewal
13 application grace period deadline to August 28, in
14 response to questions from the industry. The
15 complete licensing extension guidance is available on
16 our website and in multiple languages as I said.

17 My staff and I have also been in close contact
18 with the City Council through the COVID-19 crisis.
19 Our partnership facilitated a Mayoral Executive order
20 waiving consent fees for sidewalk café's for
21 dependency of the state of emergency. We are
22 processing refunds as quickly as possible and are on
23 track to complete final steps over the next few
24 weeks.

3 In these difficult times for businesses, DCWP's
4 core function and mission to protect workers and
5 consumers must persist. In order to prevent stores
6 from overcharging New Yorkers, I used my authority on
7 March 5th, to declare our face masks temporarily in
8 short supply. Subsequently, I expanded the short
9 supply order to cover disinfectant wipes and hand
10 sanitizers.

11 By March 16th, our agency took further steps and
12 issued an emergency rule making price gouging illegal
13 for any service or personal or household good that is
14 needed to prevent or limit the spread of or treatment
15 of COVID-19. Under the emergency rule, businesses
16 have an opportunity to provide evidence to DCWP if
17 prices were raised in excess of ten percent due to
18 increased costs to supply them. DCWP has also
19 subpoenaed several suppliers to investigate claims at
20 businesses that they were being gouged. Thus far,
21 the agency has reached out to several manufacturers
22 of products to request assistance with positive
23 results.

24 Information of flyers for business compliance are
25 available on our website in multiple languages and on
March 6th, DCWP physically distributed this flyer in

1
2 various business districts in New York City. In late
3 March, DCWP published updated COVID-19 guidelines for
4 employers and employees as it relates to city, state
5 and federal laws that govern New York City private
6 sector workplaces. DCWP received appreciation from
7 stakeholders on updated paid sick leave guidance that
8 clarified obligations as it related to new emergency
9 protections passed by the state and congress.

10 I also want to take this opportunity to thank
11 Speaker Johnson for amplifying the regularly updated
12 guidance which is now available in multiple languages
13 on our website. Both the guidance for workplace laws
14 in price gouging are the subject of ongoing virtual
15 outreach events, stakeholder communications, and
16 daily communication with sister agencies like SBS
17 that further amplify our work. Today DCWP has
18 participated in 14 outreach events for small business
19 owners since the COVID-19 crisis began.

20 Before I discuss the broader package of bills,
21 I'd like to express the sentiment that my agency and
22 the administration generally, we agree with the
23 issues that the Council is trying to address with
24 these bills.

1
2 Given the ongoing emergency in this difficult
3 situation, it would be challenging for us to
4 contemplate taking on a broad area of new regulation.

5 With that said, we want to work with the Council
6 to figure out the best pathway forward and what we
7 can do to help small businesses the most that need
8 this help right now.

9 Introductions 1846, 1896, 1897, 1898, 1907 and
10 1908-A; this package of bills aims to regulate third
11 party food delivery services. We'd like to work
12 together on addressing fees as addressed in Intro.
13 1908-A by Council Members Moya and Gjonaj. Intro.
14 1908-A would place a cap on the fees charged to
15 restaurants during this crisis. We are discussing
16 with City Hall to identify the best agency to tackle
17 this pressing matter to protect small businesses and
18 would like to continue the conversations with the
19 Council to find a path forward.

20 Similarly, DCWP supports the intent of Intro.
21 1846 but we have several questions including but not
22 limited to the prudence of only requiring these
23 disclosures to consumers we use a third-party food
24 delivery service and not to those that order directly
25 from restaurants.

1
2 We're interested in working with you on the other
3 bills as soon as the crisis is behind us.

4 Introduction 1916 waives all license and consent fees
5 for sidewalk café's that are due on or after January
6 1, 2020 until December 31, 2020. As noted earlier,
7 DCWP worked successfully with the City Council to
8 address sidewalk consent fees concerns for the
9 dependency of the state of emergency by way of
10 Mayoral Executive Order.

11 Circumstances resulting from COVID-19 are
12 impacting the bottom lines of thousands of different
13 types of businesses. DCWP alone licenses more than
14 75,000 businesses across over 50 business categories
15 and sidewalk café's represent less than 1,000 of
16 those businesses.

17 As a general matter, DCWP will continue to
18 explore ways that we can help businesses tie do
19 dependency of the state of emergency. And we look
20 forward to working with the Council on this.

21 The pre-considered Introduction requires the
22 Mayor to issue guidance on license renewal deadline
23 extensions. The legislation also provides that no
24 licenses or permits shall be required to be renewed
25 until 90 days after the COVID-19 emergency ends.

1
2 This legislation impacts licenses and permits beyond
3 those under the purview of DCWP. The Law Department
4 is currently reviewing the proposal along with the
5 other bills in this package in its totality.

6 In conclusion, I would just like to say that
7 we're very, very grateful for the essential workers
8 that are taken care of the sick and vulnerable and
9 for those delivering a variety of services we
10 normally take for granted.

11 We're also grateful for the incredible sacrifices
12 in our communities. The small businesses that had to
13 close their doors to protect New Yorkers. The New
14 Yorkers to continue to abide by social distance
15 guidelines and our collective staff who have remained
16 steadfast in working for the greater good of the city
17 and on behalf of millions who are suffering in these
18 trying times.

19 Thank you for the opportunity to testify and I
20 look forward to hearing from you and answering any
21 questions you may have.

22 STEPHANIE JONES: Thank you Commissioner. I will
23 now turn it over to questions from Chair Gjonaj and
24 then Chair Cohen. For these questions, again, we
25 will additionally be joined by First Deputy

1
2 Commissioner Jackie Mallon from SBS and Executive
3 Director Steven Edinony and Deputy General Counsel
4 Mike Tiger from DCWP.

5 Panelists, please stay unmuted if possible,
6 during this question and answer period. Thank you,
7 Chair Gjonaj, please begin.

8 CHAIRPERSON GJONAJ: Thank you Stephanie.
9 Commissioner Bishop, thank you for your testimony.
10 What is the total dollar amount in loans that have
11 been allocated so far that have actually reached our
12 small businesses, whether it be in grants or loans?

13 GREG BISHOP: So, first of all, it's good to see
14 you Council Member Gjonaj and I'm glad that you are
15 well. As I had mentioned in my testimony, we have as
16 of today, in terms of our grants, we approved over
17 \$19 million. And as you know, when we make the
18 approval, it is a direct debit into someone's
19 account. So, depending on their bank, once an
20 approval is done, it could take up to a week for the
21 money to actually get into the individuals bank
22 account. And on the loan, we've approved over \$10
23 million.

24

25

1
2 CHAIRPERSON GJONAJ: That's \$39 million in total.
3 Is that the total budget that as allocated for loans
4 and grants?

5 GREG BISHOP: So, we actually, for the total
6 budget was around \$50 million and as you know and I
7 know you talked about the allocation earlier in your
8 opening statement. When we created these programs,
9 we actually, we were on the ground in early February
10 because we saw a lot of businesses experiencing the
11 impact of COVID-19 in the city, particularly you're
12 not trying to talk communities.

13 So, this program was designed for smaller
14 businesses that were already experiencing the impact.
15 When the Mayor made this announcement, the world
16 changed within five days as you can imagine and were
17 able to quickly pivot but we knew that the need was
18 going to be far outweigh the ability for these
19 programs to meet the need of the entire city. And we
20 said, and the Mayor said, that we will need the
21 federal government to step in.

22 You know, from when we launched a program, it
23 took us five days from launching, excepting
24 applications to making the first disbursement for our
25

1 grant program. And for our loan program, it took us
2 less than two weeks.

3
4 So, our team moved as quickly as possible and for
5 anyone that's in finance you know that you know
6 standing up a program and making disbursements that
7 quickly, it was task and we worked you know, well
8 into late hours, weekends to get these programs up
9 and running as quickly as possible.

10 But I share your concern in terms of the need.
11 We know that the federal government has the resources
12 as we all know, our budget situation we have as a
13 city, we have to have a balanced budget. The state
14 has to have a balanced budget. So, we need to depend
15 on the federal government in order to not only help
16 our small businesses but help the city in general.
17 So, we certainly agree with you that more needs to be
18 done. We've been advocating and I want to thank our
19 New York Congressional Delegation because they have
20 been fighting for the little guys and I can talk a
21 little bit more about the federal programs but I just
22 wanted to let you know that we moved really quickly.
23 Money is out the door, there are companies that have
24 received dollars from our programs.

2 CHAIRPERSON GJONAJ: Thank you Commissioner, but
3 I'm still not clear. Is it \$39 million or \$49
4 million that have been allocated in funds for loans
5 and grants?

6 GREG BISHOP: So, the total number is \$49
7 million. What you are seeing here is that we had and
8 I'll ask First Deputy Jackie Mallon to give you the
9 clarity in the dollars. When we announced the
10 closure of our grant program, because when we
11 originally went out, there was a smaller number for
12 our grant program. But instead of shutting the door
13 and saying no, we had a tremendous amount of
14 applications on the last day, I think double the
15 amount that we had throughout the entire program.

16 And remember this grant program was employee
17 retention. So, when we decided that we were going to
18 pivot to now help our small businesses connect with
19 the federal employee retention program, that is why
20 we decided to sense out the out program. Because the
21 out program is only for business with one to four
22 employees. We did open it up to nonprofits and
23 individuals who immigrants could have also
24 participated in this but the federal program had a
25 much large catchment area.

1
2 So, we had a surge of applications and we are
3 going through those applications, so that number that
4 you're seeing, there is dollars that far exceeds the
5 allocated budget that we're working on right now.
6 Jackie.

7 JACKIE MALLON: Yes, \$39 million is allocated for
8 the grant program. \$10 million for the loan program,
9 which we're also using private capital in the loan
10 program which is how we get \$20 million-ish in loans
11 awarded. And to date, it's about \$19 million in the
12 grant that's been approved and \$10 million, so it's
13 not \$39 million so far, it's \$29 million actually in
14 the loan, Council Member.

15 CHAIRPERSON GJONAJ: So, how much has been
16 allocated already, \$29 million or?

17 JACKIE MALLON: No, no, awarded, so like, on it's
18 way to the customers is \$19 million in the grant
19 program. \$10 million in the loans, that's \$29
20 million out of the \$49 million that's in the funding.

21 CHAIRPERSON GJONAJ: Well, thank you Deputy
22 Commissioner but what's the hold up? I mean, this
23 dollar amount is so small to begin with but only \$29
24 million is out the door, that would mean we have
25 another \$20 million that we could be allocating to

1
2 these small businesses that are in dire straits. So,
3 I'm not sure who can answer that question.

4 GREG BISHOP: So, I started by saying that you
5 know, we moved very quickly and you know part of the
6 and when we talk about out the door, we're talking
7 about there's a financial process right. So, once we
8 make the approval, the money needs to move from
9 different bank accounts and as I talked about,
10 depending on your account, some of these transactions
11 and depending on the dollar value, some of these
12 transactions do take a certain amount of time.

13 We also have for the loan, it is an underwriting
14 process and the underwriting process, our third-
15 party, we are not underwriting the loans, a third
16 party is underwriting the loans. They have put all
17 the resources that they need to. They process
18 roughly about 40 applications per day and they are
19 moving as quickly as possible.

20 So, we expect to have all of the dollars
21 disbursed for the grant program within the next week
22 and then of course shortly after for the loan
23 program. But in the meantime, we're still continuing
24 to help our businesses connect with our federal
25 programs because we know this is just a stop gap, the

1 city program was just a stop gap. The federal
2 programs are the programs that our small businesses
3 need and we continue to advocate for changes for
4 those federal programs to make sure that they match
5 the needs of our New York City small businesses.
6

7 CHAIRPERSON GJONAJ: Thank you Commissioner. I'm
8 just going to reiterate that you need to get this
9 money out the door sooner than later and the total
10 dollar amount of \$49 million which equates to roughly
11 \$204, how many loans and grants were made and what
12 was the total that was requested?

13 So, maybe I can ask this in a different form.
14 One, what was the dollar amount of the total loans
15 and grants that came in in the form of requests and
16 the total dollar amount? Do you have that answer?

17 GREG BISHOP: Yeah, so I think, we had over 8,000
18 applications for our loan program, and if you look at
19 how we are doing with the average size loan of like
20 \$60,000. That's about \$1.5 to \$2 billion in terms of
21 need. That doesn't mean everyone will get you know,
22 everyone has that average but again, it highlights
23 the fact that you know, the need far outweighs our
24 ability to help on a local level which is why we were
25 so excited when the federal government came as

1 quickly as they did. Because as you know, in the
2 past, after Hurricane Sandy, the federal government
3 took some time to bring in the additional resources
4 that we needed.
5

6 So, in terms of our ability to stand up this
7 program, we knew that it was going to be a program
8 that would just be a stop gap until the federal
9 government brought in their programs.

10 In terms of numbers, we do have that information.
11 So, in terms of the rent, Jackie, do you have that
12 readily available?

13 JACKIE MALLON: Sure, sure, we've received 8,800
14 grant applications and we have awarded 26— a little
15 over 2,600 to date which equate to that nearly \$20
16 million that we're talking about.

17 CHAIRPERSON GJONAJ: So, less than a quarter of
18 the applicants have received any funding?

19 JACKIE MALLON: The approval rate is about 61
20 percent. Some people that apply are actually not
21 eligible. The larger businesses or whatever, a
22 number of different reasons.

23 GREG BISHOP: Like, we saw some, the grant
24 program was specifically for small businesses. We
25 wanted to make sure that we had you know, our very

1
2 microbusinesses. So, only businesses that have four
3 or fewer employees were eligible for this program.
4 But we had a number of applicants that had more than
5 four employees. So, what we have done is for those
6 that were not eligible we've connected them to the
7 paycheck protection program, meaning we've provided
8 technical support to help them with the application
9 process either through their lender or through a
10 lender that's accepting new applications.

11 CHAIRPERSON GJONAJ: Thank you Commissioner.
12 Again, this is only a fraction of the need that's out
13 there and the total dollar amount of \$49 million is
14 less than crumbs when it comes to the needs of our
15 small businesses. And I broke down the number, the
16 total dollar amount versus business that we have in
17 New York City and that equates to about \$245 per
18 business. How small businesses contribute billions
19 of dollars a year to the city's budget, billions and
20 in their most time of need and crisis, all this
21 Administration could give back to them is a total of
22 \$49 million. And in my opening statement, I outlined
23 that we spend more or this Administration spends more
24 on parades. They spent more on printing than they
25 gave out in a form of grants.

2 The message is clear from this Administration and
3 although you're going to say there is a stop gap
4 measure that was only temporary, the Mayor has gone
5 on the record quite a few times to say, that the
6 money is not coming in quick enough from Washington
7 to aid our small businesses. It's time for our
8 Mayor, this Administration to start focusing on this
9 city with the resources that we have. No matter how
10 limited they are, \$49 million doesn't even come close
11 to showing the relevance and the sincerity that is
12 needed to our small businesses. This is their dreams
13 that have been destroyed. They see a dim future and
14 this City and Administration has failed to be there
15 for them in this time of crisis.

16 I don't want to take more time on this issue
17 because we have so many that are going to testify on
18 the other issues on the bills that we have. I'm
19 going to open this up to Chair Cohen if he has any
20 questions for the Administration on the loans and
21 grants and as the Commissioner of Business of
22 Consumer Affairs.

23 CO-CHAIR COHEN: Thank you Mark. I will be
24 brief; I'm going to let the bill sponsors I think
25 focus on their bills. So, I'm just going to say,

1
2 it's good to see you Commissioner Salas and
3 Commissioner Bishop.

4 GREG BISHOP: Good to see you.

5 CO-CHAIR COHEN: And you know, I appreciate the
6 collaboration. Consumer Affairs, we've had regular
7 briefings together and I appreciate the transparency
8 and us being able to work together. The one in your
9 testimony, you don't object to 1916. I understand
10 that the agency is taking action on their own but you
11 don't have any objection to it do you?

12 LORELEI SALAS: The question is addressed to me
13 right, Chair Cohen?

14 CO-CHAIR COHEN: Yes, yes.

15 LORELEI SALAS: Yes, so I think that what I did
16 testify to is that the bill implicates you know, many
17 more agencies than the Department of Consumer Worker
18 Protection, right. And so, it is a logical
19 conversation for the Law Department to really
20 understand how this would effect the other agencies.
21 I would say one thing, that operationally, we had
22 timed our license expiration dates and renewal
23 expiration dates so that there would be staggered
24 deadlines, right.

1
2 As you can imagine, operationally it could be a
3 challenge to not only have to process 70,000 licenses
4 at once, which could just add to waiting times for
5 license applicants or renewal applicants.

6 CO-CHAIR COHEN: But as related specifically to a
7 sidewalk café, you don't have any objection to that
8 legislation?

9 LORELEI SALAS: Oh, I'm sorry. So, with respect
10 to the consent fees, waiver for the year generate
11 through December 2020. So, as you know, we work
12 collaboratively to arrive at a waiver of the consent
13 fees for the March installing period. These consent
14 fees are part of contractual agreements entered into
15 with the city, right. The agency doesn't have its
16 own discretion to act without involving other
17 stakeholders that are you know, part of or involved
18 in these contracts, right.

19 And I would just say also that obviously this
20 would have an impact on revenue streams, so it's
21 something to just take into consideration.

22 CO-CHAIR COHEN: Can you tell us what the status
23 is? Have you refunded everybody who has paid so far
24 or are you still processing? What percentage of the

1
2 sidewalk café license holders didn't pay? Can you
3 just give us a little run down on that?

4 LORELEI SALAS: I can tell you that we are still
5 processing the refunds, right. We're in the middle
6 of that. Our finance division will be sending out
7 checks to those who had already sent their consent
8 fees within the next two to three weeks.

9 As to the percentage, I'm not so clear on that
10 and I'm not sure Steve or Mike have access to that
11 information but if we don't have it right now, I'd be
12 happy to send it to you once we get it from the
13 office.

14 STEVEN EDINONY: So, Chair Cohen, I appreciate
15 the question. I think for us, it's a multistep
16 process. The first of which involves our licensing
17 team identifying those records that need refunds and
18 then once we have that in order, working to have the
19 checks distributed.

20 So, I think our internal analysis is that over
21 the next two to three weeks we will have that
22 completed.

23 CO-CHAIR COHEN: Did everybody who is entitled to
24 refund will have gotten it in three weeks or less?

2 STEVEN EDINONY: That's, right now our analysis
3 is that that will be the case, yes. We're happy to
4 continue to update you if that timeline changes but
5 that is what we believe.

6 CO-CHAIR COHEN: I appreciate that and again, do
7 you have any idea of the percentage of people who,
8 licenses actually paid?

9 LORELEI SALAS: I don't have that right now. I
10 think that when we take some of the estimates we were
11 talking about, about \$300,000 in total fees paid, but
12 I don't know what that represents. So, we'll have to
13 come back to you with an answer on that.

14 CO-CHAIR COHEN: That sounds like a relatively
15 small percentage, that's great. Chair Gjonaj, like I
16 said, I'm going to come back. I think I'll let our
17 colleagues, the bill sponsors ask questions and then
18 I can come back if I have more.

19 STEPHANIE JONES: Okay, Chair, did you want to
20 ask any more questions or you want me to call on the
21 Council Members?

22 CHAIRPERSON GJONAJ: No, thank you Stephanie.
23 Thank you, Chair Cohen. We have a slew of questions
24 that our colleagues can ask.

1 COMMITTEE ON CULTURAL AFFAIRS, LIBRARIES AND
INTERNATIONAL INTERGROUP RELATIONS

69

2 STEPHANIE JONES: Okay, thank you. Okay, so I
3 will now call on Council Members in the order they
4 have used the Zoom raise hand function. If you would
5 like to ask a question and you have not yet used that
6 function, please raise it now. Council Members,
7 please keep your questions to five minutes.

8 The Sergeant at Arms will keep a timer and we'll
9 let you know when the time is up. You should begin
10 once I have called on you. Okay, so first, we'll
11 hear from Council Member Rivera followed by Council
12 Member Lander. Council Member Rivera?

13 MODERATOR: Time.

14 COUNCIL MEMBER RIVERA: Thank you so much. Thank
15 you to the Commissioners, all of you and everyone
16 here. I just wanted to follow up on a couple of
17 numbers that were kind of discussed. I guess the
18 first one is, you have some numbers here for the SBS
19 the Business Continuity Loan Fund, Commissioner
20 Bishop and the Employee Retention Grant Program. You
21 have 8,000 loans, I think you said, 170 have been
22 approved. How many people actually qualified? And
23 I'm asking because I heard from some of my
24 constituents that they were turned down, so I'm
25 trying to understand versus how many apply, how many

1
2 qualified and then of course the number you included
3 in your testimony which is 170 loans.

4 GREG BISHOP: Right, so far. So, we had 8,000
5 applications which represents the demand for a
6 program that, that far weighed the funding for the
7 loan program. So, it's a two step process. So, we
8 go through the approval process to make sure that
9 they have all of their documentation etc., and then
10 we send it over to the lender to actually make the
11 loan. That's the underwriting process and so, the
12 loan is a traditional loan. So -

13 COUNCIL MEMBER RIVERA: I'm so sorry, I just
14 don't have a lot of time and I just wonder, do you
15 have the number of how many people qualified or not
16 really?

17 GREG BISHOP: Yes, yes, we do. Jackie do you
18 have the -

19 JACKIE MALLON: So far 174.

20 COUNCIL MEMBER RIVERA: 174 out of 8,000?

21 JACKIE MALLON: By the lender, that's what you're
22 asking right? Yeah.

23 COUNCIL MEMBER RIVERA: Okay, I just want to move
24 on. How many small business owners have contacted
25 you about inability to pay rent and since the city's

1 applications are closed, where are you referring them
2 to?
3

4 GREG BISHOP: So, we can get back to you on the
5 terms of the number of businesses that we referred to
6 our legal services. But Council Member, I was going
7 to tell you, so **[INAUDIBLE 1:16:36]** for example can
8 use our commercial lease assistance to get a free
9 attorney. We've been partnering with other law firms
10 who are providing pro bono legal services to help our
11 businesses negotiate with their landlords.

12 COUNCIL MEMBER RIVERA: Okay. So, you are
13 referring them where? Sorry.

14 GREG BISHOP: To attorney's. So, right now, if
15 anyone needs assistance with their landlords, we have
16 the commercial lease assistance program, so we are
17 referring them to pro bono legal attorney's. We'll
18 help them review their lease, help them negotiate
19 with their landlord. It's helpful to have an
20 attorney during this time, to have that conversation
21 with the landlord.

22 But we're also advising small landlords because a
23 number of the mortgage companies are issuing
24 forbearance. So, if a small landlord has a mortgage,
25 they too can call their mortgage companies, most

1 banks have allowed a 90-day for forbearance, which
2 that information could actually, that relief can be
3 passed onto the small business owner.
4

5 COUNCIL MEMBER RIVERA: Okay, have you heard from
6 business owners regarding personal liability concerns
7 either prior to or during COVID-19, and if so, how
8 would you assist them?

9 GREG BISHOP: We have not, but again, we would
10 connect them to our attorney network. That is one of
11 the services that we provide in general for legal
12 assistance, especially around contracts and leases.
13 So, that would be if someone contacted us and they
14 can do so either through 311 or nyc.gov/covid19biz we
15 can connect them to an attorney at no cost.

16 COUNCIL MEMBER RIVERA: What is your position on
17 our bill Intro. 1932?

18 GREG BISHOP: So, Intro. 1932, we are, sorry, so
19 1932 is the COVID related, I'm sorry.

20 COUNCIL MEMBER RIVERA: Yeah, it's on personal
21 liability.

22 GREG BISHOP: Yeah, so I think we you know, would
23 love to talk to you some more about that. The Law
24 Department would love to look at some additional
25 details, but in general, anything that we can do to

1
2 provide some relief to small business is things that
3 we would take a look at.

4 COUNCIL MEMBER RIVERA: So, you don't have a
5 position at this time but your game to engage in
6 conversation and figure something out?

7 GREG BISHOP: Absolutely. There's some legal
8 questions around that, so we want to make sure we do
9 it right in terms of the concept, but the Law
10 Department would love to take some time to review.

11 COUNCIL MEMBER RIVERA: Okay, and then I just
12 want, in the wake of the city shutting down its loan
13 and grant programs, do you think the city still has
14 a role to financially support businesses,
15 particularly those owned by or employing undocumented
16 New Yorkers and thus cannot apply for federal
17 programs?

18 GREG BISHOP: So, and I've mentioned this and I
19 mentioned this in my testimony.

20 MODERATOR: Time expired.

21 GREG BISHOP: The private sector, we need to work
22 with the private sector but we've done it in the past
23 to help create a philanthropic pathway to get dollars
24 in the private sector that doesn't have the
25 restrictions of either federal dollars or city

1
2 dollars to be able to help on those vulnerable, which
3 is our undocumented entrepreneurs. And that is
4 something that we are very much interested in
5 pursuing and we're working with you on how we can do
6 that officially.

7 COUNCIL MEMBER RIVERA: Thank you. I have a
8 couple more questions but thank you for the time, Mr.
9 Chair.

10 STEPHANIE JONES: Thank you Council Member.
11 Next, we'll hear from Council Member Lander followed
12 by Council Member Powers. Council Member Lander?

13 MODERATOR: Clock.

14 COUNCIL MEMBER LANDER: Thanks very much. I'm
15 going to follow up in the later part of my time on
16 Council Member Rivera's question but I guess I just
17 want to start from like, what we can do on the PPE.
18 Because I spent a bunch of yesterday in advance to
19 this hearing talking to the small business, a bunch
20 of small business owners in my district and not a one
21 has either gotten, but in one case a person got but
22 just can't use the PPP because of the eight week
23 restriction.

24 So, they have zero federal relief, nothing. They
25 are closed, they got no revenue. Their employees are

1 getting unemployment insurance, but they have
2 absolutely nothing to cover rent and their own debt
3 and their supplier leases, nothing. And so, they're
4 terrified they are not going to be able to make their
5 rent payments. They can't keep leasing the machines
6 from their suppliers and so, unless we can make the
7 PPP work and to me, the eight week issue seems like
8 the one that is most, like, that doesn't even cost
9 the federal government anything to let people have
10 until the end of the year to rehire and use 75
11 percent of the money for payroll and all of these
12 other things are important. And I'm signing on to
13 all of these bills and I support them all and I thank
14 their sponsors. But if we can't get federal dollars
15 to cover the loss of revenue, I just don't see what
16 else is going to work to keep there being just mass
17 business shutdowns of perfectly viable businesses.

18
19 So, do you share that analysis and if so, what
20 are going to do to change that?

21 GREG BISHOP: Absolutely. So, there's actually
22 four things. Three things related to PPP and one
23 I'll jump in really quickly because I see the time is
24 ticking. But you are absolutely right and I've been
25 working with the New York Federal Delegation. They

1 share the same concerns that you have and they are
2 advocating and they are working right now negotiating
3 in the next stimulus package. There needs to be a
4 change in terms of the timing.

5 Remember when the PPP was launched, no one knew
6 how long this pandemic that sort of paused, would
7 occur. And I think you know, this hurts cities that
8 have paused business operations. So, we need to push
9 as delegation and they have been doing it to change
10 that time. We need to change the percentage. Only
11 25 percent of the PPP can be used for every other
12 expense and you hit the nail on the head, for New
13 York City business, we think based on the ratio, they
14 can borrow two and a half time at payroll. It should
15 be a lower percentage that is required for payroll
16 and then they could use the rest for rent.

17 And then three, to make sure, ensure and
18 absolutely ensure that our smallest, most vulnerable
19 businesses have access. We are also asking for
20 another tweak. We got the tweak in the second round
21 where banks, small community banks and CDFI's had a
22 \$60 billion allocation. We are now going to advocate
23 that only CDFI's have an allocation that they could
24 work with and they can operate in. Technical
25

1 assistance is so important and it take about a week
2 or two to get a small business in terms of the
3 technical assistance to apply.
4

5 And the last thing that I would say that we have
6 not talked about is our insurance industry. Our
7 insurance industry is sitting on about \$800 billion
8 of reserves. They have hid behind the cloak of, you
9 know this is not a covered pandemic, but I say that
10 we should allow the congress to come up with a path.
11 Not necessarily bankrupt the industry but have some
12 type of percentage or allocation, so that way the
13 businesses that have business interruption insurance,
14 these are businesses that have been around for 20, 30
15 years that have paid their premiums every month and
16 now in the most needed time, insurance companies are
17 hiding behind the veil.

18 COUNCIL MEMBER LANDER: It's even worse than
19 that, one of the businesses I talked to yesterday,
20 talked about the fact that they are still getting
21 their insurance bill. So, like, not only are they
22 not getting their insurance, the are being expected
23 to continue to pay their insurance. It's really
24 outrageous. So, I just, you know, to me, it's like,
25 I'm open to other things that could matter at scale

1
2 but if we don't change PPP so it could work for our
3 small businesses, I just, I don't know what, all
4 these things we're talking about are good but I don't
5 think they are going to be enough to save a lot of
6 them.

7 I'm a little less worried about the percentages
8 just because of people reopen and then they have
9 revenue coming in, then they could use the PPP to pay
10 the wages of their workers and use the revenue that's
11 coming in to pay back the back rent. But I hear you,
12 to me, it's really that -

13 GREG BISHOP: And -

14 COUNCIL MEMBER LANDER: Let me, just because my
15 time is running out. I just do want to underline
16 what Council Member Rivera just spoke about because
17 I'm going to work hard and pray that we pass all
18 these bills, we get PPP fixed and at least like a lot
19 of our small businesses can benefit from that.
20 That's a big, big leap of faith but no one is coming
21 to help our immigrant entrepreneurs, our street
22 vendors, like a whole set of people that there's no
23 way they're going to be eligible for PPP.

24 So, we got to build a program at the city level
25 and that might need public debt. You know, it might

1
2 need other but I don't think we can like hope someone
3 else will ride to the rescue for those benefits. No
4 one else is going to come to their rescue.

5 MODERATOR: Time expired.

6 COUNCIL MEMBER LANDER: And I just would really
7 reinforce what Council Member Rivera said about our
8 need to stand up a program that does that.

9 GREG BISHOP: And we agree and we've worked with
10 the private sector before and we will look forward to
11 working with the private sector to address this
12 particular population. So, thank you very much and
13 I'm happy to work with you and Council Member Rivera
14 to make sure that we get it right.

15 COUNCIL MEMBER LANDER: Thank you.

16 STEPHANIE JONES: Thank you. Chair Cohen?

17 CO-CHAIR COHEN: I just want to pipe up for one
18 second. You know to be respectful of the clock, but
19 you don't have to be slavish to it. I thought
20 Council Member Rivera might have gotten cut off. So,
21 I'm just asking people to be respectful of the clock,
22 that's all. Thank you.

23 STEPHANIE JONES: Thank you Chair. Next, we'll
24 hear from Council Member Powers, followed by Council
25 Member Yeger. Council Member Powers?

1
2 COUNCIL MEMBER POWERS: Thank you and thank you
3 to the Chair's for allowing us the time here and to
4 get into questions. I had a couple of questions,
5 one, I just have to echo on what Council Member
6 Lander said, which is that those programs that are
7 put in place while are really still great programs
8 that are helping businesses still need so much more
9 changes to be able to make them actually executable
10 at the city level. But I know we all agree on that,
11 so I'm going to go to questions.

12 But first I want to add this, for the City
13 programs that were put in place, understandably there
14 was a misunderstanding of how their might be a lack
15 of clarity of how long this would last and so
16 resources were limited but can you give us any data
17 on the types of businesses. Like, in terms of the
18 loans that went out and the grants that went out. Do
19 you have a breakdown of what types of businesses
20 receive those? Meaning what sector or what area
21 receive those grants and loans?

22 GREG BISHOP: Yeah, so they vary. So far, a loan
23 program you know, the top recipients of the loans
24 were accommodation in food services, so restaurants
25 etc., and then followed by what we describe in the

1
2 mixed codes as professional scientific and technical
3 services but that's like your architects,
4 architectural firm, traffic designers and then
5 followed by beauty salons, dry cleaners etc. and they
6 have retail. Then it goes down all the way to you
7 know wholesale trade, healthcare, transportation and
8 manufacturing.

9 For our grant program, it skewed a little bit
10 differently simply because of the size standard that
11 we applied. So, you saw a lot of professional and
12 technical services again, architectural firms and
13 retail, then hair salons, barber shops, nail salons.
14 Then you had your healthcare and then you had arts
15 and entertainment. Then you had accommodations, so
16 food, restaurants, coffee shops. So, it's a
17 widespread and I think you know one of the reasons
18 why we wanted to limit the employee count was to make
19 sure that we limited to our very micro businesses.
20 But again, first come first serve for as you said
21 with the federal program, it doesn't really help with
22 our small businesses, which is why the things that I
23 mentioned with Council Member Lander in terms of the
24 fixes for the PPP, I think will address the fact that

1
2 our small businesses got left out of the first round
3 of the PPP.

4 COUNCIL MEMBER POWERS: Okay, and if you have any
5 info you can send to us on that breakdown, it would
6 be helpful just for us to have an understanding of
7 it.

8 GREG BISHOP: Yeah, we can.

9 COUNCIL MEMBER POWERS: On the number of bills
10 that are related to – and this is for SBS or others,
11 so bills that related to commercial tenants and
12 harassment liability, evictions and things like that.
13 Do you have any data related to, one of the concerns
14 is obviously, I've talked to the owners who are
15 holding on to their lives and they are fearful of
16 having to put all their savings into it and
17 conversely I've heard from folks who are you know, we
18 are relying on in terms of tax revenue here in the
19 city. About their concerns with what impact it may
20 be to the city on property tax and their ability to
21 pay. Do you have any data on commercial rent
22 payments for the month of March or April at this
23 point? Basically, in the coronavirus, is there any
24 data available to us about how many, like sort of
25 percent, like, who is paying and how many commercial

1
2 rent tenants are not able to pay the rent at this
3 point?

4 GREG BISHOP: No, we do not have that information
5 currently. I know the Brooklyn Chamber did a quick
6 survey of their members of businesses in Brooklyn and
7 there seems to be about I think 30 percent were not
8 able to pay the rent and only about half of them have
9 been able to work with their landlords. But what we
10 have, in everything that we have done, we've sent out
11 guidance to so many different businesses. We've told
12 businesses to be proactive, contact their landlord
13 and use our legal services to have that conversation.

14 So, we can provide you information about how many
15 referrals we've made to our legal services, so you
16 can get an understanding of how many businesses -

17 COUNCIL MEMBER POWERS: Yeah, well my point here
18 is like I talked to a restaurant owner last night who
19 was wonderful and was talking about his you know, his
20 difficulty right now some concerns of course on
21 liability and being able to pay. I've heard
22 anecdotally some commercial landlords saying they
23 have collected in the 80, 90 percentile and others
24 are collecting in the 50, maybe even a lower point a
25 concern that legislation would impact that and then

1 we would be having an inability to collect on
2 property taxes for a number of these folks. So, I am
3 trying to monitor what impact people to the city's
4 revenue and also to those owners as well. And some
5 are trying to do the right thing by their tenants.
6 I've heard some that have not even been communicated
7 or have not had positive communication from their
8 landlord.
9

10 I just want to ask one more question since there
11 is so many topics on this. On the topic of
12 surcharges on restaurants and deliveries and apps and
13 things like that. I did not hear, I have to admit, I
14 did not hear the exact position of the Administration
15 on those bills but I did want to ask a question of
16 whether they thought those had apply during this
17 period. Whether there should be a surcharge put on
18 at the moment where restaurants are closed and only
19 open for takeout or were in support of or had
20 thoughts on that beyond that period of time.
21 Meaning, this particular point and time seems unique
22 to the restaurant and hospitality industry relative
23 to the non-coronavirus period of time and whether
24 there was a distinction drawn between those two areas
25 when it comes to those bills.

1
2 GREG BISHOP: And so, we and you know, we work
3 closely with the Hospitality Alliance, Ed Drew[SP?],
4 I saw him in this hearing. You know the rest of the
5 industry has already thin margins and so, we're very
6 supportive of any efforts to limit their expenses.
7 Especially during this emergency period.

8 So, we are supportive of that. I think it
9 requires a broader conversation after this period but
10 certainly we want to be supportive of anything that
11 can help reduce the cost of our restaurants.
12 Primarily because our restaurants right now, they are
13 operating on just take out. So, in some cases that
14 might not be enough revenue for them to actually
15 operate but some of them are just operating just to
16 be a resource to the community, so we are very
17 supportive of that.

18 COUNCIL MEMBER POWERS: Thank you and I think
19 I'll end there. Thanks, Chair.

20 STEPHANIE JONES: Thanks Council Member. Next,
21 we'll hear from Council Member Yeger followed by
22 Council Member Koslowitz. Council Member Yeger?

23 COUNCIL MEMBER YEGER: Thank you Mr. Chairman.
24 Thank you very much Mr. Chairman. Commissioner, it's
25 good to see you again and I'm going to be easy

1 because I'm not asking any questions. I'm simply
2 going to make a few statements and you can sit back
3 and relax.

4 I appreciate the work that SBS is doing for small
5 businesses. I do think that the city can do more,
6 not necessarily from within your department but I'm
7 going to use my free time at the microphone today to
8 make a few points that I've been making over the last
9 days.

10 The city is continuing its standard process of
11 issuing summonses for example to sanitation. So, that
12 hasn't really laid off, sanitation employees are
13 going around writing summonses on businesses, on
14 homeowners. The city is still doing what it can to
15 suck the life out of New Yorkers and get the cash and
16 I get that because we are facing tough times but I
17 also think that the city can and should do more.

18 For example, last real property tax payments were
19 done on April 1st, so that's going to be July 1st.
20 There are people who have not been able to make the
21 April 1st payment. They may not be able to make the
22 July 1st and a lot of that particularly when it comes
23 to real property owners that are one and two family
24 owners, relies on rental income. The city has an
25

1 obligation to help tenants of small businesses to
2 alleviate their rental burden but at the same time,
3 it can't be one direction. The city must use the
4 resources that it has to alleviate the burdens on
5 those that have to pay the bills, the landlords who
6 have to give the money to the city.
7

8 If tenants can't pay rent and landlords can't pay
9 property taxes, the city gets hurt but if the city
10 can figure out a way to alleviate that burden a
11 little bit on landlords and one easy way to do it
12 right now is to give them a little breathing room.
13 For the city to tell them look, you may not have been
14 able to make your April 1st payment, the grace period
15 was 14 days ago, interest is accumulating, we are
16 waiving that.

17 Right now, the Mayor and the City Council can
18 make that announcement, well not me, but the Mayor
19 and the Council can make that announcement that
20 interest payments for interest debt being accrued on
21 payments that were due on April 1st will be waived.
22 Interest payments due on payments that cannot be made
23 by July 1st will be waived and a commitment to New
24 Yorkers that real property taxes will not go up this
25 year when we adopt the budget. Not that the rate

1 won't change because that's always the trick we play
2 with New Yorkers. We don't change the rate, but
3 everybody gets a higher bill. That the property tax
4 itself will stay, whether that means grieving effect
5 evaluations are rolling them back down, we have to do
6 something to release the pressure on those pipes,
7 otherwise they are going to burst.

9 The focus on the private sector for relief and
10 the unwillingness of the city to do its part is
11 wrong. And I think that the city and the Council,
12 the Administration and the Council can make those
13 commitments. And the reality is, that tenants who
14 can't pay rent today and tenants who can't pay rent
15 on May 1st, may never, ever be able to recover the
16 loss of revenue to come current. And we need to do
17 things that will fix that. Which brings me to
18 Introduction 1932.

19 I spoke yesterday about another introduction and
20 seems I'm going to repeat myself in some regard.
21 It's important for us to come up with ways to help
22 tenants, it's necessary. It's also important for us
23 to do it legally and for us to do it
24 constitutionally.

1
2 Intro. 1932 and I think and without speaking for
3 the cooperation Council, I think one of the reasons
4 that the city is not ready to [INAUDIBLE 1:36:24] on
5 it, is because the city doesn't want to come before
6 the Council and say this bill as it is written is
7 unconstitutional. Except it is. The violation of
8 Article 1 Section 10 is constitutional. The city
9 cannot retroactively adjust, amend a contract that
10 was entered into by two parties at arm's length. You
11 can't do it, illegal. We can think we can do it
12 because we always think we can do things that are
13 illegal and unconstitutional but its not lawful for
14 us to do it. Emergency or not, and this is the real
15 epitome of an emergency. There has been no emergency
16 like this, not just in the last 50 year but probably
17 in the last 100 years since the stock market crash of
18 the early 19- nearly 20th century, but we have an
19 obligation to actually be honest with New Yorker.
20 This feels unconstitutional. We don't have a legal
21 authority to go backwards into a contract that was
22 entered into five, six, seven, three years ago, one
23 year ago, 16 months ago and amended retroactively to
24 remove a provision. I want to make one more point
25 Mr. Chair. I know my time is about to wrap up and

1
2 I'm going to try to do it quickly. To understand the
3 nature of why personal guarantee exists in lease
4 abatements. It's important for that to be part of
5 this conversation. It's not simply to suck cash out
6 of people. It is because in many respects, a
7 landlord when deciding to right the seize of property
8 would not but for that provision rent the property.

9 If a business doesn't have the access, the income

10 -

11 MODERATOR: Time expired.

12 COUNCIL MEMBER YEGER: Of the landlord. If it's
13 a new business, the landlord may not want to rent the
14 property. What induces a landlord to do that and
15 what builds the small business enterprises of New
16 York City, including my father's firm. He would not
17 be able to rent the piece of property if he did not
18 sign a personal guarantee on his lease. It's
19 necessary for the landlord to induce him to be
20 willing to accept that lease. When we try to step in
21 and say the landlords wrong, the landlords wrong, the
22 landlords wrong, without recognizing that it's not
23 that the landlord's wrong. But we are in tough times
24 and everybody is hurting and it can't just be that
25 the tenant is not going to pay rent because the

1
2 tenant doesn't have income. We have to find a way,
3 we in the Council, the Administration on the other
4 side of the building have to find a way to reduce the
5 burden on all New Yorkers that are trying to come out
6 of this. Thank you, Mr. Chairman for indulging me
7 and Commissioner, you weren't being lectured at but I
8 appreciate you sitting there patiently. It was just
9 my chance to make these points. Thank you again.

10 GREG BISHOP: Thank you.

11 STEPHANIE JONES: Thank you Council Member.

12 Next, Council Member Koslowitz followed by Council
13 Member Chin. Council Member Koslowitz?

14 MODERATOR: Time.

15 COUNCIL MEMBER KOSLOWITZ: Thank you very much.
16 Good to see everybody. Today, the Queens delegation
17 had a remote meeting with the Queens Chamber of
18 Commerce and the numbers that they gave us were
19 pretty scary. Out of six thousand businesses
20 throughout Queens county, they don't expect 3,000
21 businesses to reopen. That's a very scary number. I
22 know my district is full of commercial businesses all
23 over. Wherever you walk, I have all of Queens
24 Boulevard that adds from Elliot Avenue all the way
25 down into Kew Gardens, all businesses, 108th street

1 and that's a very scary number. I've gotten calls
2 from different businesses doing the same kind of
3 business for instance, hair salons. One person got a
4 check for \$10,000 and the other hair salon got
5 \$1,600. How did they decide who gets what?
6

7 GREG BISHOP: So, those two instances, were the
8 SBA's Economic Injury Disaster Loan Program that they
9 applied to. There was an emergency grant that was
10 attached to that program. That program, the grant
11 was up to \$10,000. But as you can imagine, there was
12 a number of applications, so I think at a certain
13 point, the SBA changed the guidance to limit the
14 amount of dollars.

15 So, if you were early on, you might have gotten
16 the maximum but later on, they shifted it to just
17 \$1,000 per employee.

18 COUNCIL MEMBER KOSLOWITZ: That's like kind of
19 unfair and the truth of the matter is, that in most
20 hair salons, the employees are self, they work on
21 commission more than salary. And that's really
22 unfair because the bills are the same. The rent is
23 the same, you know, whenever they apply, the rent is
24 still the same and their expenses are the same. And
25 for one to get \$1,600 and then the other get \$10,000,

1 why didn't they foresee that there were going to be a
2 lot more people applying and like kind of decide how
3 much each person would get?
4

5 GREG BISHOP: I think the New York Delegation
6 sees that and the New York Delegation has been
7 advocating for additional funding. As you know, the
8 New York Delegation is also advocating for funding
9 for the City of New York itself to help close out
10 budget deficit. So, I've been in touch with everyone
11 from you know, Congressman Velazquez, Hakeem
12 Jefferies, you know even Gregory Meeks. You know,
13 everyone in the New York Delegation to let them know
14 about the concerns of our smallest business, our
15 microbusinesses.

16 So, again, I will bring this up in terms of
17 additional funding for the next stimulus package and
18 then I'm happy to have your support there as well.

19 COUNCIL MEMBER KOSLOWITZ: Okay, I just, I just
20 felt that you know the way you described it, first
21 come first served in this kind of disaster act really
22 to do it that way, not anticipating that there would
23 be a lot of people applying for these loans and kind
24 of you know, lower the amounts so each business
25 applying would get the same amount of money.

1
2 GREG BISHOP: Right, there's also another
3 strategy that we're pursuing. At the beginning of my
4 testimony I talked about how important CDFI's are to
5 our small businesses. So, more than likely those
6 nail salons, those small businesses that have fewer
7 than five employees, they have a relationship with a
8 CDFI or a small community bank.

9 CDFI's are restricted in terms of their behavior
10 in the open market to get capital. There's some
11 restrictions on the SBA side, which is the Federal
12 Small Business Administration and there's
13 restrictions on the federal reserve side and we're
14 advocating to loosen some of that restrictions, so
15 our CDFI's can get capital and therefore they can
16 lend to those small businesses as well.

17 COUNCIL MEMBER KOSLOWITZ: Okay, thank you very,
18 very much.

19 STEPHANIE JONES: Thank you. Next, we'll hear
20 from Council Member Chin followed by Council Member
21 Brannan. Council Member Chin?

22 MODERATOR: Clock.

23 COUNCIL MEMBER CHIN: Thank you. Thank you to
24 Chair Gjonaj and Chair Cohen and to the panel.
25 Commissioner Bishop, it's great to see you and thank

1
2 you for your support and concern you know, for our
3 small businesses especially the small business in my
4 district in Chinatown, lower east side. It was
5 impacted so early as you mentioned.

6 So, first I wanted to see if you had some
7 statistic in terms of how many of the small
8 businesses in Chinatown were able to access the
9 city's loan program and then also the grant program,
10 because it took a while for the application to get
11 off and running. So, if you can provide some of that
12 statistic and also, how many were like street vendors
13 who you know, they work or they have another employee
14 working with them. Were they able to get some of the
15 grants and program under the city? If you can answer
16 those two questions.

17 GREG BISHOP: Yeah, so we can breakdown and we
18 are happy to follow up specific on the zip code for
19 Chinatown because I just have like a global in terms
20 of the boroughwide breakdown.

21 So, we'll follow up with you specifically for
22 Chinatown. I think for street vendors, you know we
23 did open up the grant program because it's only for
24 companies that have one to four employees. And I you
25 know, spoke to some of the advocates in the street

1 vending community. That is one of the areas that we
2 are going to meet folks on in terms of private
3 philanthropy to figure out how we can help those
4 businesses that may not have the traditional
5 documentation that's necessary for these programs.
6 Because you know, there's some vendors, they may not
7 even have like a payroll system. They may not have
8 even maybe a back account. And so, we are definitely
9 aware that there are some gaps in both the city's
10 program and the federal program and we would be happy
11 to work with you to continue to figure out how we can
12 solve that particular problem in terms of helping our
13 street vendors and our undocumented immigrants.
14

15 COUNCIL MEMBER CHIN: So, you're saying that none
16 of the street vendors got a grant?

17 GREG BISHOP: So, I don't have the breakdown in
18 terms, I only have sectors, so I can't tell you if
19 like what we categorize as a restaurant was like a
20 food cart. We would have to look at like who the
21 business was and I don't have that level of details
22 for this hearing but we can go back and give you like
23 just overall businesses in your district. How many
24 were awarded a grant.
25

1
2 COUNCIL MEMBER CHIN: I think it's also helpful
3 to see if like the food carts and you know, the
4 street vendors were able to access that. I think
5 that would really help the community that there is a
6 fighting chance that don't just assume you wont have
7 an opportunity.

8 The other thing is that my question is on the
9 loan, now you had a third-party vendor organization
10 that was helped processing the loan. How come you
11 were not able to reach out to CDFI's and credit
12 unions to help with the city and you had to do the
13 third-party?

14 GREG BISHOP: The third-party is a CDFI. So, the
15 way it works is that we use tax dollars to do a loan
16 loss reserve. We got capital from the private sector
17 and that capital was then deployed to the CDFI and
18 that CDFI -

19 COUNCIL MEMBER CHIN: Which one was that?

20 GREG BISHOP: Pursuit.

21 COUNCIL MEMBER CHIN: Okay.

22 GREG BISHOP: Yeah, so, but I know we also, I
23 know Renaissance, there's a couple of CDFI's we work
24 closely with. You know, Pursuit, renaissance, BCNA,
25 we also work closely with True Fund. There's a

1 number of them that we work with that have specific,
2 Axion[SP?] for example. We have a network of a lot
3 of CDFI's but for this particular program, we worked
4 with them in the past during Hurricane Sandy. They
5 had the technology to be able to stand up this
6 program as quickly as we did it.

7
8 So, you know, we are of course working with other
9 CDFI's because they are the one's that will provide
10 the technical assistance to help -

11 COUNCIL MEMBER CHIN: In this 3.5 stimulus, sorry
12 to interrupt. In the 3.5 stimulus, there's \$60
13 billion set aside for women and minority owned
14 business but it also did mention from the
15 congressional rep that CDFI, credit union will also
16 be able to help small businesses, is that correct?

17 GREG BISHOP: That's correct but it's CDFI's and
18 community banks. So, not to get into the weeds, but
19 community banks have access to the capital markets,
20 so they can borrow, they can money from the feds as
21 quickly as possible, CDFI's don't. So, there's sort
22 of like a structural disadvantage for CDFI's in terms
23 of liquidity for them to be able to lend as quickly
24 as possible as community banks. So, what we're
25 seeing in the next stimulus package -

1
2 MODERATOR: Time.

3 GREG BISHOP: We would like CDFI's to have their
4 own pool, so their competing against other CDFI'S
5 nationwide and not necessarily community banks. It's
6 a minor clarification but I've been contacting our
7 New York Delegation and they understand sort of like
8 the challenges there as well.

9 COUNCIL MEMBER CHIN: Thank you. Thank you.

10 STEPHANIE JONES: Thank you Council Member.

11 Next, we'll hear from Council Member Brannan followed
12 by Council Member Koo. Council Member Brannan?

13 COUNCIL MEMBER BRANNAN: Thank you. Thank you,
14 Commissioner. Certainly, you know, echoing what my
15 colleagues are saying today and certainly
16 acknowledging the fact that what we're dealing with
17 right now is larger than what the city can handle on
18 its own. But I wanted to ask, as far as the SBS
19 Grant and Loan programs, how does SBS decide how much
20 money to put into that pot in relation to the amount
21 of taxes that our small businesses pay? There seems
22 to be a substantial discrepancy in the money that our
23 small business are funding, putting into the city to
24 keep the lights on versus the money that is now being
25 extended or offered to them or was being extended and

1
2 offered to them in the grant loan programs. How is
3 that decision made and is there any talk about
4 putting more money into those funds?

5 GREG BISHOP: So, just to make sure we you know
6 understand your landscape, when we designed this
7 program, the world that we're in right now was
8 totally different. So, we looked at what was
9 happening as the Council Member Chin talked about
10 with businesses that were impacted in January and in
11 February. We looked at the landscape of our small
12 businesses in terms of our microbusinesses and we
13 focus on the largest amount of help that we can
14 assist.

15 So, businesses with one to four employees, make
16 up about 60 percent of our small businesses in New
17 York City, so we figured that was going to be the
18 maximum reach to help those businesses that were
19 trying to hold on to their employees but still had
20 services for businesses. They were still operating.

21 Five days later, we got to this point where the
22 entire city needed assistance. Now, we were able to
23 quickly adapt a program because we heard a lot of
24 businesses saying you're only looking at lost
25 reserves in January and February, so we were able to

1
2 add March but we publicly said that this is not going
3 to be enough for everyone, we need federal help and
4 as soon as we got federal help, we started
5 transitioning our resources and all our efforts to
6 make sure our small businesses connect to the federal
7 programs.

8 COUNCIL MEMBER BRANNAN: Okay, so is there any
9 discussion around now that we're in this new reality,
10 a discussion around putting more money into those
11 programs?

12 GREG BISHOP: I think you know; it's going to be
13 depending on our resources. As you know, we have our
14 budget constraints. We have been advocating on the
15 federal level for more resources and I think I've
16 publicly said, the Mayor has publicly said, we need
17 the federal government to help us here. And we've
18 been advocating for changes in those federal programs
19 to make sure they are aligned with all the things
20 we're talking about today to New York City businesses
21 and the needs of New York City businesses, to make
22 sure that not only our smaller businesses can get
23 access through CDFI's to these funding. But then
24 also, our businesses in general if they access the
25 PPP, they have enough time to make a decision on

1 hiring. They have enough time to figure out in terms
2 of how to repay their employees in terms of the
3 percentage.
4

5 So, there's a number of things that we've been
6 advocating for, in addition to you know, asking the
7 banks to do more. They could create, they don't have
8 to wait for the federal government to back the loans.
9 They could create their own loan programs. So, we're
10 doing a number of things to help our small businesses
11 get the capital that they need.

12 COUNCIL MEMBER BRANNAN: Okay, I'll finish up but
13 I guess my concern is you know, we're hearing a lot
14 of talk now about donor states right and states that
15 send back more money to DC than we get. But a lot of
16 small business owners are starting to feel the same
17 way, that they send more money to the city to keep
18 the lights on then they're being offered access to
19 now when they need it most. And there seems to be a
20 pretty big discrepancy there with how much money is
21 being taken from the businesses to keep the lights on
22 in the city versus how much of that money is being
23 you know, put aside to be extended to the businesses
24 now when they need it most.

1
2 So, that's going to be a big concern for the
3 Council as we go forward certainly into the budget
4 hearing.

5 Thank you for your time.

6 STEPHANIE JONES: Thank you Council Member.
7 Next, we have Council Member Koo. Council Member
8 Koo?

9 MODERATOR: Time.

10 COUNCIL MEMBER KOO: Thank you. Thank you
11 Commissioner Bishop and Chair Gjonaj and Chair Cohen
12 and all our members and also our Administration
13 spending time on this very important meeting.

14 My question is to the Commissioner, the city is
15 only spending \$39 million to help small business
16 owners. It's not enough. We spend more money on
17 renting hotels for homeless people than \$39 million.
18 We spend more money on mental health programs,
19 there's almost a \$1 billion there and so, the city
20 has thousands and thousands of small business owners
21 and many or better as you said, they only have four
22 or five employees. And many owners told me first of
23 all, they don't know how to apply because they have a
24 language problem. By the time they find somebody who
25 will help them to apply, it's over already.

1
2 So, I think we should do more. I mean, we have
3 to find some money to help small business owners
4 because they are the backbone of this economy. They
5 pay taxes, they hire people and it's how a small
6 business should work.

7 This is your agency; your priority should be
8 helping small business owners. But that's more
9 business owners, they close the door, they don't have
10 money to pay the rent and their landlords are calling
11 them and they have bills to pay. The electricity
12 bill, the insurance bills. Even though they haven't
13 opened the business for three months, those bills are
14 still coming.

15 So, I'm hoping as Commissioner you will portray
16 the Mayor to spend more money to help small business
17 owners. Because even if you give them like \$5,000
18 each, you will help them a lot because this will help
19 them pay past rent or something you know. Right now,
20 it's tough and if you don't do anything, I will
21 foresee maybe one-third and half of the businesses
22 will file bankruptcy.

23 So, it will be bad for the city if you don't want
24 to spend money to feed these golden goose. We used
25 to feed the city of tax revenues and we are the

1
2 golden goose right, the golden geese. Now, the geese
3 have nothing to eat, they cannot lay any eggs
4 anymore. So, the city has to feed the geese, the
5 business owners with some money to help them over
6 this difficult period.

7 That's all I want to say, thank you.

8 STEPHANIE JONES: Thank you Council Member.
9 Chair Gjonaj, did you have any further questions for
10 our panel?

11 Thank you. Chair Cohen did you have any further
12 questions?

13 CHAIRPERSON GJONAJ: I do. I'll come on. Thank
14 you, Stephanie. I think the Commissioner has an
15 update for us on the number of loans that were issued
16 by borough grants or loans. I'm not sure if you have
17 that now available.

18 GREG BISHOP: Yeah, so, in terms of the loans by
19 borough and we have talked about the percentage. So,
20 we can, I can go through the actual. So, this is as
21 of April 26th. So, 5 percent of the loans went to
22 Staten Island, 9 percent went to Queens, 66 percent
23 went to Manhattan, 18 percent went to Brooklyn and 1
24 percent went to the Bronx.

25 CHAIRPERSON GJONAJ: What went to Manhattan?

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GREG BISHOP: 66 percent.

CHAIRPERSON GJONAJ: And how much went to the Bronx?

GREG BISHOP: 1 percent as of 4/26 and we're still processing applications.

CHAIRPERSON GJONAJ: You know what I'm going to say to you. 1 percent of the loan went to the Borough of the Bronx and 66 percent went to Manhattan. And we know that most of these small businesses exist in the outer boroughs. So, already we see a huge disparity on how these loans, I mean, does any one even know how many went to minority and women owned businesses, the very group that we're supposed to be fighting for?

GREG BISHOP: Yeah, so we have that and just so you know the Bronx also has, we also have for the loans.

CHAIRPERSON GJONAJ: It's obvious, yeah but I know what we have.

GREG BISHOP: For the loans we have 30 percent of the approvals went to MWBE's and for the grants, when you look at the borough breakdown, we have 3 percent to Staten Island, 60 percent to Queens, 25 percent to

1
2 Brooklyn and 53 Percent to Manhattan and 3 percent to
3 the Bronx.

4 I will just let you know that in terms of when
5 you look at the number of firms that have one to four
6 employees, the breakdown citywide, 8 percent of those
7 businesses are in the Bronx, 26 percent are in
8 Brooklyn, 40 percent are in Manhattan, 23 percent are
9 in Queens and 4 percent are in Staten Island. So,
10 there are very small businesses in Manhattan, 40
11 percent of those, so what you're seeing is a ratio
12 that matches just the general landscape of small
13 businesses across the city.

14 CHAIRPERSON GJONAJ: Commissioner, how many small
15 businesses from the borough of the Bronx applied for
16 those loans and grants?

17 GREG BISHOP: We can get that number to you.

18 CHAIRPERSON GJONAJ: That will be very telling of
19 the real story.

20 GREG BISHOP: Yeah.

21 CHAIRPERSON GJONAJ: One percent of \$39 million
22 which really amounts to —

23 GREG BISHOP: No, that is not accurate. That one
24 percent is so far of the \$8 million that we have

1 awarded, not the \$39 million, and we're still
2 awarding businesses on the loan side.
3

4 CHAIRPERSON GJONAJ: So, in essence of the \$8
5 million, \$80,000 has gone to the Borough of the
6 Bronx?

7 GREG BISHOP: And we can give you a breakdown in
8 terms of the number of businesses. As you may
9 recall, the loan which was a standard loan is not an
10 emergency loan, required businesses to be in business
11 for two years, there was addition requirements. For
12 those that did not get the loan through the city's
13 program, we pivoted them over to the Paycheck
14 Protection Program, which had a lot more flexibility.

15 CHAIRPERSON GJONAJ: Commissioner, I don't want
16 to deflect to the federal government. This is New
17 York City taking care of its own and if you're
18 telling me that New York City couldn't do more than
19 \$39 million, and I'm using your numbers, provide
20 \$80,000 to the entire Borough of the Bronx, we have
21 real problems here.

22 We're not going to figure them out today but we
23 need this message to go back to this Administration.
24 Start pumping more mon- give the money back to those
25 small businesses. You know, we often talk about New

1
2 York City sending more money out than actually
3 getting back. Give that and I'm going to echo, I
4 think it was Council Member Brannan who said it, give
5 their money back. This is the time that they need
6 it.

7 \$80,000 to the entire borough of the Bronx thus
8 far is not -

9 GREG BISHOP: So, \$80,000 for the loan but when
10 you look at the grant program as well, in terms of
11 the dollars to businesses in the Bronx, we have
12 awarded, let me just pull this up. But it's more
13 than \$80,000 Council Member.

14 CHAIRPERSON GJONAJ: Well, when you get that
15 number, you can get back to us. I think Chair Cohen
16 may have a question in the meantime, but that would
17 be relevant to today's hearing. That's a true
18 telling of how this money, this very limited money
19 which doesn't meet the needs of the city and how it's
20 being broken down by borough including the actual
21 dollar amount would be a true telling of what is
22 happening in New York City. And this Administration,
23 I hope is hearing this loud and clear, this Council
24 is not going to except that. This Committee is not
25 going to except that. Council Chair Cohen?

1
2 CO-CHAIR COHEN: Thank you Mark. I just want to
3 circle back. I know that there's been a tremendous
4 focus on SBS but Commissioner Salas, could you just
5 expand a little bit about the price gouging
6 activities that your agency has been up to. I know
7 there has been a lot of good work done and I think
8 it's important that we try to get the word out on
9 some of those activities.

10 LORELEI SALAS: Sure, thank you Chair Cohen and I
11 wanted to get back to you. My staff is telling me
12 that it was 47 businesses that had paid consent fees
13 by March 1st, totaling \$325,000 and that's the money
14 that we're seeking to refund in the next couple of
15 weeks.

16 CO-CHAIR COHEN: That's great.

17 LORELEI SALAS: And so, with the price gouging,
18 just briefly, I would say that yes, we've been
19 overwhelmed with complaints from our neighbors in New
20 York City, over 8,000 complaints. More than 4,000
21 violations issued and for the most part I would say a
22 lot of the businesses get the message and they stop
23 these practices and that's great. That's what we
24 want and in cases in which we are seeing repeated
25 price gouging, we have filed lawsuits at the Office

1
2 of Administrative Trials and Hearings. I did mention
3 that businesses do have an opportunity to justify an
4 increase in cost that is higher than 10 percent and
5 we'll take that into account when they had to incur
6 additional costs for labor or just to pay their
7 suppliers to bring those items into their stores,
8 right.

9 We do not want to discourage the retail stores
10 from trying to get those items into our communities.
11 The other thing that I would say is that we're very
12 encouraged by our conversations with manufacturers of
13 these products, who are very much interested in
14 making sure that their products are available to our
15 most, of consumers that most need them without having
16 to pay extra money for that. And so, they are
17 collaborating with us. We have served a couple of
18 subpoena's on certain wholesalers to identify whether
19 they are the ones who are overcharging for these
20 items and so, we are keeping a close eye on that
21 situation and obviously encourage you and anyone else
22 in the Council to let us know if they are seeing this
23 activity occurring in their neighborhoods. We're
24 hoping that it stops and that our New Yorkers are

1
2 able to access the items they need to take care of
3 themselves.

4 CO-CHAIR COHEN: Do you know in the 4,000
5 instances of violations, is that 4,000 individual
6 businesses or some businesses have multiple
7 violations? How many businesses have been caught up
8 in the practice?

9 LORELEI SALAS: Yeah, I don't have the number of
10 businesses that were inspected and assessed fines for
11 but I can tell you that those -

12 MIKE TIGER: I have those.

13 LORELEI SALAS: You have them, okay. So, Mike
14 Tiger can -

15 MIKE TIGER: Yeah, I believe this is as of
16 yesterday that there have been over 1,200 inspections
17 with 289 summonses issued by our enforcement division
18 that will be heard at OATH, the Office of
19 Administrative Trials and Hearings. Of those 289
20 summonses, they made up over 4,500 violations.

21 CO-CHAIR COHEN: Oh, so, when you find somebody
22 who is doing it, they are doing it through a number
23 of different products in their business.

24 MIKE TIGER: Exactly or a lot of one product.
25

1 COMMITTEE ON CULTURAL AFFAIRS, LIBRARIES AND
INTERNATIONAL INTERGROUP RELATIONS

113

2 CO-CHAIR COHEN: Or a lot of one. Thank you,
3 Commissioner, I really appreciate your time here this
4 afternoon. Thank you.

5 LORELEI SALAS: Thank you Chair Cohen.

6 CO-CHAIR COHEN: Thank you Stephanie.

7 STEPHANIE JONES: Thank you Chairs. Alright, so
8 we will now turn to public testimony. I'd like to
9 remind and thank you to the panelists. If you'd like
10 to leave, you're welcome to do so.

11 I'd like to remind everyone that unlike our
12 typical Council hearings we will be calling
13 individuals one by one to testify. Each panelist
14 will be given three minutes to speak. Council
15 Members who have questions for a particular panelist
16 should use the raise hand function in Zoom and I will
17 call on you after the panelist has completed their
18 testimony.

19 For panelists, once your name is called, a member
20 of staff will unmute you. I would like to now
21 welcome Evan Franca to testify. After Evan Franca I
22 will be calling on Jessica Lappin and then Andrew
23 Riggie. Evan?

24 MODERATOR: Time.

25

1
2 EVAN FRANCA: Thank you. First of all, I'd like
3 to thank the Chair Gjonaj and the City Council for
4 allowing me to speak today.

5 My name is Evan Franca and I am the Merchant
6 Member of the North Flatbush Business Improvement
7 District and also the owner of Brooklyn Crepe for the
8 past 12 years in Councilman Lander's district.

9 Right now, many of you noted that New York City
10 hospitality is on life support and with everyday that
11 passes, we're losing the café's, the restaurants and
12 the bars. They make our neighborhoods so special.
13 I'm actually one of the lucky businesses, we've
14 actually been able to stay open throughout the
15 pandemic for take away and delivery and we've
16 retained seven of our nine staff members. And we've
17 even provided over 300 meals to four local hospitals.

18 Now, since Governor Cuomo issued a stay at home
19 order, we've seen a big change in our business. So,
20 pre-COVID, we were receiving about 20 percent of our
21 overall business from these third party delivery
22 services but now that's jumped to almost 80 percent.
23 So, what does that mean? So, the six main services,
24 Grubhub, Seamless, Uber Eats, Post Mates, Door dash
25 and Caviar all operate slightly differently but

1
2 generally, they take a 25 to 30 percent fee from us
3 for each order that we receive and they deliver for
4 us.

5 So, if we did \$1,000 in business before the
6 pandemic and 20 percent of our orders were through
7 these apps, we'd be looking at about \$60 in fees and
8 I'd still be left with \$940. I can make a living.

9 Now, today, if I do that same \$1,000 in sales, 80
10 percent of that is going to be subject to a 30
11 percent fee and now, \$240 go to these companies, I'm
12 only left with \$760 which just aren't covering my
13 expenses. That difference over the course of the
14 year would be over \$65,000.

15 This is simply an unsustainable model and it's
16 been an issue for years but this crisis has exposed
17 this broken model and we need immediate government
18 intervention. Now, the digital economy and third-
19 party delivery is going to continue to grow and there
20 needs to be regulation.

21 I understand that these companies, they have
22 employees and expenses but they also charge our
23 customers fees and shouldn't be allowed to profit off
24 of both side while were drowning in this crisis. So,
25 what we need to do, is we need an immediate cap on

1
2 the total fees, restaurants, including the delivery
3 fees, marketing fees and the credit card processing
4 fees to no more than 10 percent during this crisis
5 and that would give us a fighting chance.

6 In addition, on fees where the customers pick up
7 orders, we need a smaller fee of maybe just three to
8 five percent you know, so that we can focus on
9 surviving these next couple of months. We also need
10 to have the freedom to charge higher prices with
11 these platforms than our diamond customers. So, if
12 it cost us 30 more plus packaging cost, we should be
13 able to factor that in and charge more and currently
14 many of these platforms don't allow that.

15 These companies also need to be licensed and be
16 able to lose that license if they engage in poor
17 business practices. Just like how we can fined and
18 closed down for not running our operation properly,
19 they should have that same oversight. For example,
20 just by having signed contracts with one of these
21 companies, they increased my fees overnight from 21.5
22 percent to 29 percent, a 7.5 percent jump without my
23 approval, that's not right.

24 And finally, I support more transparency so that
25 the customers know what percentage of their money is

1
2 going to these third party companies and where their
3 tips are going, not to take anything away from these
4 hard working delivery drivers that we partner with
5 but they also need protections and that's a whole
6 separate issue. But I think there should be a
7 mandatory tip line for the restaurant staff that are
8 preparing the meals as well as the delivery drivers.

9 Not all the third-party apps are created equal.
10 Caviar and Door Dash have reduced delivery fees and
11 have through the end of May and they've eliminated
12 fees on pickup orders during that time and I will
13 applaud them on that but things are not going to go
14 back to normal in a month and we need more
15 protections.

16 These steps I outlined will give us desperately
17 needed lifeline in this uncertain time and help us
18 feel more confident to hire back staff and reopen our
19 doors but time is running out and if further inaction
20 continues we're going to lose a majority of our
21 independent restaurants that make up the fabric and
22 sole of our city.

23 Thank you again for the opportunity to speak
24 today.

2 STEPHANIE JONES: Thank you. Chair Gjonaj, you
3 had a question for our panelist?

4 CHAIRPERSON GJONAJ: Yeah, thank you Stephanie.
5 Evan, thank you so much first of all for joining us
6 today and testifying. What you're saying hits home
7 with so many businesses out there that couldn't
8 participate but can you explain a little bit more
9 about the B-structure? You said, 25 to 30 percent,
10 can you give me the extreme breakdown of the charges
11 that you are seeing?

12 EVAN FRANCA: Well, there is six different
13 companies that we deal with and each one has a
14 slightly different fee structure. Some charge a just
15 flat fee of 30 percent, others charge a marketing
16 portion of the fee and a delivery portion of the fee
17 but in general, most of the companies range in fees
18 from about 25 to 30 percent and then some of those
19 also add on a credit card processing fee, some of
20 them don't. So, it's kind of, you'd have to talk to
21 each company individually but generally it breaks
22 down to about 25 to 30 percent.

23 CHAIRPERSON GJONAJ: So, can I ask you to be
24 transparent, I'll use Grubhub?

25 EVAN FRANCA: Sure.

1
2 CHAIRPERSON GJONAJ: What is the fee structure
3 that they are charging you for delivery, marketing
4 and credit card?

5 EVAN FRANCA: We are charged it's 25 percent for
6 the delivery and marketing fees and then it's around
7 a 4 percent processing fee. So, we pay about 29
8 percent for delivery orders. Now, if a customer
9 comes and picks up the order, we're still charged 15
10 percent, even though they did nothing except for
11 aggregate that order for us. So, they didn't deliver
12 it. That's a customer just going on Grubhub saying
13 hey, I want to pick up an order. We're still being
14 charged 15 percent just for a customer to place the
15 order through there platform.

16 CHAIRPERSON GJONAJ: Evan, what is your profit
17 margin on your typical sale?

18 EVAN FRANCA: Typically, you know, in our
19 industry we see around a 10 percent margin on our
20 sales. Now, when our restaurant is full of people,
21 it's nice to have these extra sales that come in but
22 now that we're not allowed to fill our restaurants in
23 this emergency, we're relying on only these orders
24 and we just simply can't survive on these margins if
25 we're not allowed to have our regular dine in

1 customers. I mean, even the CEO, Matt Maloney of
2 Grubhub said that this not sustainable.
3

4 CHAIRPERSON GJONAJ: So, Evan, you're telling me
5 your profit margins are around 10 percent but yet
6 you're paying up to 30 percent plus the credit card
7 fee to these food party online apps. That would mean
8 on each sale, you have a net loss.

9 EVAN FRANCA: Yeah, we are losing money on a lot
10 of these orders now.

11 CHAIRPERSON GJONAJ: Well, it would be on every
12 order.

13 EVAN FRANCA: Yeah, yeah.

14 CHAIRPERSON GJONAJ: Your profit margin is at 10
15 percent but yet you're paying out 30 percent plus
16 credit card fees. That means each delivery and each
17 order is a net loss, is that accurate? I don't want
18 to put words in your mouth.

19 EVAN FRANCA: Yeah, I mean I've been working 12
20 hours a day just to pretty much to get us to break
21 even and I'm not taking any salary or any pay. So,
22 yeah, basically we are pretty much losing money right
23 now.

24 CHAIRPERSON GJONAJ: Thank you Evan. We're going
25 to fight this fight for you and all of our other

1 small businesses, in particular the restaurant
2 industry that is being impacted by this crisis and
3 where they are shut down or if they are open, it's
4 only delivery and third-party food order apps is the
5 only way that they are able to stay in business. But
6 when your netting a net loss, I don't know what's
7 better, just shutting the doors or continuing the
8 slow bleed.

10 EVAN FRANCA: Yeah, right now I'm just trying to
11 keep my staff employed and keep the lights on until
12 this situation improves.

13 CHAIRPERSON GJONAJ: Thank you Evan.

14 EVAN FRANCA: Thank you.

15 STEPHANIE JONES: I just want to remind public
16 panelists that you do not need to use the Zoom raise
17 hand function. We have seen you and we will call on
18 you in order.

19 Chair Cohen, did you have any questions for our
20 panelist?

21 CO-CHAIR COHEN: Sure, I just, have you thought
22 about not using these platforms? I mean, you know,
23 if Chair Gjonaj's math is correct, you know, you
24 could lose money without giving it to Grubhub. You
25 don't need their help to lose money.

1
2 EVAN FRANCA: Yeah, that's a great question and
3 one that we get a lot. You know, right now, we just
4 need every bit of revenue that we can get and
5 unfortunately that's just not an option as so many
6 customers use these platforms and are used to using
7 these platforms, we simply just don't have the time
8 to create our own systems and many entrepreneurs have
9 tried to do that. You know, we're going into these
10 companies that have you know, millions and millions
11 of dollars of resource of marketing of advertising
12 all over the trains and they are being used. It's
13 like Uber and it's like telling tax companies to oh,
14 just start your own app and just compete with Uber.

15 You know, we would tens of millions in start up
16 capital to be able to build out the technology and
17 compete with these guys realistically.

18 CO-CHAIR COHEN: Thank you Chair.

19 STEPHANIE JONES: Thank you. We'll now turn to
20 questions from other Council Members, I see Council
21 Member Powers has a question for our panelist.
22 Council Member Powers?

23 COUNCIL MEMBER POWERS: Yeah, thank you. Thanks
24 to both of the Chairs. I just want to go at that, am
25 I right saying that according to what the answer was

1
2 that you are losing money on every single, it's kind
3 of a follow to Council Member Cohen and Council
4 Member Gjonaj's question but you are losing, is that
5 possibly true, you're losing revenue on each delivery
6 that goes through these platform? Is that how I
7 heard that?

8 EVAN FRANCA: That's correct.

9 COUNCIL MEMBER POWERS: But I mean, I guess, my
10 question is kind of with Council Member Cohen's, in
11 what world would a restaurant stay on a platform if
12 they were losing money on every transaction was being
13 done by it?

14 EVAN FRANCA: Well, for one, it's keeping my
15 staff employed and again, during good times, when our
16 dining rooms are full of people, this is extra
17 income. Let's say this is our, you know, we can't
18 fit, let's see we only have ten seats, we can only
19 fill those ten seats. So, if we're able to get some
20 of these orders, then we're not losing money because
21 it's helping us cover those costs. But now that
22 we're not allowed to have any diners dine in and
23 we're only subject to using these apps, again, it's
24 about 80 percent of our business now and only about
25 20 percent of customers actually coming and ordering

1
2 at our window, we can't survive on that math and
3 those numbers right now.

4 The numbers need to be you know, we need to have
5 that discussion in the long term to be capped, but
6 right now, we just really need immediate assistance
7 during this crisis when we're not allowed to have
8 diners.

9 COUNCIL MEMBER POWERS: No, and I understand
10 that, I guess I'm just torn here in terms of,
11 certainly during this period of time, I think all the
12 platforms, I see many of them on here should be doing
13 as much. I know some of done stuff but to limit,
14 this is just about take out right now and delivery.

15 EVAN FRANCA: And we're not losing money on the
16 Caviar and Door Dash orders, because those orders are
17 only in the ten to twelve percent range right now,
18 since they've reduced those fees.

19 COUNCIL MEMBER POWERS: That's where you're
20 making profit is on Door Dash?

21 EVAN FRANCA: Yeah, we are making money on our
22 Door Dash and Caviar orders.

23 COUNCIL MEMBER POWERS: Yeah, but I guess my
24 point is, is it is hard to hear or believe that on
25 every single delivery order, one is losing 30

1 percent. I'm not accusing you of anything, it's just
2 the reality of that seems hard to put together how
3 you could be losing 30 percent. If a restaurant
4 would be losing 30 percent on a transaction or losing
5 money I should say on a transaction and continue to
6 do it, the math of that is difficult for me to
7 understand.
8

9 EVAN FRANCA: Right, we need a certain amount of
10 revenue just to cover our rent, our expenses, our
11 employees and our staff. So, right now, you know,
12 I'd rather lose a little bit of money and keep my
13 staff that I've had for so many years and you know,
14 keep paying rent and keep the lights on and keep the
15 insurance paid and all those bills paid, then just
16 close down the business completely and you know, lose
17 the 12 years that I've spent building it up in the
18 community.

19 COUNCIL MEMBER POWERS: Okay, and I appreciate
20 it. Just two more questions that are related, how
21 much of this is negotiable? I know some platforms
22 allow you to come in and negotiate. I don't know, I
23 really honestly don't know how every platform works
24 with the business but how much of this is negotiable,
25 meaning you could sit down and negotiate with the

1 platform about what the revenue sharing or what the
2 arrangement is and how many platforms allow you to
3 negotiate? How much of it is negotiable and
4 renegotiable? And then lastly, how much of those
5 fees are mandatory versus things that you can opt
6 into. I know on certain platforms you can elevate
7 yourself because you may want to be seen by more
8 folks, but can you explain to me just in terms of how
9 much of that is negotiable and how much of that is
10 option null in terms of how you pay to seeing things
11 like that?

13 EVAN FRANCA: Sure, so as an independent
14 restaurant, we don't have a lot of negotiability. I
15 know you know, if you're a McDonalds or you're a big
16 chain and you have a lot of locations, you are going
17 to have some power there in the negotiability of your
18 contracts. Like I said, we were at a certain rate
19 and you know, Grubhub and Seamless said hey, this is
20 going to be your new rate starting next week and like
21 it or not. You know you can drop us if you want.

22 I've called other companies to speak about this
23 and they've said, nope, we're not going to move the
24 rates. The rates are what they are, take it or leave
25 it. So, I've seen a lot of resistance to negotiating

1
2 these rates. Again, besides Door Dash and Caviar who
3 have voluntarily reduced the rates for all of the
4 restaurants on their platform. And can you repeat
5 the second questions again?

6 COUNCIL MEMBER POWERS: The second question was,
7 fees that are optional, meaning you might pay or one
8 restaurant might decide to pay more than another
9 restaurant on their platforms to get themselves
10 priority status.

11 EVAN FRANCA: They do try to pit restaurants
12 against each other to compete in this marketplace to
13 get better visibility on the website. And there are
14 also options, if you do deliver the food on your own
15 and have your own delivery staff, the fees are less.
16 But it's not easy for us to hire a brand new you
17 know, staff of and it's also very costly as well to
18 hire more employees and staff to deliver that food.
19 So, these percentages are if they are delivering the
20 food for you, they are a little bit lower. If you're
21 doing the deliveries yourself but a lot of can't
22 afford to hire those delivery driver's right now, pay
23 the additional insurance and just you know.

24 COUNCIL MEMBER POWERS: And how many of the
25 platforms of the six that I think you said you were

1 on six platforms. How many of those do you negotiate
2 a fee with the platform versus those where it's a
3 take it or leave it. Figuratively meaning, this is
4 the fee we charge for the restaurant versus having to
5 individually negotiate with them.
6

7 Like, if I open up a restaurant today, how many
8 can I go to and I pay the same rate as you by default
9 versus having individually negotiations?

10 EVAN FRANCA: Most new restaurants now it's
11 pretty nonnegotiable. In the beginning when they
12 were first piloting these programs, they were
13 offering better rates to get restaurants to sign up
14 but I've found a lot of resistance now in negotiating,
15 at least on my own. Maybe if we had a large
16 collection of restaurants that were negotiating but
17 then again, we'd have to you know, we'd have to pull
18 out if they didn't and a lot of restaurants rely on
19 this income and every order right now really counts.
20 So, you know, I hope they don't take me off their
21 platforms for saying anything negative about them.

22 COUNCIL MEMBER POWERS: Alright, I'll leave it
23 right there. Thank you for taking some time to
24 answer the questions.

25 EVAN FRANCA: Sure.

1
2 STEPHANIE JONES: Thank you. I understand Chair
3 Gjonaj has a follow up question.

4 CHAIRPERSON GJONAJ: Thank you Stephanie. Evan,
5 just to piggyback on some of the questions and your
6 responses to Council Member Powers. Is this the most
7 you can get from the platform? Is there any other
8 bells and whistles, so the 29 percent is that the
9 maximum that you can be charged by Grubhub or is
10 there other programs that you can participate in
11 marketing that would increase the fee? Is this the
12 Rolls Royce that you're enrolled in?

13 EVAN FRANCA: So, there is another program and
14 it's, I think you've touched on it before in your
15 previous hearings. It's called virtual restaurants
16 or ghost kitchens. For those concepts, I've seen
17 rates of up to 34 percent.

18 If you're trying to introduce a secondary concept
19 within your concept, they'll charge up to 34 percent
20 fees on those orders.

21 CHAIRPERSON GJONAJ: And Evan, the last thing
22 that you brought out that's a little sensitive for me
23 and I want to make sure that everyone hears this.
24 There will be no repercussions for you. You spoke up
25 and your testimony is important and you've been only

1
2 honest and frank with us. I assure you that if there
3 is any unattended consequences that you get
4 retaliated against, I want you to reach out to me and
5 the Council and I promise you that we will be there
6 for you to support you. But I don't expect any type
7 of retaliation Evan.

8 EVAN FRANCA: I appreciate that, thank you.

9 CHAIRPERSON GJONAJ: Just to put your mind at
10 ease. Thank you.

11 EVAN FRANCA: Thank you.

12 STEPHANIE JONES: Thank you. Chair Cohen, did
13 you have any follow up questions for our panelist?

14 CO-CHAIR COHEN: No, I'm good, thank you.

15 STEPHANIE JONES: Thank you. I would like to now
16 welcome Jessica Lappin[SP?] to testify. After
17 Jessica, I will be calling on Andrew Riggie and
18 Robert Bookman. Jessica?

19 MODERATOR: Time.

20 JESSICA LAPPIN: Well, hello, thank you for
21 allowing me to testify and for having this hearing.
22 I thank, like the rest of the city, the coronavirus
23 has really had a devastating impact on lower Manhattan
24 in particular. You are not down at City Hall or at
25 250 Broadway, so you probably aren't seeing for

1
2 yourself but I can promise you that only a very small
3 number of our essential businesses are open, have
4 managed to stay open and provide services for the
5 hospital workers downtown and others.

6 And so, well, I'll talk about a couple of the
7 bills, the one I really wanted to focus on was Intro.
8 1908. Our restaurants also operate on razor thin
9 margins and they are facing this crisis which is
10 really a once in a generation crisis and what they
11 keep saying to us is that even if they are serving
12 take out and delivery, they are likely doing it at a
13 loss. And I hear that in my own neighborhood as well
14 where I live. They are just doing it to keep the
15 doors open and they are trying to keep staff on
16 payroll. And yet, they are being charged these
17 really exorbitant fees by apps like Seamless and
18 Grubhub.

19 And so, I think you know, to your questions, they
20 have become such an integral part of the food scape
21 in New York, that's it's hard to avoid them and yet
22 they are charging these really outside fees and I
23 think in a crisis like this, they should share in
24 some of the pain and to charge 30 percent is really
25 unconscionable.

1
2 And so again, while there are other things, I
3 know you are discussing, like prohibiting the apps
4 from charging for telephone orders that didn't occur
5 or requiring the disclosure of commissions to
6 customers or creating a new licensing and regulatory
7 system. Those would all be really helpful but what
8 we've been hearing again and again the last few
9 weeks, is that by far and away the single most
10 impactful thing you could do is to limit the amount
11 that these third-party delivery apps can charge. And
12 so, I'm urging your very swift passage of this. I
13 can try to answer questions and I would just say
14 proactively you know, again, to sort of follow up on
15 the thread that was just happening.

16 There are restaurants that didn't used to do take
17 out or delivery who are doing that now to survive.
18 So, they can't hire their own delivery staff right
19 now. So, they're dependent upon this temporary
20 service, so they are kind of screwed that way. And
21 also, in terms of marketing and communications, if
22 you don't show up on those apps as being open in that
23 neighborhood, then people don't know you exist and I
24 think people feel very beholden for that reason as
25 well.

2 So, thank you.

3 STEPHANIE JONES: Thank you. Chair Gjonaj, do
4 you have any questions for our panelist?

5 CHAIRPERSON GJONAJ: None.

6 STEPHANIE JONES: Chair Cohen?

7 CO-CHAIR COHEN: No, I appreciate it, thank you.

8 STEPHANIE JONES: Thank you. I see Council
9 Member Powers has a follow up question. Council
10 Member Powers?

11 COUNCIL MEMBER POWERS: Thank you. Nice to see
12 you Council Member Lappin, former Council Member
13 Lappin I guess but still a friend, nice to see you.
14 I want to just reiterate, I do think that we during
15 this crisis for sure be asking those in many of the
16 platforms who are here today to be taking steps to
17 reduce the fees as much as possible, because we are
18 in an emergency crisis and we have to tangle with
19 some of the larger questions as we move forward here.

20 To your point, you mentioned that you, I was
21 asking questions related to you know loss of revenue
22 and things like that. For folks who are in downtown
23 Manhattan where you represent who have their doors
24 closed, do you know how many restaurants right now,
25 do you have any sort of sense of how many restaurants

1
2 have completely closed their doors versus those who
3 are moving to take out and delivery as the option to
4 stay afloat?

5 JESSICA LAPPIN: Well, I would say have roughly
6 1,200 retailers all in and we're at about 25 percent
7 that are open. So, 200 and some odd and you know
8 again, of the ones that are open, I had a call with
9 30 of them last week and I mean, they had many things
10 that could be helpful from the state, federal and
11 city level but you know this just seemed to them, you
12 know, it's sort of like insult to injury and they are
13 all trying to adapt as much as they can and like Evan
14 said, you know the principals or the owners are not
15 taken a salary at all. They are really just trying
16 to kind of keep their people and maintain some
17 presence and I think also we're mindful that it will
18 cost more to start up again and they don't want to
19 have to incur those start up costs.

20 So, if they can kind of eek it out; today we
21 announced a grant program actually at the Alliance,
22 \$800,000 for small independently owned businesses to
23 help them pay April or May rent, just for that
24 reason. Like, let's just, we got to keep the doors
25 open, we got to keep the lights on. We got to help

1 those who can survive and I think this is such a
2 common sense easy way to help them and you know,
3 longer term, we can figure it all out, as Evan said.
4 But you know, it's nice to see like Caviar and Door
5 Dash being proactive. It's not in their best
6 interest for these restaurants to close, long term.
7 It's like sort of stupid for their own business
8 model, quite frankly.

9
10 COUNCIL MEMBER POWERS: Thanks. I hope all your
11 businesses are hanging in there. Thank you for that
12 announcement today and we are looking I think for
13 ways to continue to help businesses, so any guidance
14 you have in that with the folks you are working with
15 is much appreciated.

16 JESSICA LAPPIN: Thank you.

17 STEPHANIE JONES: Thank you Council Member, I see
18 Chair Cohen has a follow up question.

19 CO-CHAIR COHEN: Stephanie, could you recognize
20 Council Member Koslowitz, she wanted to clarify
21 something she said.

22 STEPHANIE JONES: Yes, Council Member Koslowitz.

23 COUNCIL MEMBER KOSLOWITZ: Thank you. I just
24 want to make a correction. I said there were 6,000
25 business, no, 6,000 restaurants and an estimated

1
2 3,000 would close. Not businesses, we have a lot
3 more businesses, thousands more businesses in Queens.
4 Thank you.

5 STEPHANIE JONES: Hi Karen. Thank you so much
6 for your testimony Jessica.

7 JESSICA LAPPIN: Thank you.

8 STEPHANIE JONES: I would like to now welcome
9 Andrew Riggie[SP?] to testify. After Andrew, I will
10 be calling on Robert Bookman and then Amy Healy.

11 MODERATOR: Time.

12 ANDREW RIGGIE: Thank you. Good afternoon.
13 First, I'd like to thank the Speaker, Chair Gjonaj
14 and Cohen, all the members and staff for putting
15 today's hearing together. Listen, the restaurant
16 industry and nightlife industry is vital to the
17 economic footprint and social fabric of New York City
18 and our city will not recover unless this industry is
19 at the forefront and the core of this recovery.

20 And that's why we are very thankful for many of
21 the bills being introduced today and I have submitted
22 written comments for the record, but I do want to
23 touch on three bills in particular and then I'm happy
24 to answer any questions.

1
2 These three bills we support: 1908-A, 1914 and
3 1932. Per-1908-A, I want to make it very clear that
4 the third-party delivery platform situation was a
5 crisis before we were in this crisis. Restaurants
6 cannot afford to pay 15 to 30 percent per order to
7 these delivery companies. And what companies like
8 Grubhub and Seamless are doing is using sophisticated
9 techniques to basically extract as much money as
10 possible out of businesses pre and during this
11 pandemic. We need to cap delivery fees at no more
12 than 10 percent. I can answer some of the members
13 questions earlier but there is sophisticated works at
14 here at play. Restaurants cannot afford to not be on
15 applications like Grubhub and Seamless when some
16 reports say they own between 60 to 70 percent of the
17 marketplace. They also own ownership of the customer
18 data. So, a restaurant can say, I'm not paying these
19 fees and I'm going to leave because then they're
20 going to lose all of their customers. And there's a
21 lot more at play but when government has used their
22 authority to shut down restaurants, they must use
23 that same authority to cap the fees both during the
24 crisis for the long term recovery and in the future.

1 On 1916, sidewalk cafés are going to be
2
3 extraordinarily important for the survival of our
4 local restaurants. Frankly, we are going to have to
5 re-envision how we use public safe streets and public
6 areas to support our local businesses and one thing
7 we can do is waive these fees throughout the
8 remainder of the year. It will bring much needed
9 support. It will also help generate sales for these
10 businesses which will then generate sales tax and
11 create activity on our streets which we desperately
12 will need to get back to a sense of whatever the new
13 normal will be.

14 Finally, 1932, businesses are in crisis and they
15 are going to lose their livelihood. They are also
16 laying off all of their employees. It would be, it
17 would just be absolutely tragic if now people are not
18 only losing their businesses but then they are losing
19 their own personal assets. We're not failing because
20 we're not running our business properly, government
21 has required us to shut down. We never anticipated
22 this when we entered into these lease agreements. We
23 cannot now take away people's personal livelihoods
24 and their assets because they are unable to pay their
25 rent because of the pandemic, because government is

1
2 shutting us down. So, I know I'm at time and I'll
3 leave it there. As I mentioned, I did submit
4 comments but we truly, truly appreciate the Council's
5 support of our small businesses. Our restaurants are
6 bars and nightclubs. These are our small businesses,
7 the backbone of our community and we need it, not
8 only for our economy but for New Yorkers and our
9 visitors to get back to some sense of normalcy and we
10 will not do that if we are not at the core of the
11 recovery.

12 So, I want to thank you all again for your
13 leadership here and I'm happy to answer any
14 questions.

15 STEPHANIE JONES: Thank you Andrew. I see
16 Council Member Rivera had a question. Council Member
17 Rivera?

18 COUNCIL MEMBER RIVERA: Hi, thank you so much for
19 being here and congrats on your appointment to the
20 Governor's Board.

21 ANDREW RIGGIE: Thank you.

22 COUNCIL MEMBER RIVERA: So, thank you for what
23 you said about the bill. You know, this is not an
24 amendment to a contract, it's a temporary suspension
25 and contract law does allow for broad changes based

1
2 on emergency situations and I think this is certainly
3 an emergency. We are in crisis.

4 So, Andrew, I wanted to ask you and thank you for
5 your testimony. How many of your members have been
6 impacted by personal liability clauses during COVID-
7 19, more or less? And how many do you expect to face
8 this?

9 ANDREW RIGGIE: You know, that's a good question.
10 I don't have the data. I can tell you thousands of
11 restaurant, bars and clubs throughout the city are
12 being impacted. The challenge is, we don't know when
13 we're going to be able to reopen lawfully. But then
14 once we can start reopening, if there will be a
15 reduced occupancy and then what consumer purchasing
16 behavior is going to be. Will we have enough sales
17 to sustain those businesses. So, immediately, we've
18 heard some stories where there's been great
19 relationships between the small businesses and the
20 landlords. But we've heard some as I think you
21 mentioned earlier, where there is you know, been some
22 threats or there hasn't been as good of
23 communication.

24 So, the longer that these closures go on and the
25 uncertainty of what the business environment will be

1 moving forward, leads me to believe that there will
2 be more and more businesses or businesspeople whose
3 personal livelihood and assets are at risk.
4

5 So, I don't have an exact number but I have to
6 imagine with 25,000 eating and drinking
7 establishments in the five boroughs, we're talking
8 about numbers in the thousands since the vast
9 majority of them are not generating any revenue and
10 their unable to pay the rent.

11 COUNCIL MEMBER RIVERA: So, and just my second
12 question is, do you have any recommendations for what
13 owners should do now to make sure they are ready and
14 prepared in case a landlord attempts to follow
15 through on a personal liability cause? And then,
16 what else should the city and state be doing to
17 support your members?

18 ANDREW RIGGIE: Sure, thank you. So, you know,
19 one, and it's tough to say go hire a lawyer because
20 people don't have money. So, I know that the
21 Department of Small Business Services and the
22 Commissioner had mentioned some of the resources that
23 they are offering. I'd highly suggest businesses do
24 reach out to them. If they can speak with a lawyer,
25 or they can reach out to groups like the New York

1 City Hospitality Alliance and we could try to provide
2 some general guidance, but you need to have dialogues
3 with your landlords. And like I said, there are some
4 good landlords that understand because we, as New
5 Yorkers are all in this together and there's not
6 going to be another restaurant ready to reopen if a
7 business you know, just shuts down and that's going
8 to have great consequences for the City of New York.

9 So, I think one is dialogue, but also make sure
10 to the best of your ability, you have legal counsel
11 guiding you through all of this and again, I
12 understand it's not easy but that's one of the
13 challenges that we're facing here.

14 As far as what can the city and state do, it is
15 going to have to be a comprehensive save restaurant
16 and save nightlife plan. We are going to have to
17 look at everything from issues like capping fees and
18 waiving sidewalk café or waiving cap and delivery
19 fees and waiving sidewalk café fees.

20 We're going to have to look at utilizing public
21 space like I said to you. We're also going to have
22 to look at a lot of other policies. Throughout time,
23 I think there's going to be some immediate needs that
24 may have to come from the federal government,
25

1
2 amending the paycheck protection program which was
3 mentioned earlier. How do we get business
4 interruption insurance claims paid out to businesses
5 right away. We've heard from restaurants that want
6 to be able to add a clearly disclosed charge to menu
7 prices in a way to help generate additional revenue
8 to keep their doors open and to keep people employed.

9 So, I think again, we are going to need to look
10 at every single angle possible and work together to
11 get it done because there's not going to be one
12 policy that's happening, that's going to be a you
13 know, a save all. But certainly, many of the bills
14 today including yours, the package of many of the
15 delivery related bills, those would take a great step
16 and they'd also be symbolic in showing the local
17 business community that our elected leaders are not
18 just saying we need to support you, but they are
19 taking bold action to do so and doing it quickly.
20 Because every minute we waste, we're losing more
21 businesses and more jobs.

22 COUNCIL MEMBER RIVERA: Thank you and I did write
23 a letter to the Governor specifically trying to
24 include what I think the language should be for the
25 business interruption clarification, which so many of

1
2 you will not qualify for based on what stands right
3 now. So, thank you so much for your time and thank
4 you to the Chair's for the ability to ask questions.

5 ANDREW RIGGIE: Thank you Council Member.

6 STEPHANIE JONES: Thank you. I see Chair Cohen
7 had a follow up question.

8 CO-CHAIR COHEN: Thank you Stephanie. Andrew,
9 it's good to see you.

10 ANDREW RIGGIE: You too.

11 CO-CHAIR COHEN: I had two questions I wanted to
12 ask. Are you concerned at all about the impact of
13 the availability of credit if the Council you know,
14 I'm referring specifically to the Public Advocates
15 Resolution or Councilman Rivera's legislation. I'm
16 concerned that I don't want to freeze credit to these
17 businesses and you know if lenders can't use the
18 normal contracting procedure loan agreements. Are
19 you concerned about that at all?

20 ANDREW RIGGIE: You know, I think you know, there
21 are complexities in all of this. I do believe many
22 of these types of loans, not the ones that are just
23 being offered today but the ones that are going to be
24 needed for opening capital for businesses to open,
25 are going to have to be back from the government.

1
2 These are going to be difficult choices to make but
3 if we are serious about getting businesses you know,
4 reopened, we are going to have to pass multiple
5 bills.

6 So, if for some reason one bill that is passed is
7 going to then prevent a business from getting a loan,
8 we need to understand why that's going to happen and
9 frankly the government may need to step in and
10 provide some sort of back stop. You know, again, I
11 think everything we do there is going to be
12 additional questions that need to be addressed but
13 these bills are critical for people again. Not to
14 lose their personal livelihood, not just their
15 professional and if the government is going to have
16 to step up in some ways to support or back these
17 other entities, then that's what needs to be done.
18 You know the situation demands it.

19 CO-CHAIR COHEN: Well, do you think it might be a
20 better approach to be offering guarantees rather than
21 sort of changing the nature of the agreements?

22 ANDREW RIGGIE: Well, I think you could suspend
23 it immediately past this legislation and then quickly
24 move to figure out how you can provide those funds or
25 that type of support. I'd imagine and that's I guess

1 more of your work than mine that that may be a little
2 bit more complicated, longer term discussion then
3 immediately prohibiting you know, the enforcement of
4 the personal liability provisions.
5

6 CO-CHAIR COHEN: And related to the apps, I
7 again, I'm cautious only about changing the nature of
8 contractual relationships. And I guess, I don't know
9 if it was your testimony or someone else's that there
10 were problems sort of structurally with these apps in
11 the restaurant industry before the COVID crisis. I'm
12 not sure you know, it's a different constituency.
13 When I have a you know, an individual tenant who
14 comes to me and says that you know, that they are
15 having problems with their landlord, you see the real
16 strong, differential and bargaining power but you
17 know, you have business owners who are you know, I
18 think you know, not the least sophisticated members
19 of our society that you know, it takes a lot to open
20 a business in New York. How do you think we got here
21 in terms of how these apps got, this situation got so
22 destructive?

23 ANDREW RIGGIE: Yeah, well, good question. I'll
24 try to answer as quickly as possible but listen, the
25 world is changing and it's changing fast. Technology

1
2 has changed the way that we interact and we make
3 purchases. Grubhub, Seamless in particular, well
4 Seamless was the original New York City business.
5 Was able to capture a lot of the market share early
6 on. They were also able to capture a lot of the
7 corporate business where in the past, you know, an
8 accounting firm had a house account of 12 different
9 neighborhood restaurants where their employees could
10 order lunch from or dinner from if they were working
11 late and they'd have to tally them up at the end of
12 the month.

13 You know, Seamless and Grubhub kind of came in
14 and said well, we'll handle all of that and they
15 basically lock in that business. Consumers are so
16 used to the convenience and paying on their phone
17 that they don't realize when they order through some
18 of these apps, not all of them, I want to be very
19 clear. Some of them are very good and have done the
20 right thing. How they are harming the businesses.

21 So, I think part of it was certain companies were
22 able to get in early and capture enormous amount of
23 the market share and then use sophisticated
24 techniques to keep diners on their apps and keep
25 businesses on their apps by controlling the catering

1 business. By purchasing add words and other
2 sophisticated SEO techniques to ensure that any time
3 anyone you know, visits, you know, wants to order
4 from and is you know, bar and grill and they google
5 it, that somehow their third-party platform is going
6 to come up before and Andy's Bar and Grill's actual
7 website. They have also created phone numbers for
8 the restaurants, so when a customer thinks that hey,
9 I'm ordering directly from my restaurant. Guess
10 what, your not. You are ordering through the Grubhub
11 Seamless one that's been levying bogus fees for years
12 now and has still not appropriately dealt with it.

14 So, much so that we need legislation in the City
15 Council to say, you're prohibited from charging fees
16 for services you did not render. I mean, this is
17 kind of crazy talk. You would never think we were
18 having this conversation but we are.

19 So, you know, there's that. There is also the
20 spending of millions of dollars on TV ads on the
21 subways they take out ads. So, they are doing
22 everything in their power to redirect consumer
23 purchasing behavior so they can get a fee any way
24 they can. And even the larger more sophisticated
25 restaurant groups, do not have the resources or the

1 bandwidth to be able to compete, especially when all
2 of their competitors are also listed on those
3 websites and all of a sudden, you're going to come up
4 lower in the search results or maybe you'll just
5 disappear.
6

7 I will tell you one last thing on that is, I've
8 been doing this work for a long time over some really
9 challenging issues. Everything from minimum wage to
10 paid sick leave and all these issues where small
11 business owners that are consumer facing would come
12 to public hearings and speak out. And it's not
13 always a great look but when it comes to this issue
14 with third-party delivery platforms like Grubhub and
15 Seamless, they are scared. They almost are being
16 silenced as you saw earlier. The person who just
17 spoke prior to me is concerned about retribution. I
18 want to thank Council Member Gjonaj for recognizing
19 and for having their back. This is a real
20 significant issue. It's very sophisticated and
21 again, when required to close, we need support and
22 when we open back up, we need support. This is not
23 only about small businesses and jobs, we're also
24 vital to the food supply system of the City of New
25 York and if restaurants close because they can't

1
2 afford doing third-party delivery, then New Yorkers
3 aren't going to be able to get their food and I think
4 we've seen the display of philanthropy and support
5 our local restaurants [INAUDIBLE 2:49:57-2:50:04] to
6 providing our [INAUDIBLE 2:50:05]. So, what we are
7 testing is these were important bills before the
8 crisis, they are vitally important during and they
9 will be just as much [INAUDIBLE 2:50:12].

10 MODERATOR: He's losing his -

11 ANDREW RIGGIE: Op, I'm sorry, am I here?

12 CO-CHAIR COHEN: Yeah, you cut out a little bit.
13 We got the just of it. Thank you very much Andrew,
14 thank you.

15 ANDREW RIGGIE: Thank you.

16 STEPHANIE JONES: Thank you. Chair Gjonaj had a
17 question or some remarks to make.

18 CHAIRPERSON GJONAJ: Thank you Stephanie and
19 thank you Chair Cohen. I'm getting messages that we
20 have so many people lined up to ask questions both
21 from the Council Members and so many that have
22 testified that we're going to try to limit now the
23 questions and answer portions to three minutes for
24 members please.

25 Thank you.

2 STEPHANIE JONES: Thank you Chair. I'd like to
3 invite Robert Bookman to testify next. After Robert,
4 I will be calling Amy Healy[SP?] and then Josh Gold.
5 Robert?

6 ROBERT BOOKMAN: Thank you.

7 MODERATOR: Time.

8 ROBERT BOOKMAN: Thank you for the opportunity to
9 testify today in this historic Council hearing. I
10 want to thank Council staff as well for putting this
11 together so seamlessly. I'm sure that was not an
12 easy job.

13 It's historic because this is not only the first
14 virtual hearing but because the small business
15 community, especially the Hospitality industry is in
16 historic trouble. I've been involved as an attorney
17 with small business and testifying before this
18 Council going back 30 plus years since my time in
19 City Government at the Department of Consumer
20 Affairs.

21 Never before have I seen anything like what we
22 are experiencing now. Not 911, not the recession in
23 the late 1980's, not the great recession. This is
24 different, this has the real makeup of an
25 unprecedented closing of thousands of neighborhood

1
2 businesses forever. If we do not act at every level
3 of government and we can see our commercial strips in
4 every neighborhood turn into ghost towns.

5 That is why these bills are so important. Not
6 just for the message that the send that this body is
7 listening and hearing small businesses but that it is
8 acting, and quick action is desperately needed.

9 Restaurants were the first to be closed and they will
10 likely be the last to be reopened, even then we do
11 not know what reopening will mean or look like for a
12 long time to come. 50 percent capacity is not
13 providable but for now, we must keep the food
14 flowing, especially for the tens of thousands of New
15 Yorkers that rely on delivery to eat. To do that, we
16 must immediately rain in the monopolistic big
17 businesses that dominate the food delivery ordering
18 industry.

19 Let's be clear, all they do in New York City is
20 transmit an order. They do not cook the food and
21 with minor exceptions they do not deliver the food
22 and for this they grab over 20 percent of every
23 order. While these fees were not sustainable when
24 the restaurant was filled with diners, it is simply
25 an outrage now that we are empty. This is why other

1
2 city's like San Francisco, Seattle, Chicago and LA
3 have either already instituted fee caps on these
4 companies, some as low as five percent or actively
5 pursuing it like you are.

6 Restaurants will not and cannot with this vital
7 public service if these fees remain in effect. Food
8 delivery will simply dry up, forcing elderly and sick
9 New Yorkers to wait in long lines to get food. And
10 New Yorkers have the right to know if these charges,
11 which the platform contract are forced to be hidden
12 from them. Pass these package of bills immediately.

13 Then there are the personal guarantees on
14 commercial leases. Nothing is keeping small business
15 owners awake at night more than this, what we are
16 calling the industry good guy guarantees. Typically,
17 leases require that the business owner personally
18 guaranteed the rent as long as the business is in
19 possession of the premises.

20 It is designed properly to prevent someone from
21 operating while not paying the rent. But no one ever
22 contemplated this situation where we are technically
23 in possession but the government says we cannot
24 operate or only minimally operate. For a landlord
25 under these circumstances to file civil action

1
2 against the small business owners personal assets,
3 their life savings, their house is simply
4 unconscionable and cannot be allowed to happen.

5 MODERATOR: Time.

6 ROBERT BOOKMAN: May rent is coming due and
7 business owners are deciding, should they give the
8 keys back and permanently go out of business or risk
9 another month of personal liability. You must act
10 now.

11 In wrapping up, finally, a simple bill in
12 relation to sidewalk café fees. Thousands of
13 restaurants owe the city rental fees for sidewalk
14 café space that they cannot legally use. It is only
15 fair that these fees, some of which were paid already
16 be waived for 2020. Unlike what the Commissioner
17 said, where there is 70 categories, this is
18 different. In this category, it's not just a license
19 fee, the city is the landlord. And if we're asking
20 private landlords to step up, the city needs to step
21 up as the landlord of this commercial space and say,
22 we are forgiving rent on our commercial space for
23 2020.

24 As Andrew said, small businesses are not just the
25 live blood of our neighborhoods, they are not just

1
2 employers, their not just the reason why companies
3 come to New York to do business, they are also why
4 artists of all types can make a living here while
5 pursuing their art, their music, their acting and
6 their writing. There is no recovery for New York
7 City without our restaurants and our small
8 businesses.

9 Thank you. I'm happy to answer any questions.

10 STEPHANIE JONES: Thank you for your testimony
11 Robert. Next up, we will be calling Amy Healy, then
12 Josh Golds and then Max Rettig. Amy? Thank you,
13 Robert.

14 AMY HEALY: Thank you. Dear Chairman Gjonaj,
15 Chairman Cohen and members of the Committee's. I'm
16 here today to express Grubhub's strong opposition to
17 the proposed caps on fees paid by restaurants for
18 marketing and delivery services.

19 Any cap on fees, regardless of the duration will
20 result in damaging unintended consequences as we are
21 already seeing for locally owned businesses, delivery
22 workers, diners and the local economy. In fact, it
23 will result in the exact opposite of what the
24 legislation is designed to accomplish. And we
25 believe that any cap on fees, nullifying contracts

1
2 between two businesses represents an overstep by
3 local officials and will not withstand a legal
4 challenge.

5 On the face of it, a cap on fees seems to be an
6 easy solution to help restaurants that are struggling
7 due to the coronavirus and there is nothing we want
8 more than to assure the health of independent
9 restaurants. As many have said, we don't have a
10 business without them, but this solution is exactly
11 the wrong thing to do. In reality, this proposed cap
12 will lower order volume to locally owned restaurants,
13 increase costs and headaches for small business
14 owners and raise costs to consumers.

15 Delivery workers who are currently relying on
16 Grubhub to earn an income including 100 percent of
17 tips from diners would have fewer work opportunities
18 and lower earnings. In the middle of what is quickly
19 becoming one of the worst economic downturns in a
20 century, Grubhub is ensuring that workers in New York
21 City can continue to provide for themselves and their
22 families. Grubhub is neither a public utility or nor
23 simply a delivery service. In the simplest of terms,
24 Grubhub is a marketing engine and an order generation
25

1
2 business connecting diners to great local
3 restaurants.

4 The platform is free for any restaurant owner who
5 choses to join and Grubhub offers a fee for service
6 model meaning that restaurant owners select the
7 services they want and only pay Grubhub when we
8 generate a sale. Restaurants have many options to
9 dry businesses other than third-party marketplaces,
10 none of which are seeing their fees regulated. The
11 arbitrary cap would limit how restaurants and
12 especially small ones can market themselves and
13 therefore limit how many customers and orders we can
14 bring to these restaurants. Why not cap how much
15 other marketing platforms can charge these
16 restaurants? Why not cap Google or Facebook ads,
17 Yellow Pages, newspaper, radio, billboards? These
18 are all marketing options that restaurants have.
19 Restaurants should make their own decisions for where
20 they want to market and how much they want to spend
21 on those channels but they and you cannot expect
22 Grubhub and others to operate at a loss.

23 The cap would raise costs on restaurants by
24 blocking them from taking advantage of Grubhub's
25 economies of scale. As a restaurant said earlier, a

1 local restaurant may not have the order volume to
2 hire a full time delivery person. Grubhub
3 identifies, verifies, conducts background checks,
4 coordinates delivery teams, operates 24/7 customer
5 care on behalf of their restaurant.
6

7 MODERATOR: Time expired.

8 AMY HEALY: I'm happy to take any questions.

9 STEPHANIE JONES: Thank you Amy. We have a
10 question from Chair Gjonaj and then we'll be calling
11 on Chair Cohen. Chair Gjonaj?

12 CHAIRPERSON GJONAJ: I'm going to ask for Ms.
13 Healy to finish her statement if it's okay, because
14 this is such an important issue. I don't know how
15 much more she has. Ms. Healy?

16 AMY HEALY: Not much. While the largest of
17 national chains can afford these types of expenses,
18 small and independent restaurants cannot, even in the
19 best of times. They may shut their doors or shift
20 additional costs onto consumers making them even less
21 competitive against other national chain businesses.

22 There is a popular and completely false believe
23 that third-party marketing services would still make
24 a profit, let alone significant profits with their
25 proposed fee caps. It is not true and these caps may

1
2 force us to exit certain markets or suffer
3 substantial losses that threaten the sustainability
4 of our businesses.

5 Of course, all this is happening at the worst
6 possible time for customers across your city
7 including homebound families and seniors that are
8 dependent on food delivery and Grubhub has provided
9 with partners tens of thousands of meals to seniors,
10 to frontline workers and others in New York City. We
11 are committed to working with you and with policy
12 makers because we do share a common goal, to create
13 and maintain a growing, thriving local restaurant
14 community. We only do well when they do well.

15 Thank you.

16 CHAIRPERSON GJONAJ: Thank you Ms. Healy. I'm
17 going to call on Council Member Moya.

18 STEPHANIE JONES: I believe Chair that Chair
19 Cohen also had some questions.

20 CO-CHAIR COHEN: I'm happy to defer to Council
21 Member Moya and go after that, that's fine.

22 STEPHANIE JONES: Thank you.

23 COUNCIL MEMBER MOYA: Thank you.

24 MODERATOR: Clock starting.

1
2 COUNCIL MEMBER MOYA: Yeah, thank you so much.
3 Thank you Chair. A quick question. Just given that
4 you deferred fee payments for independent
5 restaurants, what's your plan for collecting these
6 fees and is there a timeline that they will be due or
7 will they be due all at once or will these
8 restaurants be able to pay them off over time or be
9 able to request forgiveness?

10 AMY HEALY: Thank you. We deferred fees, which
11 essentially was an interest free loan right at the
12 beginning of this pandemic and we're still working on
13 payback options. We don't have hard and fast payment
14 options, we're being flexible.

15 So, I can't tell you that there's a date certain
16 because we haven't established one.

17 COUNCIL MEMBER MOYA: So, well, what will you do
18 for restaurants unable to pay back their fees after
19 this pandemic is over?

20 AMY HEALY: Well we knew taking that risk of
21 deferring fees that there would be some restaurants
22 that would not be able to pay them back and we were
23 willing to take that risk on.

24 COUNCIL MEMBER MOYA: So, really quickly because
25 I know I don't have that much time, what is the

1 lowest percentage and the highest percentage that
2 you've charged restaurants for listing advertising
3 fees because like, we'd like to have a sense of the
4 full range that you've been able to charge.
5

6 AMY HEALY: Sure, and given we have competitors
7 on the line, you know, I'm sensitive to you know
8 putting out our pricing in this form.

9 COUNCIL MEMBER MOYA: Well, that's my question to
10 all of them, so.

11 AMY HEALY: Yeah, our average, 10 percent per
12 delivery and we don't charge to be on our platform.
13 There's no annual fee, no sign up fee. We provide
14 the tablets and all of the onboarding for free and
15 then my understanding is an average commission rate
16 is at 15 percent.

17 COUNCIL MEMBER MOYA: Okay, thank you very much.

18 STEPHANIE JONES: Thank you. Chair Cohen?

19 CO-CHAIR COHEN: Thank you very much. Thank you
20 for your testimony. You know, I guess, I'm just
21 wondering what percentage, do you have any sense of
22 what percentage of the market in New York City
23 Grubhub has penetrated?

24 AMY HEALY: I should have started my comments
25 that I started Grubhub three months ago, so if I

1 don't have answers to your questions today, I
2 certainly will get them. I believe we are the
3 largest player in the market in New York, especially
4 with our acquisition of seamless.
5

6 CO-CHAIR COHEN: I mean, I think that there's a
7 feeling from restaurants that there's like a monopoly
8 problem; that you have such tremendous unequal
9 bargaining power between the restaurant and you that
10 you, you know you control the customer and the
11 restaurant needs you. That there's really a you
12 know, a monopoly problem or an antitrust problem
13 here.

14 AMY HEALY: You know, we believe that consumers
15 love the service that we provide. You know, we have,
16 the way the consumers want to buy services. They
17 don't want to read their credit card number into a
18 crowded restaurant lobby. I had a credit card
19 written on a to go bag the other day with my name,
20 address and credit card number. That's not a great
21 customer experience and we know that. People like
22 that their information is secure. That their
23 favorite restaurants are saved in one place. It's
24 convenient, anyone in their family can log in.
25

1
2 So, consumers are demanding this type of
3 experience when they order today and that's a
4 fundamental shift as somebody said in the economy.
5 That's just how people want to order especially New
6 Yorkers. Young New Yorkers want everything at their
7 fingertips in a secure, easy way. And so, the diners
8 were demanding services like this and it's a very
9 competitive space. I've got you know friends of mine
10 that are going to talk after me and we're always you
11 know, competing against each other.

12 CO-CHAIR COHEN: Well, I guess that's really the
13 issue that I think is most germane here. Is it
14 really competitive? Does Grubhub control such a
15 large portion of the app market that it's not as
16 competitive as it needs to be in New York and that
17 would be I think a good justification for City
18 government to step in. If the market is broken,
19 that's an opportunity for – and I am believe me,
20 cautious and reserved in interfering in marketplace
21 transactions and particularly commercial
22 transactions. But if this market is broken, that's a
23 deep concern to me.

24 AMY HEALY: Chairman, I think you'll see media
25 reports that say that other companies have surpassed

1 Grubhub, so you know, I challenge that that you know,
2 Grubhub is a monopoly.
3

4 CO-CHAIR COHEN: Thank you Chair.

5 STEPHANIE JONES: Thank you. I see Council
6 Member Powers has a question. Council Member Powers?

7 COUNCIL MEMBER POWERS: Thank you. After this,
8 I'm going to stop talking so much.

9 MODERATOR: Clock starting.

10 COUNCIL MEMBER POWERS: But thank you for more
11 time. I just wanted to ask a question. I think the
12 comment here was that by lowering the fees, it would
13 or capping fees rather, it would lower restaurant
14 orders. Which seems to be counter to what many of us
15 would think or believe when you talk about lowering
16 prices and increasing the ability for people to
17 afford it and then to order it. Can you explain that
18 to me?

19 AMY HEALY: Sure, if you cap our fees, price
20 controls lead to shortages. So, if our prices are
21 fixed, then other parts of the business are going to
22 be squeezed. So, there may not be as much marketing
23 available to that restaurant. We drive orders, you
24 know, somebody said you know we're simply a pass
25 through. You know, we provide a lot of services to

1
2 showcase a restaurant and if our ability to do that
3 is limited then you know, we might have to make
4 business decisions that are going to reduce service.

5 I mean, if you increase prices, somethings got to
6 give.

7 COUNCIL MEMBER POWERS: Meaning, you're saying
8 like in a sense that you'll have to change your model
9 here as a company to be able to help deliver services
10 to restaurants, is that your point?

11 AMY HEALY: I'm saying if our costs are
12 increased, we will have to make business decisions
13 about how to be sustainable, yes.

14 COUNCIL MEMBER POWERS: Okay, I understand that.
15 And then can I just, I asked, I might have missed a
16 piece of your testimony but have you made adjustments
17 during COVID-19 to help the restaurants here in New
18 York City who are obviously closed. I mean, we had
19 to close them as a public health issue. What has
20 Seamless and Grubhub done in terms of addressing fees
21 or helping their customers?

22 AMY HEALY: Right, we're doing a multitude of
23 things. We've again deferred fees right at the
24 beginning which was again an interest free loan. We
25 have a separate support, \$30 million of cash that

1 we're just giving to restaurants that chose to
2 participate in that program. Our marketing team is
3 constantly working on other promotions to drive
4 orders to small businesses. And the \$30 million is
5 get free \$10 on any order over \$30, so that drives
6 100 million in sales. And again, we've got marketing
7 support going out for these restaurants all the time.

9 COUNCIL MEMBER POWERS: Okay, I just, you know, I
10 think that crisis is called for intervention. I know
11 that's the part of the intention here from my
12 colleagues here is to intervene at a moment where an
13 industry has been shut down because of public health,
14 not because of bad business decisions or anything
15 like that and I think that's the request here is to
16 ask a major player here.

17 I know you've been here for three months. I'm
18 not going to ask you to be the spokesperson for the
19 company but certainly to be able to share the burden
20 here and I know that's painful for our company and
21 it's public traded upon company in general but it
22 does, even when you talk to the restaurant owners
23 here in New York City, this is the only way they can
24 make their money right now and it does feel like, it
25 is a moment that calls for an intervention.

1
2 MODERATOR: Time expired.

3 COUNCIL MEMBER POWERS: You don't have to respond
4 to that. I'll leave it at that.

5 Thanks.

6 STEPHANIE JONES: Thank you Council Member. I
7 believe we have a follow up question from Chair
8 Gjonaj and then Council Member Brannan. Chair?

9 CHAIRPERSON GJONAJ: Thank you Stephanie and Amy,
10 just to answer your question, according to the
11 information I have, you have 62 percent of all third-
12 party food order apps in the entire city of New York,
13 62 percent of the entire market.

14 The other food order apps share in the 38
15 percent.

16 AMY HEALY: Okay, thank you.

17 CHAIRPERSON GJONAJ: Your welcome. In addition,
18 can you tell me about the deferral program, the
19 duration. I believe it was for only two weeks, am I
20 correct?

21 AMY HEALY: I believe it was about two weeks,
22 yes.

23 CHAIRPERSON GJONAJ: So, you sought to help these
24 small businesses, these restaurants deal with this
25 COVID crisis by allowing a two week deferral.

2 AMY HEALY: That was the first step Chairman. We
3 knew that access to capital in cash was hugely
4 important. The federal government was coming through
5 with unfortunately you know disappointing response at
6 this level which we have encouraged congressional
7 leaders in the White House to do more and after that,
8 we've shifted to other programs to drive revenue, to
9 drive orders to our restaurants.

10 CHAIRPERSON GJONAJ: So, I think your two week
11 period is up now?

12 AMY HEALY: Yes, but I don't believe we've
13 started, again, there's no hard collection date.
14 We're not taking any type of retaliatory measures
15 toward restaurants.

16 CHAIRPERSON GJONAJ: It's not retaliation, I'm
17 just asking, have they started paying back that
18 deferral? Have you started collecting on the two
19 week deferral?

20 AMY HEALY: I just pinned somebody to ask that
21 question, hopefully I can get back to you to
22 understand where we are in the collection.

23 CHAIRPERSON GJONAJ: And the second thing you
24 mentioned is this \$10 off on orders. Can you
25 elaborate a little bit about that?

2 AMY HEALY: Sure, it's \$10 to the restaurant, so
3 that if somebody, to encourage a large order, so if a
4 customer will buy a \$30 order, we'll give the
5 restaurant \$10 to increase the size of that order
6 because bigger orders is better for the restaurant.
7 So, that's a \$30 million cash injection for the
8 restaurants, the \$10 drives the \$30 order. So, its
9 called Supper for Support.

10 CHAIRPERSON GJONAJ: So, the marketing ranges for
11 those that participate in the marketing services part
12 that you offer, they range from what to what on a low
13 level to a high level.

14 AMY HEALY: I think our average is about 30
15 percent and they range from a low of 15, no fee or
16 cost at all to get onto our platform or to onboard.
17 And then of course restaurants can pay more.

18 CHAIRPERSON GJONAJ: Right, that's what I'm
19 asking. The fee structure that you have for
20 marketing, not the delivery, not the 3 percent credit
21 card fee, just the marketing.

22 AMY HEALY: How high does it go, the range?

23 CHAIRPERSON GJONAJ: Yeah, from low to high.

24 AMY HEALY: 15, I don't know the highest that a
25 restaurant has chosen to pay but I believe it starts

1
2 around 15 and averages around 30. Excuse me,
3 averages around 15 and goes up to 30. I don't know
4 if there's a few restaurants that have maxed out at
5 something higher than that and I did just get a note
6 that we have not started recollection of those
7 deferral payments that we deferred in March.

8 CHAIRPERSON GJONAJ: So, I'm going to ask another
9 question. We heard earlier and this is the what I've
10 heard time and time again from all restaurants, that
11 in good times they do not make more on a high level
12 than 12 percent return. But if they're paying 15,
13 that means to you, for your services, that means each
14 sale is yielding a net loss. Unless my math is
15 completely off and I did pretty well in math. I'm
16 not understanding this.

17 AMY HEALY: I don't understand either because to
18 me profit means after all costs are accounted for.
19 So, if restaurants are saying they have profit of X,
20 why is that then this particular cost is being added
21 on top of that versus rent or another cost? So, I
22 don't understand either. Why would a restaurant
23 choose to use our service outside of an emergency
24 situation if it was not helpful to their business?

1
2 CHAIRPERSON GJONAJ: I'm glad you said that.

3 Because this is an emergency situation. There is no
4 way you can get an order today unless you use a
5 third-party food order app.

6 AMY HEALY: No, you can call a restaurant
7 directly.

8 CHAIRPERSON GJONAJ: I'm sorry?

9 AMY HEALY: You can call a restaurant directly.
10 That restaurant can choose to pay for their own
11 deliver service which we heard is expensive or
12 somebody can pick it up.

13 CHAIRPERSON GJONAJ: That's why I took the
14 delivery portion out of it. I'm not referring to the
15 delivery portion. I'm referring to the marketing
16 only. Your advertising and marketing capabilities
17 and the percentage that you charge. You are saying
18 an average of 15 percent but it goes much higher. I
19 still don't know why we don't know that number, where
20 it should be a hard and fast number. It starts at X
21 and can go as high as Y, but I'll leave it at that.

22 We've heard time and time again; they do not make
23 15 percent. Before third-party food order apps came
24 into the arena and have become the norm now.
25 Consumer behavior demands it and also, I can show you

1
2 that if we Google any restaurant, the third-party
3 food order apps come up before the individual
4 restaurants own website. In essence, you're
5 controlling or directing the market and the
6 availability.

7 I wouldn't know, if I'm looking for pizza,
8 Grubhub and third-party food order apps will come up
9 before the actual restaurants website. So, when you
10 say, why would they use -

11 AMY HEALY: I just Googled my favorite pizza
12 place in my town and it came up. A Google map came
13 up and then the restaurant website came up. So, I
14 don't think that's the case everywhere.

15 CHAIRPERSON GJONAJ: Not everywhere but is that
16 person a user of your service? That pizzeria, are
17 they taking -

18 AMY HEALY: They are. It's Fiamma Wood Fire
19 Pizza in Westfield New Jersey, I'll give them a plug,
20 they are fantastic.

21 CHAIRPERSON GJONAJ: So, we have much more to
22 talk about then, but time and time again, but time
23 and time again, I hear each transaction is a net loss
24 based on these percentages.

1
2 AMY HEALY: Chairman Gjonaj, I don't know why,
3 when I hear profit and you've said this, you and I
4 have talked about this many times and you say, if the
5 profit is X and we're more than X, then they lose.
6 To me profit is after all costs are incorporated.
7 So, they have a cost, whether its rent, city fees and
8 taxes, you know labor, all of the other fees that
9 they have including advertising and marketing and
10 then they have a profit. So, I don't know why we're
11 singled out to be layered on top of that, so.

12 CHAIRPERSON GJONAJ: It's not you, it's the
13 entire industry.

14 AMY HEALY: No, and that's what I mean. Like,
15 specifically that part of their marketing fees. You
16 know maybe it's rent that causes them to lose. We
17 hear time and time again from our small business
18 restaurants that one of their biggest challenges in
19 operating New York City is New York City. And there
20 is a lot of issues they have with how they feel that
21 they are being treated and the regulations and the
22 high rents and all of the issues again, that you and
23 I have talked about before.

24 These are smart businesspeople; we design
25 marketing programs with them. We don't mandate what

1 they do. We have menu of services and they choose
2 what they believe is good for their business.
3

4 CHAIRPERSON GJONAJ: So, earlier we heard a
5 restaurant owner reveal his business model and what
6 this means to him, where prior he was doing 20
7 percent with third-party food order apps. Now it's
8 80 percent of his business. 80 percent paying the
9 commission rate that he referred to as from 25 to 29
10 percent or 30 percent has yielded a net loss on his
11 transactions. How do you respond to that restaurant
12 owner? And by the way, many have shared the same
13 sentiment.

14 So, either I'm getting misinformation or you're
15 not in touch with what the bottom line is for these
16 restaurants. I have yet to hear from someone to say,
17 third-party food order apps are giving me a greater
18 return, not more business because right now, you
19 can't do without them and it's an instant death if
20 you don't work with third-party food order apps and
21 it's a slow death if you are working with them. I
22 have yet anyone to show me that their profits have
23 increased. Not the amount of traffic that yielded in
24 sales, but their profits and right now there is no in
25 house dining. That is shut down across the board.

1
2 So, they could only do pickup or delivery and there
3 is no option.

4 AMY HEALY: I mean, we have restaurants that you
5 can call and have delivery. You can call, you don't
6 need to go through a platform for all of these
7 instances. We know that some restaurants who have
8 never used our platforms before, after COVID are
9 experiencing order volume through us that they didn't
10 have before. Absolutely, and any restaurant can call
11 their account advisor at any time and renegotiate and
12 pay for a different package of services.

13 CHAIRPERSON GJONAJ: Thank you. Stephanie, I
14 think other Council Members have questions.

15 STEPHANIE JONES: Yes, thank you Chair. Council
16 Member Brannan. Thank you.

17 MODERATOR: Clock starting.

18 COUNCIL MEMBER BRANNAN: Thank you. Amy, you
19 testified that you feel that this is government
20 overreach and you also testified that you want
21 restaurants to do well.

22 So, why not voluntarily give us this cap so we
23 don't have to overreach?

24
25

1
2 AMY HEALY: We are considering all kinds of
3 pricing models Council Member. And can you be more
4 specific, gap at 10 percent voluntarily?

5 COUNCIL MEMBER BRANNAN: For an emergency for
6 COVID, yeah.

7 AMY HEALY: Well, I'm happy to go talk to our
8 competitors. I don't know is this is the right forum
9 to all agree on pricing.

10 COUNCIL MEMBER BRANNAN: Alright, I mean, because
11 you're saying a lot of this stuff would force you to
12 operate at a loss but you don't seem to care that
13 you're forcing restaurants to operate at a loss.

14 AMY HEALY: That's not true. Of course, we care.
15 You know, we are a publicly traded company with
16 shareholders. We just announced that our earnings
17 for the quarter or for the rest of the year I think,
18 it's a public document, would be managed down, so
19 that we could inject those -

20 COUNCIL MEMBER BRANNAN: What is managed down?

21 AMY HEALY: It means we're not going to take -

22 COUNCIL MEMBER BRANNAN: Is Grubhub right now
23 doing better than ever? Are profits up?

24 AMY HEALY: I don't believe so. Again, I'm not
25 in our finance, I don't want to say. We're a

1
2 publicly traded company, I don't want to say
3 something that's not right.

4 COUNCIL MEMBER BRANNAN: I mean are orders up? I
5 assume orders are up.

6 AMY HEALY: It some areas, yes, yes.

7 COUNCIL MEMBER BRANNAN: Then I assume
8 restaurants aren't making the profit, so you are.

9 AMY HEALY: So many restaurants, so many people
10 in New York have left. So, that's had a dramatic -

11 COUNCIL MEMBER BRANNAN: What do you mean have
12 left?

13 AMY HEALY: Consumers, a lot of consumers have
14 gone out of New York City to stay with relatives and
15 places outside of the city, so that's had a big
16 impact on the amount of orders in New York City.

17 COUNCIL MEMBER BRANNAN: So, you can't tell me
18 for sure if sales and orders are up?

19 AMY HEALY: In some areas, they absolutely are
20 up, yes. In other areas they are not due to you
21 know, circumstances such as New York City.

22 COUNCIL MEMBER BRANNAN: You're saying right now
23 in New York City, Grubhub's profits and orders are
24 not up?

1
2 AMY HEALY: I can't tell you about our profits,
3 specific to New York City, I believe due to the fact
4 that so many customers are down, have left, that
5 we're not doing as well in New York City.

6 COUNCIL MEMBER BRANNAN: Where are you getting
7 data that people have left?

8 AMY HEALY: Due to our order volume that we're
9 watching.

10 COUNCIL MEMBER BRANNAN: So, then you're saying
11 it's down.

12 AMY HEALY: I believe it's down in New York City,
13 but I'm just being told we're in a quiet period and I
14 should not be talking about our profits right now.

15 COUNCIL MEMBER BRANNAN: But that's - all I'm
16 hearing, I'm hearing profits and shareholders. I'm
17 not hearing empathy with restaurants that are
18 struggling.

19 AMY HEALY: Sorry, you asked me about profits. I
20 did not bring that up of course.

21 MODERATOR: Times expired.

22 AMY HEALY: I didn't bring that up.

23 COUNCIL MEMBER BRANNAN: I guess, I understand
24 your concern with government overreach and frankly so
25 am I, but if given that restaurants are forced by

1
2 government action to limit operations to delivery and
3 take out only, why should they be forced to operate
4 at a loss just so you don't have to operate at a
5 loss?

6 AMY HEALY: I'm just, I'm getting information
7 from folks to help out and have guided to no profit
8 for the rest of the year. So, that's what we're
9 saying and we said that publicly. So, that anything
10 we make can go back into supporting local
11 restaurants.

12 COUNCIL MEMBER BRANNAN: So, could that be done
13 then through a cap?

14 AMY HEALY: We don't believe in price fixing
15 Council Member. We believe in using those dollars to
16 reinvest in restaurants to provide support in the
17 ways that we think will drive more order volume and
18 help restaurants. And if prices are fixed, service
19 is going to suffer. We've seen it in other cities
20 where this has happened.

21 COUNCIL MEMBER BRANNAN: Okay, thank you.

22 STEPHANIE JONES: Okay, thank you Amy. Before we
23 move on, I want to remind everybody that you may
24 submit written testimony as well by emailing

1
2 testimony@council.nyc.gov or by visiting the
3 Council's website.

4 Next, I'll be calling up Josh Gold followed by
5 Max Rettig and then Vikrum Dave Aiyer. Josh Gold?

6 MODERATOR: Time starting now.

7 JOSH GOLD: Thank you. Thank you, Council
8 Members. Uber appreciates the opportunity to testify
9 and appreciate the work the staff has done to set up
10 virtual hearings. We've submitted some written
11 testimony that's more inclusive and I'm going to
12 focus on one particular piece of legislation in my
13 verbal testimony.

14 We are generally supportive of 1846, 95, 98, 1907
15 and 1921. However, we have substantial concern with
16 1908 and that's where I wanted to focus my testimony
17 today. Furthermore, I wanted to focus specifically
18 on the permanent portions of the proposal before the
19 Committee.

20 During New York's pause order, it is clear that
21 all of us have to make shared sacrifices to protect
22 our local economies, frontline workers and small
23 business owners. Uber recently announced that we'll
24 be donating 10 million free meals and rides globally.
25 In New York, that effort has included over 40,000

1 free meals to first responders and others in need and
2 free deliveries for local food banks. We've also
3 dropped all fees on pickup orders for restaurants,
4 allow daily cash withdrawals at no charge and have
5 undertaken an extensive marketing push to drive
6 orders to small businesses.
7

8 Over the last couple of months, much of the
9 growth in orders is coming from the outer boroughs in
10 northern Manhattan. For example, we've seen a 61
11 percent increase in orders in Southeast Queens and a
12 35 percent increase in the South Bronx. This is
13 compared to the west village in the upper eastside
14 who kept seeing declines in orders.

15 One of the reasons why we have been able to grow
16 our business successfully in New York is because we
17 value our restaurant owners. We are committed to
18 having no hidden fees for the restaurants. We don't
19 charge for credit card processing and we don't charge
20 higher rates for lead generation. Our model is
21 straight forward and transparent. Restaurants can
22 chose to pay a 15 percent fee and use their own
23 delivery workers or pay a 31st cent fee to use Uber
24 eats delivery people.
25

1
2 Currently, we charge zero percent per pickup
3 orders. We do not charge any other fees to
4 restaurants. Restaurants can also choose to
5 alternate between these options. For example, if
6 restaurants are using their own delivery staff and
7 then it gets too busy, they can decide to tap into
8 our delivery network at the touch of a button. Many
9 choose to have Uber Eats facilitate the delivery for
10 them because it means not having to pay upfront for a
11 delivery worker all day to wait for orders to come
12 in. They can choose to pay a bit more for the
13 individual order to have Uber Eats facilitate the
14 delivery.

15 With Uber Eats, they only have to pay for
16 delivery logistics when an order come in. As
17 drafted, the permanent provisions of the legislation
18 industry third-party marketplaces that only list
19 menus and process orders the same as those that
20 provide those services but also facilitate delivery.
21 The difference is important because while to
22 consumers, they may all appear to be similar; they
23 offer different services to restaurants.

24 Companies that only provide restaurants with
25 listing and order processing should not be treated

1
2 the same as platforms that bundle those services with
3 facilitating delivery. Delivery platforms provide
4 much more than just access to customers. They manage
5 the fulfillment of the orders for the restaurants by
6 providing and handling all logistics and payments to
7 the delivery people.

8 Restaurants that choose to use platforms only to
9 list their menus and accept orders through a
10 marketplace, are spending more money to pay their own
11 inhouse delivery people. Alternatively, they are
12 spending money to list with one platform.

13 MODERATOR: Time expired.

14 JOSH GOLD: And deliver with another platform
15 like Relay. A possible consequence of a permanent 10
16 percent condition cap is bifurcation of these
17 services. Restaurants will have to contract with one
18 platform for listing services and if they are unable
19 to pay a delivery person or don't want to manage the
20 complex operations and logistics of delivery, they
21 will contract with another entity to facilitate
22 delivery.

23 This isn't a hypothetical, the seamless style
24 listing only model has existed in New York City for
25 decades and companies like Relay currently provide

1
2 delivery services to many restaurants in New York
3 City who choose only to list on platforms.

4 Finally, as drafted, the legislation also treats
5 large chains and virtual restaurants that don't have
6 the same overhead as restaurants with a large amount
7 of real estate, the same as small mom and pops and
8 I'd urge the Committee to reconsider that.

9 Thank you for your time and I look forward to
10 answering any questions.

11 STEPHANIE JONES: Thank you. I see Council
12 Member Moya has a question.

13 COUNCIL MEMBER MOYA: Yes, thank you.

14 MODERATOR: Start time now.

15 COUNCIL MEMBER MOYA: Thank you Josh. How many
16 employees, not independent contractors does Uber Eats
17 have in New York City?

18 JOSH GOLD: I'm not entirely sure how many are
19 Uber Eats but it's a few hundred. We have 27,000
20 employees nationally or globally.

21 COUNCIL MEMBER MOYA: Can you get that
22 information?

23 JOSH GOLD: Yes, it's in the, I think it's in the
24 neighborhood of 200 to 300, but I'll get back to you.

2 COUNCIL MEMBER MOYA: Okay, and just can you just
3 breakdown the fee structure that you have?

4 JOSH GOLD: Yeah, it's zero percent for pickup,
5 it's 15 percent for listing and it's 30 percent for
6 delivery. There are no hidden charges, there's no
7 processing fees, there's no telephone charges,
8 there's no processing fees, there's no telephone
9 charges, there's website charges that's it.

10 COUNCIL MEMBER MOYA: And do you charge
11 exclusivity like delivery fees or do you charge
12 commission on the orders as well?

13 JOSH GOLD: We charge consumers as well, is that
14 what you're saying?

15 COUNCIL MEMBER MOYA: Do you charge commission on
16 your orders?

17 JOSH GOLD: Yes, we charge either zero percent
18 for a pickup order, 15 percent at the restaurants
19 doing the delivery or 30 percent of we're doing or
20 for us facilitating the delivery.

21 COUNCIL MEMBER MOYA: Got it, okay, thank you.

22 STEPHANIE JONES: Thank you. Council Member
23 Powers?

24 COUNCIL MEMBER POWERS: Hi, it's nice to see you.
25 I hope you are doing well. Just a very quick

1 question. You said something at the very end, which
2 was about mom and pops versus virtual restaurants, I
3 think of them being treated differently. Can you
4 just explain that point to me?
5

6 JOSH GOLD: Sure, so, the as drafted, if you're a
7 McDonalds or a Starbucks or if you're the Corner
8 Slice Place, you get the same benefit for the 10
9 percent cap, even though presumably a McDonalds or a
10 larger cooperation, even though they have franchises
11 are striking national deals.

12 And so, you know, New York has singled out small
13 business owners and you know, as I said on the top, I
14 think we need to do a lot to figure out how to
15 protect our small businesses that are the life light
16 of our city during this time. But I'm not sure
17 larger corporations see that same level of protection
18 from government.

19 And then there are also virtual restaurants that
20 Council Member Chair Gjonaj has talked about in the
21 past that don't necessarily have extensive real
22 estate costs because they are only paying for a
23 kitchen. And they may not have the same sort of
24 financial issues that a restaurant that relies on
25

1 dine in during non-COVID times has at this moment and
2 time.

3
4 COUNCIL MEMBER POWERS: Okay, thanks. And, you
5 know, I'll leave it at that because I've talked too
6 much during this hearing. Thank you. Thanks Josh,
7 thanks for the time.

8 STEPHANIE JONES: Thank you Council Member.
9 Chair Cohen?

10 CO-CHAIR COHEN: Josh, good to see you. I just
11 want to clarify one point. If I go onto Uber Eats
12 and I place an order for pickup, you make no money at
13 all?

14 JOSH GOLD: Yes, that is how it is right now.
15 That is one of the steps we took during the pandemic.

16 CO-CHAIR COHEN: So, that's not the normal
17 practice?

18 JOSH GOLD: We pay credit card processing fees
19 but we don't make any money right now. I don't
20 believe it's been - I'm not sure if it's the normal
21 process or not. I'll get back to you on that but
22 we're still paying you know, visa or master card for
23 the credit card processing on that order.

24 CO-CHAIR COHEN: And you're not passing that cost
25 through even?

1 JOSH GOLD: No.

2 CO-CHAIR COHEN: Okay, thank you very much.

3 STEPHANIE JONES: Thank you Chair. I see Council
4 Member Chin has a follow up question.

5 MODERATOR: Time starts now.

6 COUNCIL MEMBER CHIN: Yes, thank you. Hi Josh.

7 I wanted to ask you a question about the delivery
8 worker that works for Uber Eats, because you were
9 saying that you employ about 200 to 300. So, are
10 they salary based and also, do they get 100 percent
11 of the tips they get? Because right now, during this
12 crisis, customers are being very generous. So, I
13 wanted to make sure that all the tip money you know,
14 goes to the worker and how much you know, do they get
15 paid per day or per hour?

16 JOSH GOLD: Certainly. So, when I was responding
17 to Council Member Moya, I was talking about the
18 salary staff, our Eats engineering team is actually
19 based in New York City. In term of the independent
20 contractor delivery workers, there are thousands and
21 I can come back to you with the exact number although
22 we have seen since COVID, a massive spike in the
23 amount of people that have signed up to deliver on
24 the platform and, you know, I also said on the top
25

1 very quickly that we support I believe it's 1846
2 which is Council Member Torre's bill. Which would
3 make it clear what portion of the tip goes to
4 delivery workers. 100 percent of the tip goes to
5 delivery workers, the tip on Uber Eats does not
6 change the base pay. We aren't subsidizing the base
7 pay with the tip. The tip goes entirely to the
8 worker and does not impact other pay per service.

9
10 COUNCIL MEMBER CHIN: Yeah, so if you could get
11 back to us in terms of what the base pay is for the
12 delivery worker, that would be good. And the other
13 thing is, do you charge a fee, a delivery fee to the
14 customer? Because some of the other app based, if
15 you order some restaurant that's further away, you
16 have to pay a bigger service fee or whatever.
17 There's an extra charge.

18 JOSH GOLD: We do during this period of time.
19 We, since the pause order, we have waived that to try
20 to for small and medium businesses to try to
21 encourage more consumers to use small and medium
22 businesses and drive orders to those businesses but
23 we do charge a fee to consumers. You know, I could
24 break down the fees but if you're looking at a \$20
25 order and the commission on the order isn't going to

1 cover on its own the amount of money that has to be
2 paid to a delivery worker to make sure that that wage
3 is appropriate for the work that they're doing.

4 And so, there is an additional delivery fee on
5 top that's charged to the consumer.

6 COUNCIL MEMBER CHIN: Okay, alright thank you.
7 Thank you Chairs.

8 STEPHANIE JONES: Thank you Council Member.
9 Next, I'll be calling on Max Rettig then Vikrum Dave
10 Aiyer and then Liza Soren. Max Rettig?

11 MODERATOR: Time will start now.

12 MAX RETTIG: Cheers Committee Members, thank you
13 very much for inviting me to testify today. My name
14 is Max Rettig and I'm the Global Head of Public
15 Policy at Door Dash which also includes the Caviar
16 brand.

17 My hope is that my testimony today will shed
18 light on who Door Dash is, how we operate and the
19 services that we make available to New Yorkers.

20 Our CEO and Cofounder, his name is Tony Xu. He's
21 seen firsthand the challenges that restaurants face.
22 He grew up washing dishes along side his mom, working
23 in a Chinese restaurant. And that experience led him
24 to start our company with the mission of helping
25

1 small businesses and offering flexible work
2 opportunities with stronger names to those who need
3 it.
4

5 Our operations and our approach are somewhat
6 unique. While technology in marketing to help
7 restaurants reach new customers is certainly an
8 important component of the services that we offer,
9 really the core of our platform is logistics. It's
10 connecting customers, restaurants and couriers
11 through our website and mobile application. It's
12 things happening in the real world. It's an actual
13 delivery.

14 Our platform enables restaurants to reach
15 customers online and offer delivery. Something that
16 most of our restaurant partners have never been able
17 to do before. And restaurants can also tap into our
18 delivery network to deliver orders to customers who
19 place that order directly with the restaurant,
20 whether that's on the phone or online.

21 You know, I think we have to recognize that this
22 hearing is occurring during a time of acute stress
23 for all New Yorkers and our goal during this crisis
24 has been to really take on a special responsibility
25 that we owe to our community of customers, dashers

1
2 and restaurants and to the city's and towns in which
3 we operate. So, I'd like to highlight just a few of
4 the steps that we've taken in response to this
5 crisis.

6 We've heard today and we certainly heard
7 throughout this crisis that for restaurants, their
8 worlds have been turned upside down. We've sought to
9 provide support through a combination of commission
10 and programs to designed to increase order volume to
11 replace the diners who are no longer able to go and
12 sit in their favorite restaurant. At the start of
13 the crisis, we eliminated commissions on pickup
14 orders, we eliminated commissions for restaurants
15 that are new to Door Dash or Caviar for 30 days and
16 we instituted zero dollar deliveries for customers on
17 Saturday's. Meaning customers would pay no delivery
18 fees and the goal of that is to attract new customers
19 to keep delivery affordable which in turn drives more
20 revenue to restaurants.

21 In early April, recognizing the challenges that
22 restaurants were facing one step further and reduced
23 commissions by 50 percent for local restaurants like
24 Evans through the end of May and that benefiting
25 roughly 1,000 restaurants across the boroughs.

1
2 We've also taken steps to support couriers or we
3 call dashers both on and off the road. For example,
4 we've done no contact delivery by default to minimize
5 the risk of transmission. We have provided free
6 protective equipment; we've offered two weeks of our
7 insta-dashers.

8 MODERATOR: Time is expired.

9 MAX RETTIG: And dashers earn about \$30 per
10 active hour. We're also helping deliver school
11 lunches to school students, groceries to homebound
12 seniors, working with Mount Sinai to deliver free
13 meals to healthcare workers etc.

14 I'll close by saying this, for our popcorn to
15 work, it has to work for customers, dashers and of
16 course it has to work for restaurants. People from
17 all income brackets in all corners of the city order
18 on Door Dash and there are real insignificant costs
19 associated with offering delivery from insurance to
20 cover on the job injuries to processing fees, to
21 dasher earning.

22 We have serious concerns with some of the
23 proposals under consideration today and how they
24 would impact New Yorkers from all walks of life but
25 it's our intention not just today but over the long

1 haul to work with the Council and people like Evan,
2 Andrew and Jessica to ensure that we as a company are
3 doing everything that we can to support restaurants
4 and strike a balance so that customer and dashers are
5 also able to reap the benefits of our platform.
6

7 I'll close there. I'm happy to answer your
8 questions.

9 STEPHANIE JONES: Thank you for your testimony
10 Max. Next, I'll be calling on Vikrum Dave Aiyer
11 followed by Lisa Sorin and then Karen Narefsky.
12 Vikrum?

13 MODERATOR: Time starts now.

14 VIGNESH GANAPATHY: Good afternoon Chairs and
15 Council Members. This is a Vignesh Ganapathy on
16 behalf of Postmates. Unfortunately, Vikrum was
17 unable to attend, so I am attending in lieu of his
18 presence.

19 Postmates wants to thank you all for your
20 leadership at this unprecedented time. This body has
21 been tasked with balancing resources in a moment of
22 scarcity and we need a collaborative approach to this
23 crisis. Postmates, unequivocally supports our 10,000
24 local New York merchants. 30,000 workers doing
25 deliveries, families, and our most vulnerable

1
2 populations. And we'd like to walk you through the
3 steps we've already taken to help these folks in
4 these unprecedented times but unless we amend 1896
5 and 1908, on demand delivery apps, like Postmates
6 will struggle to effectively serve these local brick
7 and mortar merchants, be able to enable homebound
8 individuals to be able to access the food that they
9 are increasingly relying on, on delivery for and to
10 durably support the city's long term recovery
11 efforts.

12 So, to date, over eight weeks ago, as Postmates
13 closely monitor the CDC guidance, we prioritize the
14 input of local brick and mortar retailers, cities,
15 and our fleet of 400,000 gig workers across the
16 country o to open up our platform in historic ways.
17 We've been able to offer noncontact delivery. A
18 fleet relief fund to cover medicals visit and PPE,
19 sick leave, family care relief but we have still
20 found that we've had an 84 percent jump in the number
21 of individuals who have popped on this platform,
22 which reflects the reality that we have 27 million
23 unemployed individuals as a result of the crisis.

24 Looking at the way in which the rate cap proposal
25 is made, you know, we see why it's being presented

1 but we have numerous concerns about it and are eager
2 to work with you all on a proposals that would be
3 able to both benefit the restaurants that rely on our
4 platform as well as enable delivery to continue to be
5 an option.

6
7 This proposal creates a false choice between
8 helping restaurants thrive and preserving delivery
9 when New Yorkers need it most. And we believe we can
10 solve this problem without pitting two symbiotic
11 industries against each other.

12 We're looking for something that's not a one size
13 fits all proposal here and our delivery fees that are
14 charged to merchants are tailored to each one of
15 those restaurants needs. That includes everything
16 from restaurants that are looking for granular data
17 in terms of area they might want to expand to, all
18 the way through marketing help, getting them a point
19 of sale service and the customer service
20 representatives that are able to help when a delivery
21 doesn't make it on time.

22 But much like the restaurant industry,
23 facilitating delivery of goods and prepared foods is
24 also a slim margin business. The blunt instrument of
25 a rate cap on our industry could have unintended

1
2 consequences of limiting delivery options for
3 restaurants, slowing delivery for customers and
4 increasing prices paid by consumers. And as was
5 observed by labor unions in San Francisco and Seattle
6 who protested the Mayor's actions there -

7 MODERATOR: Time expired.

8 VIGNESH GANAPATHY: Had an impact on worker pay.
9 Unfortunately, in San Francisco, we've already seen a
10 decline in earnings for workers and revenue for
11 restaurants as a result of the blunt effect of that
12 type of cost shifting.

13 So, I really want to close with a quick point
14 which is that you've heard today about some platforms
15 being able to afford the cuts and some not being able
16 to do so. And that's because all tech companies are
17 not made the same. rate setting would have the
18 unintended impact of rewarding those with the most
19 capital or establishing monopolies instead of working
20 in the core matter at heart. Raising cash fast for
21 mainstream.

22 A price cap for an item would benefit a big box
23 store more than a corner of degas and similarly we
24 think that an alternative proposal, a restaurant
25 resiliency fund that we are all able to support,

1
2 would be able to enable New York restaurants to
3 continue to thrive without blunting the benefits that
4 on demand delivery has provided to date.

5 Thank you.

6 STEPHANIE JONES: Thank you for your testimony.
7 I see Chair Cohen has a question. Chair?

8 CO-CHAIR COHEN: Yeah, I just, I admit, I don't
9 use these apps, so I like going to hearings and
10 showing off what I don't know about what's going on
11 in the city but would you consider yourselves
12 competitors to Grubhub or do you think of your
13 business as being different? If you are competitors,
14 how would you say that this sector is broken up in
15 terms of market share?

16 How would you say that the sector is broken up in
17 terms of market share?

18 VIGNESH GANAPATHY: I appreciate the question
19 Chair Cohen. You know I can't really speak to the
20 market share situation here because two of the
21 companies that are present are publicly traded, two
22 are not.

23 So, we don't have the granular data in terms of
24 the market share within New York. But to the first
25 part of your question in terms of how we all

1 function, there are various differences between the
2 different platforms, we charge commissions structured
3 in different ways. Postmates is proud of offering
4 ones single commission fee and structure for a
5 restaurant, so that they are not relying on having to
6 have an additional fee for marketing and an
7 additional fee for a phone service or something else.
8 Everything is rolled up into one fee that makes it
9 very simple and easy to understand for the
10 restaurants on the platform.
11

12 That differs across the industry but at the same
13 time, I think we all do compete in the marketplace.

14 CO-CHAIR COHEN: Just before I stop. Do you
15 think that restaurants have with the various app
16 options, do you think that they have negotiating
17 power or really are they compelled to be on the apps
18 if they are going to have a viable delivery business
19 or they have to be on Grubhub.

20 I guess, the thing that will motivate me to act
21 is if I feel like the restaurants don't have the
22 ability, don't have any choice in dealing with you
23 guys.

24 VIGNESH GANAPATHY: Yeah, that's a great
25 question. You'll notice when Evan was speaking

1 earlier, you know, different restaurants tend to take
2 different packages depending on what works best for
3 them. There are some restaurants that have on demand
4 delivery drivers already present at their disposal.
5 There are some that don't and there are some
6 restaurants that you know are really looking for
7 insights into in terms of how they can grow. Maybe
8 there's some restaurants that need additional help
9 with how to take a good photo of food that ought to
10 be available. There's some restaurants that have
11 customer service capabilities that enable them to be
12 able to deal with higher order volume and there are
13 some that don't.

14
15 So, I think ultimately it isn't a one size fits
16 all sort of solution. Each one of these platforms is
17 actually giving a very different array of options
18 that's available to those restaurants. There's a
19 reason that he mentioned that the commission
20 structures actually look very different across the
21 board. And you know, there are some restaurants you
22 will walk in, you'll find multiple tablets meaning we
23 offer a point of sale services for restaurants that
24 might not be able to afford them themselves and
25 that's actually all rolled up into that cost. The

1
2 overhead of maintain that, the hundreds of customer
3 service representatives that are able to answer
4 questions when an order is late, all of those
5 individual pieces are all part of this commission
6 structure.

7 So, I think it's you know, even though from the
8 outside it might seem to be very similar, these are
9 all quite different.

10 CO-CHAIR COHEN: Thank you Stephanie.

11 STEPHANIE JONES: Thank you so much. Next, we
12 have Lisa Sorin followed by Karen Narefsky and
13 Noannee u. Lisa?

14 MODERATOR: Time starts now.

15 LISA SORIN: Thank you so much for the time.
16 Good afternoon Chairman and everyone present. I will
17 say that throughout this entire hearing, I had my
18 presentation done and testimony but I'm forced to
19 have to change tactics for a minute.

20 First, I'll say that as far as the sidewalk café
21 permits, I am 100 percent about getting rid of them
22 temporarily until December. It's going to be the one
23 way that our businesses and our restaurants can
24 thrive.

1
2 So, you have our 100 percent support. On the
3 subject of what we were just discussing, the delivery
4 services, a chamber is probably the last person or
5 the last organization to say that the government
6 needs to involved in how we manage business. But for
7 this instance, I have to say that we're going to take
8 a different note and say that to Jessica, made a
9 wonderful point. If one person is suffering,
10 everybody should fall into place and based on my
11 conversations with our businesses in the outer
12 boroughs and especially in the Bronx, they are being
13 hit hard and these services that should be something
14 that is helping during this desperate time is
15 actually hurting them.

16 And to the point of our Council representatives
17 that are on, I echo the fact that you know they are
18 forced at this point to have to participate in these
19 programs because a lot of them did not have the
20 opportunity or knew of or understood how to do it.

21 To the gentleman from Postmates, I think that
22 it's important that maybe you know you take this cap
23 temporarily that you all look at how the impact of
24 our businesses, the restaurants the outer boroughs
25 and start with the level of education on what all

1
2 these mean because everybody now is coming to the
3 table, but during the time that things were settled,
4 the conversations were very fluid as to what
5 restaurants expected from delivery services. And
6 now, it's almost a hard pill to take and I don't see
7 the hard hit on the delivery services. If anything,
8 it's almost like you're using this right now to
9 benefit your companies. Rightly so, everybody has to
10 make money but these are unprecedented times.

11 Going onto the continuity loan and the SBS, I
12 wish the Commissioner would still stay on. The one
13 percent to the Bronx is disgusting. The outer
14 boroughs have been impacted for so long as it relates
15 to the opportunities and access to monies and
16 resources. The Bronx Chamber has taken along with
17 partnerships of the bids. I see Jennifer and Mike
18 Brady fighting really hard to bring education -

19 MODERATOR: Time is expired.

20 LISA SORIN: Okay, bringing education to our
21 businesses. But when you see a one percent, then the
22 City of New York needs to take notice and say that
23 there is something wrong with the system. If the
24 Bronx is not being allocated the monies and something
25 needs to change and this will be followed up with a

1
2 very strong letter and I'm asking the representatives
3 from the Bronx especially to take notice of this
4 because at this point there's something wrong with
5 the system and the Bronx is going to fall way behind
6 more than it has in the past and I think there is
7 something wrong with all of that.

8 Thank you for the time.

9 STEPHANIE JONES: Thank you Lisa. I see Chair
10 Cohen has a question.

11 CO-CHAIR COHEN: I just wanted to tell Lisa, I'm
12 glad to see you. I'm glad to see that you are well
13 and I look forward to doing business again face to
14 face.

15 LISA SORIN: Absolutely Councilman Cohen, you
16 have done amazing work for us and we really
17 appreciate and as with Chairman Gjonaj, thank you.

18 STEPHANIE JONES: And I see Chair Gjonaj also
19 would like to ask a question.

20 CHAIRPERSON GJONAJ: Thank you Stephanie. Lisa,
21 thank you for making an attempt to be a part of this.
22 As you can see, we have our work cut out for us. I'm
23 going to rely on you to chamber the bids and all of
24 the associations that exist to come together on this.
25 You'll definitely have the cooperation of the

1
2 delegation to back you up on this but that was, as
3 you put it, disgusting. That one percent of that
4 money made it to the Borough of the Bronx is
5 inexcusable, it's unforgiveable knowing the we are
6 the poorest borough. That we have so many bad things
7 that have attributed to the borough, the least that
8 they can do is make sure that the limited resources
9 and that's actually a joke, the amount of resources
10 they put into the grants and loans. \$39 million is
11 an insult to begin with and to have only one percent
12 of that work its way to the Bronx is inexcusable,
13 unforgiveable and we're going to be coming together
14 after today's conference to figure out how we can
15 move ahead. But we're going to need your support and
16 everyone else to join us.

17 LISA SORIN: Thank you Councilman and if I can
18 add to the one thing that's coming positive out of
19 this situation of working from home, we have the time
20 to reach out to all the businesses and you know, our
21 Council people rightly so have asked us where the
22 businesses that when there's problems with some of
23 the bills being introduced and we're here to say that
24 you'll be hearing from all of them very soon.

25 CHAIRPERSON GJONAJ: This is a wake up call.

1 LISA SORIN: Absolutely.

2 CHAIRPERSON GJONAJ: It's evident that in good
3 times, we don't get the resources and in bad times,
4 we're not getting the resources. So, thank you.
5

6 LISA SORIN: Well, squeaky wheel get the oil
7 right. I think the Bronx is about as squeaky as it
8 can get right now.

9 CHAIRPERSON GJONAJ: Thank you.

10 LISA SORIN: Thank you.

11 STEPHANIE JONES: Thank you Lisa. I'd like to
12 welcome Karen Narefski to testify, then Jo-Ann Yoo
13 then Ahyoung Kim. Karen?

14 MODERATOR: Time starts now.

15 KAREN NAREFSKI: Thank you Chair Gjonaj and Chair
16 Cohen and Committee Members for the opportunity to
17 testify. My name is Karen Narefski and I am the
18 Senior Organizer for Equitable Economic Development
19 at the association for Neighborhood and Housing
20 Development.

21 ANHD is a nonprofit organization whose mission is
22 to build community power to win affordable housing
23 and fighting equitable neighborhoods for all New
24 Yorkers. Our members include more than 80
25 neighborhood based community develop organizations

1
2 across New York City and we're also a member of
3 United for Small Business New York City, a coalition
4 of community organizations across the city who are
5 fighting to protect small businesses from the threat
6 of displacement with a focus on owner operate and
7 minority run businesses that serve low income in
8 minority communities.

9 We've been happy to work with the Council to pass
10 commercial tenant harassment legislation. The state
11 of the storefronts and storefront tracker programs
12 and the commercial lease assistance program.

13 So, as we all know, small businesses who are
14 already operating on very tight margins and extremely
15 vulnerable to the threat of speculation and
16 displacement are now really seeing a catastrophe due
17 to COVID-19.

18 As the Speaker noted at the beginning of the
19 meeting, 26 percent of all jobs in New York City are
20 at business with 20 or fewer employees. So, the
21 result in closures and layoffs ripple through the
22 community and have a broad economic impact.

23 In immigrant majority people of color
24 neighborhoods that are already bearing the greatest
25

1 burden of COVID-19, employment and small businesses
2 tends to be at a much higher proportion.
3

4 So, we really need swift and comprehensive action
5 to protect commercial tenants from displacement and
6 permanent closure. I'd like to speak today to Intro.
7 1914 and Intro. 1932 as well as to the urgent need for
8 rent relief and targeted support for commercial
9 tenants.

10 Intro. 1914 builds on the valuable work that the
11 Council and USBNYC have done to prevent commercial
12 tenant harassment. While we support expanding
13 protections to all commercial tenants, we also want
14 to note that small business tenants really have the
15 resources to hire a lawyer and go to court.

16 We also support Intro. 1932, we think it's an
17 important effort to protect small business owners
18 from personal financial risk, but we ask the city to
19 strengthen it by expanding it beyond the COVID-19
20 period and by clarifying that personal guarantee
21 agreements, even those that are not included in the lease
22 itself, are also covered by the Intro.

23 As I mentioned, we support these Intro.'s with
24 the suggested modifications but they are not
25 sufficient to meet the current crisis for commercial

1 tenants. Businesses that are closed are experiencing
2 a significant loss of income to not pay rent or other
3 business costs. As was discussed earlier on, the
4 city is no longer offering grants or loans to small
5 business through SBS and it has been extremely
6 challenging if not impossible for small and immigrant
7 owned businesses to access the PPP and idle loans
8 provided by the federal government.
9

10 Analysis that AMHD did in 2017, showed that New
11 York City small business especially -

12 MODERATOR: Time is expired.

13 KAREN NAREFSKI: In the outer boroughs face
14 numerous barriers to accessing loans and those are
15 only being exacerbated.

16 So, I'll finish by saying both that the city
17 should be really prioritizing direct aid for
18 immigrant owned small businesses which are almost
19 half of our city's small businesses and are helping
20 to keep our city alive and that also, the city does
21 have the power to enact commercial rent relief for
22 commercial tenants and ensure that those tenants are
23 not saddled with hundreds of thousands of dollars of
24 debt they will never be able to pay back.
25

2 So, we thank the Council for introducing this
3 relief package and we encourage you to continue to
4 take broad measures to support small business
5 tenants. Thank you.

6 STEPHANIE JONES: Thank you Karen. Next, I will
7 be calling up Jo-Ann Yoo, Ahyoung Kim and Ryan
8 Monell. Joanne?

9 MODERATOR: Time.

10 JO-ANN YOO: Thank you so much Council Members.
11 Hello, it's so great to see you. I think right
12 around this time if we were not in lockdown, I would
13 have visited your office a gazillion times by now but
14 it is still great to see you guys in this capacity.

15 I am Jo-Ann Yoo and I'm the Executive Director of
16 the Asian American Federation and I am here to lend
17 my voice to the aspirations of this Council. As you
18 know for the past two and a half years the federation
19 led the charge to legalize electric bicycles that are
20 used by food delivery drivers who are mostly Chinese
21 and Latino immigrants, many with that immigration
22 status.

23 The job of a delivery workers is an extremely
24 arduous one having to ride more than 12 hours a day,
25

1
2 40 to 60 miles a day, 6 to 7 days a week for a few
3 dollars an hour.

4 I want to thank this legislative body for
5 supporting the workers since our fight to legalize
6 the e-bikes began. Just before the city encountered
7 this pandemic, electric bicycles were legalized by
8 Governor Cuomo and the federation was headed back to
9 the Council to wrap up the legalization process. And
10 then as the pandemic hit, delivery workers who are
11 designated essential workers, it should not have
12 taken global pandemic to make the city realize that
13 we rely on these immigrant workers to deliver food.
14 The irony is not lost on Asian American Federation
15 and certainly not to all of our Council leaders. I'm
16 sure that the workers are grateful that they didn't
17 have to be afraid of every encounter with NYPD that
18 would have you know, led to tickets that cost more
19 than their months wages.

20 Every night at 7:00 our city pokes our collective
21 heads out to cheer those essential workers. Some of
22 those cheering folks who I'm sure complain about the
23 delivery workers. As we start to emerge from our
24 homes into a city that now staggering unemployment,
25 small business that will never reopen, hundreds of

1 thousands of New Yorkers wondering how their
2 essential needs will be met and Black and Latino
3 families start filling with grief of losing so many
4 loved ones. This is an opportunity for this
5 legislative body to envision a new economy that is
6 centered on the working class, the very people who
7 kept the city going while most New Yorkers have the
8 privilege of being at home during the pandemic.
9

10 During this pandemic, the food delivery app sent
11 emails to their customers to ask our contributions to
12 emergency funds that should the workers get sick.
13 Workers who deliver foods without sufficient personal
14 protection equipment. Delivery apps also designated
15 delivery workers as independent contractors, to serve
16 them paying taxes or provide benefits. Their workers
17 do not have much choice but to except these
18 unconscionable conditions of unemployment. These
19 food delivery apps report billions of dollars of
20 revenue through the exploitation of most vulnerable
21 New Yorkers.

22 After months of being at home, I'm sure as we are
23 all looking to return to the new normal, but I hope
24 that the new normal is not to embrace the injustices
25 we've always felt.

1
2 MODERATOR: Time expired.

3 JO-ANN YOO: And I hope that you will work with
4 us to envision as an economy that really does
5 highlight the people who have kept us alive.

6 Finally, I want to thank all the Council Members
7 who signed onto a letter that NYPD to return all the
8 electric bicycles to the workers. These bicycles are
9 \$2000 a piece and as we know NYPD is holding hundreds
10 of these bicycles. We ask that Council continue to
11 lend their voice in demanding that e-bike workers get
12 their bikes back and that the economy of the city not
13 be on the backs of immigrant food delivery workers.

14 Thank you.

15 STEPHANIE JONES: Thank you Jo-Ann. Next, we
16 have Ahyoung Kim followed by Ryan Monell followed by
17 Steven Choi.

18 MODERATOR: Time starts now.

19 AHYOUNG KIM: Thank you. Thank you Chair Gjonaj
20 and Chair Cohen.

21 STEPHANIE JONES: Chair Cohen, did you have a
22 question for Jo-Ann?

23 CO-CHAIR COHEN: No, I'm just going to try to
24 encourage people to try to adhere to the clock, there
25 is still actually a number of people who want to

2 testify and if people could limit their testimony to
3 three minutes, we'll get through everybody.

4 STEPHANIE JONES: Okay, I apologize for
5 interrupting Ahyoung Kim, go right ahead.

6 AHYOUNG KIM: Alright, thank you both Chairs and
7 the Committee Members and thank you very much for
8 your patience throughout the day. We've all been
9 here for quite long enough.

10 My name is Ahyoung Kim, I am the Small Business
11 Project Manager at the Asian American Federation and
12 we welcome the Council's efforts of protecting small
13 business owners through measures as the bills that
14 are being discussed today. We must argue that they
15 are not really enough for the most vulnerable small
16 business owners and we worry that the merchants that
17 we help today are not going to be able to take
18 advantage of such measures.

19 The bill such as the Intro. 1914 and 1932, give
20 small business owners some protection from harassment
21 by their landlords but they do not change the simple
22 fact that the small business owners cannot afford to
23 pay rent today. We urge the Council to also put into
24 place conditional incentives for landlords to give
25 rent relief to tenants instead of just relying on

1 their good intentions and so that you know, the
2 tenants that are have be debilitated by COVID-19 can
3 actually have some kind of protection rather than
4 being able to put it off for three months later, just
5 because you know, because there's a moratorium on
6 eviction.
7

8 But more importantly, I wanted to point out to
9 you that these kind of measures also need to be put
10 in place with ample language assistance that allows
11 immigrant small business owners to one, learn of such
12 measures in city programs and two, seek appropriate
13 legal assistance. I do not have to remind you today
14 that our Asian small business owners were the first
15 to be hit by the economic impacts of COVID-19 but
16 they are also the ones that are most left out when it
17 comes to city initiatives for helping our small
18 business owners.

19 According to the New York State Department of
20 Labor, Asian American unemployment claims in the week
21 of April 11th rose by 10,210 percent. 10,210 percent
22 compared to the 501 claims in the same period last
23 year. To us, this shows that Asian American
24 community has been holding up the very fabric of this
25 economy throughout the city but have not been helped

1 out and that have not been reached out to when it
2 comes to programs that can be helped.
3

4 For example, as pointed out by Council Member Koo
5 and Chin, when the New York City ERG program closed,
6 the grant program by the SBS, we can surmise space
7 and responses from the small business associations
8 that we work with. That most of our small businesses
9 did not participate in the city programs because of
10 poor language assistance and lack of coherent
11 instructions.

12 The city's SBS is now directing small business
13 owners to federal assistance programs, as you have
14 all heard today, but many merchants still worry that
15 they are ineligible for federal assistance or
16 hesitate to even apply because of the overwhelming
17 documentation requirements or the lack of a social
18 security number, even if they have been paying their
19 taxes with a ITIN.

20 We believe that our community and our small
21 business merchants also need to be given a voice.

22 MODERATOR: Time is expired.

23 AHYOUNG KIM: Just because they don't have the
24 methods to be able to speak to you in a hearing like
25 this to come up to give their voice, lend their voice

1 to talk about what is actually going on to their
2 business today, does not mean they are fine, it does
3 not mean that they are going to be okay.
4

5 In fact, from 2006 to 2012, during in the last
6 great recession we experienced, the Asian small
7 businesses were the ones that created an almost half
8 of net new economic activity in the city.

9 MODERATOR: Time expired.

10 AHYOUNG KIM: So, okay, so, just one last thing.
11 We want to say that small business owners that have
12 specific concerns about new regulations also have to
13 be heard and we would love to work with you in the
14 near future to talk about issues like Perth[SP?]
15 machines or like small business that have to mandate,
16 sorry, that can't really like adhere to the new
17 regulations that are going to be put into place
18 because of logistic and financial issues.

19 Thank you.

20 STEPHANIE JONES: Thank you for your testimony
21 Ahyoung. A reminder to everyone that you may submit
22 written testimony to testimony@council.nyc.gov or by
23 our website.

24 Next up is Ryan Monell followed by Steven Choi
25 and then Mohamad Attia.

1
2 MODERATOR: Ryan, your time is going to start
3 now.

4 RYAN MONELL: Well, thank you Chair Cohen. Thank
5 you Chair Gjonaj. I appreciate the opportunity to
6 testify today. My name is Ryan Monell, I'm the
7 Director of City Legislative Affairs for the Real
8 Estate Board of New York.

9 As we all know, there are few industries or
10 sectors have been shielded from the economic downturn
11 brought by COVID-19 and that includes the real estate
12 industry. Unfortunately, some of the bills in the
13 package introduced by the Council as a response to
14 COVID-19 artificially select winners and losers. As
15 we look towards ways to push for robust but safe
16 economic recovery, is critical to every proposal put
17 forth by any level of government or advocacy group is
18 fully vetted and underscores the fact that one well
19 intentioned bill can have numerous consequences on
20 our city's ability to meet other objectives.

21 REBNY would like to identify two bills relevant
22 to our members for which we have questions and
23 concerns. First, REBNY is opposing Intro. 1932. In
24 a time when which a city should be finding ways to
25 work together with the private sectors to provide

1 relief to all businesses and workers, who cannot
2 afford to pick winners and losers as it pertains to
3 commercial lease contracts and other contractual
4 agreements between two parties.
5

6 This legislation proposes a seemingly and
7 permissible inner lateral amendment of existing valid
8 contracts. Solutions that would benefit all parties
9 could be collaborative support for business
10 interruptions report, rent relief and commercial
11 mortgage from congress.

12 Additionally, 3,342 New York City condominium and
13 cooperative properties including HDFC's contain
14 retail space. Retail space in condominium and
15 cooperative buildings are fundamental to the
16 financial viability of these residences. They keep
17 homes affordable by off setting costs that would
18 otherwise be paid for by the voting senates.

19 Second, relative to Intro. 1914, REBNY agrees
20 wholeheartedly with the Council that protecting
21 tenants from harassment of any kind, literally during
22 COVID-19 should be a priority. However, it is
23 important to clearly define what harassment means
24 when most of the normal ways our society interacts
25 with have changed recently.

1
2 Considering the needs of daunt social distancing
3 practices and wear face coverings, REBNY has concerns
4 on if the bills address is what could be misconstrued
5 as harassment. We encourage the Council to take
6 these scenarios into consideration to best provide
7 more clarity about for building owners and tenants
8 alike.

9 Additionally, REBNY has concerns about how a
10 building owner will understand what constitutes a
11 COVID-19 impacted business. As written, there does
12 not seem to be a contingency toward how long a tenant
13 could claim protected status relative to the COVID-19
14 Disaster Declaration. Theoretically allowing for the
15 protected class to be claimed well after the current
16 pandemic.

17 With this said, we look forward to working with
18 the Council to address these concerns in a way that
19 strengthens this legislation. As we work to address
20 reopening our economy while prioritizing the health
21 and safety of all New Yorkers, we support proposals
22 and actions and embrace collaboratively.

23 Additionally, we need to understand the reality that
24 most small businesses and industries across our city
25 need real and immediate financial relief.

1
2 Programs are proposed to eliminate obligations in
3 one part of the ecosystem without guarantees for the
4 backend.

5 MODERATOR: Time expired.

6 RYAN MONELL: Or responsibilities. Thank you and
7 I appreciate this.

8 STEPHANIE JONES: Thank you Ryan. Next up, we
9 have Steven Choi, Mohamad Attia and Carina Kaufman
10 Gutierrez.

11 MODERATOR: Steven, your clock will start now.

12 STEVEN CHOI: Great, good afternoon. I am Steven
13 Choi; I am the Executive Director at the New York
14 Immigration Coalition. We're an umbrella policy and
15 advocacy organization that works statewide with 200
16 immigrant serving member organizations.

17 I want to thank Chair Gjonaj, Chair Cohen and the
18 members of the two committees for convening this
19 important hearing and allowing us the opportunity to
20 submit testimony.

21 Look, the impact of COVID-19 on New York City
22 cannot be understated. This disease has really
23 effected every single facet of our city. In one area
24 that has clearly felt the immense impact has been
25 small business in NYC, particularly those that are

1 owned by immigrants, serve immigrant communities and
2 those that employ immigrants. We applaud the Council
3 for acknowledging that small businesses have fared
4 poorly during this pandemic and we support Intro.
5 1846 by Council Member Torres, as protecting the
6 wages of primarily immigrant frontline delivery
7 workers is very important. They are risking their
8 lives to deliver our food and should receive all
9 their wages and more.
10

11 Similarly, we also support Chair Gjonaj and
12 Council Member Moya's bills Intro. 1895, 1896, 1897,
13 1907 and 1908 that protects small businesses from
14 being gouged by fees by third-party food delivery
15 services and we're glad to hear that the Council is
16 really engaging in a lot introspection with these
17 food delivery services including their feet to the
18 fire. We also support Council Member Rivera and
19 Adams bills Intro. 1914 and 1932 as well.

20 All that being said, I have to say frankly that
21 the City Council could go even further to support
22 small businesses and immigrant run small businesses.
23 We've seen hundreds of billions of dollars from the
24 federal government dolled out to support small
25 businesses but completely missed the target for a

1
2 number of different reasons. So, Washington DC has
3 failed immigrant small businesses and we desperately
4 need New York City and the Council to have their
5 backs.

6 So, as part of our New York United Campaign,
7 we've identified several we've identified several key
8 commonsense measures to ensure immigrants across New
9 York can remain safe and healthy and there are a
10 couple of things that I wanted to mention. Number
11 one, creating an emergency cash assistance fund for
12 those New Yorkers cruelly left out of the federal
13 relief packages including direct cash payments and
14 help for small businesses. Punishing landlords that
15 are harassing tenants both residential and commercial
16 should be done in tandem with direct cash relief to
17 be truly effective. We also want to say that even in
18 this moment, expanding New York City paid sick leave
19 from the current mandatory five days to fourteen, we
20 believe is actually critical as well. To make sure
21 that businesses and employees are truly healthy.

22 Finally, expanding access to food vendor licenses
23 by passing Into. 1116 by Council Member Chin.

24 MODERATOR: Time expired.

25 STEVEN CHOI: We think that's critical as well.

2 Thank you for convening this extremely important
3 hearing and we will continue as the NYC to engage on
4 this critical issue to support our immigrant small
5 businesses.

6 STEPHANIE JONES: Thank you Steven. Next up will
7 be Mohamad Attia, Carina Kaufman Gutierrez and then
8 Mike Brady. Mohamad Attia?

9 MODERATOR: Clock is starting now.

10 MOHAMAD ATTIA: Thank you. Good afternoon
11 Council Members. My name is Mohamad Attia, I'm the
12 Executive of the Street Vendor project at the Urban
13 Justice Center. The Street Vendor Project is a
14 member led organization that advocates for the street
15 vendors rights and fights to improve their working
16 conditions. We are a proud member of United for
17 Small Business NYC Coalition.

18 While street vendors have been dealing with an
19 outdated unjust system that was created four decades
20 ago, that has impacted their livelihoods dramatically
21 and made it quite impossible for them to be
22 financially secure and the City Council hasn't passed
23 legislation to fix this broken system yet. We're
24 deferring to Intro. 1116. We have recently seen the
25 effect of COVID-19 pandemic, it has made it even more

1
2 dire for them to sustain their livelihoods. Street
3 vendors are the smallest businesses in New York City.
4 They are mostly hard working immigrants and military
5 veterans. Single mothers of low income New Yorkers
6 who live day by day to survive and thrive in our
7 city. They serve all New Yorkers across the city,
8 contribute to the local economy, create more jobs,
9 pay taxes. An estimated \$70 million a year by a
10 study made in 2012.

11 Just like any other small businesses but yet,
12 they are still excluded from all government relief
13 programs. The vast majority of street vendors are
14 not eligible for any small business assistance
15 provided by the federal government or the city
16 government as sole providers.

17 Not to mention, that thousands of street vendors
18 who are undocumented and in mixed immigration status
19 families, haven't received a dime from the government
20 during this crisis, although they have been paying
21 their fair share of taxes and fees just like other
22 businesses or workers in New York City.

23 It is so disappointing that today's hearing, with
24 the various legislations being heard and introduced

1
2 today, we don't see any support being offered to
3 street vendors.

4 Last month, eight Council Members, some of whom
5 are here now, thanks to Council Member Chin, Council
6 Member Rivera, Council Member Lander, who have been
7 advocates for the street vendors, a population that's
8 always overlooked and other Council Member signed a
9 list of demands that street vendor's community needs
10 to survive during this pandemic, including creating
11 granting opportunities via New York City Small
12 Businesses Service Department for sole proprietors,
13 these microbusinesses including the street vendors
14 who would be eligible to receive.

15 The list is not so long but that's maybe the most
16 important part of it. We haven't yet received a
17 response from City Council, the Speaker Corey Johnson
18 to these demands and our community needs the support
19 of the whole City Council at this moment. It's
20 unfair and unacceptable to see how New York City
21 government is excluding a population of nearly 20,000
22 people who are part of the most vulnerable
23 communities.

24

25

1 Street vendors are essential workers who have
2 been feeding our city since its establishment and
3 it's so disappointing to see the government ignore.

4 MODERATOR: Time expired.

5 MOHAMAD ATTIA: We urge the City Council to
6 introduce and pass legislations that supports small
7 businesses such as but not limited to bodega's, small
8 mom and pop stores and street vendors who are mostly
9 operated by immigrants that use traditional methods
10 in running their businesses and mandate the city
11 administration -

12 CHAIRPERSON GJONAJ: Thank you for your
13 testimony.

14 MOHAMAD ATTIA: Thank you Chair.

15 CHAIRPERSON GJONAJ: Thank you.

16 STEPHANIE JONES: Thank you Mohamad. Next is
17 Carina Kaufman Gutierrez, then Mike Brady and then
18 Pablo Benson Silva. Carina?

19 MODERATOR: Clock is starting now.

20 CARINA KAUFMAN GUTIERREZ: Good afternoon Council
21 Members. My name is Carina Kaufman Gutierrez and I
22 am the Deputy Director of the Street Vendor Project
23 at the Urban Justice Center and a member of the
24 United for Small Business Coalition.
25

1 Thank you to the Small Business Committee for the
2 opportunity to speak today. The Street Vendor
3 Project is a member led organization that advocates
4 for street vendor rights and fights to improve
5 working conditions. Rights which have been in crisis
6 long before the COVID-19 outbreak.
7

8 However, as Council Members Chin and Lander have
9 highlighted today, street vendor small business
10 owners have been hit hard by the COVID-19 outbreak.
11 Vendors serve New Yorkers all across the city,
12 contribute to the local economy and culture, create
13 jobs, pay taxes, just like any small business but yet
14 they are excluded from almost all existing government
15 relief programs and many are reporting record income
16 losses of up to 90 percent if not 100 percent.

17 As primarily immigrant small business owners and
18 workers, many of whom are undocumented and/or cash
19 economy workers, street vendors are ineligible for
20 government support, such as paid sick leave or even
21 most loans and grants that are offered to small
22 businesses making an already dire situation critical.

23 Again, although small business loans and grants
24 exist, in practice we have found that immigrant small
25 business owners in addition like in coalition with

1 street vendors have been ultimately ineligible due to
2 monolingual English application documents, extensive
3 documentation required and extensive eligibility
4 criteria. Many immigrant run small businesses fear
5 that they will be unable to open after the crisis.
6

7 Along with United for Small Business, we are
8 asking for the creation of a New York City small
9 business grant with the following parameters of
10 eligibility.

11 First, is to ensure that eligibility is not
12 dependent on commercial rent payments, utility bills
13 or payroll. Confirm that no immigration status
14 reporting is required either for employer or
15 employee. Allow for adequate documentation to
16 include that which is suitable for cash transaction
17 reporting such as daily sales on written ledgers or
18 end of day counts. Ensure that all promotional and
19 application materials are in multiple languages and
20 allow for mobile food vending, licenses or permits,
21 general merchandise licenses, tickets even that have
22 been received for vending or proof of quarterly sales
23 tax to be sufficient proof of sole proprietorship.

24 New York City has yet to create a response that
25 supports street vendors thereby excluding a

1
2 population of nearly 20,000 people who serve our city
3 rain or shine and we urge you to take action to
4 ensure that all New Yorkers emerge from this crisis
5 safely and are able to continue to contribute to our
6 city's economy.

7 Thank you.

8 STEPHANIE JONES: Thank you Carina. Next is Mike
9 Brady followed by Pablo Benson Silva followed by
10 Jennifer Tausig. Mike?

11 MODERATOR: Clock starting now.

12 MIKE BRADY: Thank you Stephanie. Good morning
13 Chairs Cohen or afternoon Chairs Cohen and Gjonaj and
14 members of the Small Business Committee and the
15 Committee on Consumer Affairs and Business Licensing.
16 My name is Michael Brady, I'm the Chief Executive
17 Officer of the Third Avenue Business Improvement
18 District and the Boulevard Commercial Corridor
19 located in the South Bronx.

20 I will just give a couple highline items in terms
21 of where we support and then I'll go into some more
22 detailed comments. We are supportive of Intro. 1914
23 on commercial tenant harassment. We are supportive
24 of Intro. 1916 on sidewalk café licenses. We are
25 supporting fee caps for a third-party delivery

1 vendors with the understanding that this particular
2 legislation should go in as a temporary fix during
3 the emergency now and then look towards a more long
4 term permanent solution to prevent the bastardization
5 of a system that basically rapes our restaurant
6 industry.
7

8 In terms of the personal liability clauses on
9 Intro. 1932, we would recommend further review by
10 legal to prevent any obstacles in the future before
11 this legislation is considered further.

12 So, just quickly, despite our city's emergency
13 preparedness planning efforts, the COVID-19 pandemic
14 and its ongoing impact caught out city off guard.
15 It's taken the lives of 60,000 Americans, hundreds of
16 thousands of New Yorkers have been infected and it's
17 disproportionately impacted low income communities of
18 color.

19 The public health impact has been great and the
20 subsequent economic impact will have a lasting effect
21 on our city for decades. During times of crisis,
22 some individuals, groups, and governments rise to the
23 occasion and alternatively some of the same groups
24 remain silent or quite frankly fail.
25

1
2 The COVID-19 pandemic has shed light on those
3 fractures in our system. I'm here to discuss the
4 limited business resources implemented by the City of
5 New York during the first two months of this
6 pandemic. I'd like to preface this by stating that
7 our first priority is always public health. However,
8 business falls in very quickly as a second.

9 While I commend New York City Department of Small
10 Business Services for nimbly moving an entire office
11 operation to remote work within a week. I further
12 commend the SBS on its drive to implement a grant
13 program within the first few weeks of the mandated
14 business closures and thank Commissioner Bishop for
15 being so available to small businesses reforms and
16 webinars. I do have to say I'm very disheartened at
17 the lack for forethought that went into creating the
18 New York City Employee Retention Grant program, which
19 closed nearly as quickly as it opened and you know it
20 cited a lack of financial resources but I think
21 structurally it was flawed from the beginning.

22 I have more prepared.

23 MODERATOR: Time expired.

24 MIKE BRADY: But I'll submit it into you for the
25 record. However, I just have to say that the City of

1 New York really missed the mark on small businesses.
2 Whether it's the loan fund or the grant fund, the
3 City of New York needs to wake up. Our small
4 business have been assaulted by government for at
5 least the last decade and I'm a Centaurus democrat.
6 We can't ignore the past and what this body has done
7 stripped the life out of our small businesses is
8 really unconscionable. But we can gather together
9 and fight for a better future.
10

11 So, with that said, I thank you for your time.
12 My comments of substance are in the record but I do
13 need to let us know that we can no longer use the
14 phrases of the we wills. We need to say that we have
15 and deliver on those promises that we as a city and
16 we as a government make. We can't continue our
17 threshold of broken promise and the proverbial
18 pimping out of small businesses, it just won't be
19 tolerated any more.

20 CO-CHAIR COHEN: Michael, we hear you and I
21 appreciate your testimony. I think that people
22 should know that the Third Avenue does so much more
23 than just support businesses but your concern for the
24 greater community that's served by the Third Avenue
25 is not lost on, and certainly on the Bronx

1
2 delegation. So, I want to thank you and I just want
3 to add more thing, I don't know how many people are
4 from the Street Vendor Project are still on the Zoom
5 but I really think that maybe the Consumer Affairs
6 staff and I, we should maybe do a separate Zoom for
7 them at some point, to try to see if there's some
8 interim solutions that we can come up for street
9 vendors in particular. So, thank you.

10 MIKE BRADY: Absolutely. Thank you, Council
11 member Cohen and I think that particularly for Bronx
12 street vendors there is probably some bandwidth with
13 the Bronx community relief effort where there are
14 some access to some philanthropic dollars that we can
15 deploy for our street vendor support.

16 CO-CHAIR COHEN: Thank you Mike.

17 STEPHANIE JONES: Thank you. Chair Gjonaj also
18 has some follow up questions. Chair?

19 CHAIRPERSON GJONAJ: Thank you Stephanie and
20 thank you Chair Cohen. Michael, thank you for being
21 a part of today's hearing, for making the time to be
22 here. Your leadership is renowned and well known out
23 there. So, I'm looking forward to reading your full
24 testimony.

1
2 But Michael, were you surprised to hear that only
3 one percent of that limited, and when I say limited,
4 I'm being very generous. That limited SBS loan and
5 grant program, that one percent that worked its way
6 to the Borough of the Bronx?

7 MIKE BRADY: I would be lying if I said I wasn't
8 surprised. I didn't think it would be that bad,
9 quite frankly. I knew the Bronx would be
10 disproportionately less than the rest of the City of
11 New York but one percent is disgusting quite frankly
12 and I have a lot of friends who I consider friends
13 and colleagues at small business services and there's
14 really something wrong, structurally wrong with our
15 city and our agencies if only one percent of
16 resources that we have gets to a borough that has
17 historically been disenfranchised at redlines.

18 This is the story of redlining all over again,
19 but it's coming from the City of New York.

20 CHAIRPERSON GJONAJ: Michael, thank you and I
21 think it's abundantly clear that this should be a
22 rude awakening of the borough of the Bronx and our
23 small businesses and what we actually mean. I mean,
24 all small business should be upset by the low dollar
25 amount. \$39 million for 200,000 businesses. That

1 equates to about \$245 per business. That is an
2 insult and we know there was an interim gap meant to
3 help along until the federal funds came in, but we
4 spend more on some very minor culturally important
5 things but nothing to this magnitude. Small business
6 is the backbone of our city as an economic engine.

7
8 To only give \$39 million is an insult to begin
9 with, let alone to have that small amount come into
10 the Borough of the Bronx. So, I'm expecting you to
11 continue this leadership Michael. Rally your troops,
12 you shouldn't be just the Borough of the Bronx, but
13 citywide you have to help deliver that message back
14 to this Administration that enough is enough. And
15 that they must do more and we're going to hold them
16 accountable. What they've done is borderline
17 criminal. \$39 million to help 200,000 businesses is
18 unforgiveable.

19 MIKE BRADY: Absolutely Chair Gjonaj and you know
20 I would just say to Commissioner Bishop because I
21 know during last weeks Stated Meeting there was a lot
22 of question about what business improvement districts
23 are doing.

24 In the past three weeks, the Bronx Business
25 Improvement Districts have packaged over 1,000 PPP

1
2 loans for Bronx businesses. We have deployed
3 \$500,000 worth of grant monies to Bronx businesses
4 without the bureaucratic red tape of government.

5 So, when we ask what Bronx bids are doing during
6 a pandemic, we are active in providing services and
7 we would expect that the City of New York would be
8 providing those same services.

9 CHAIRPERSON GJONAJ: You've done more than the
10 entire City of New York for just your commercial
11 corridor. Kudos to you Michael, they are lucky to
12 have you. Thank you.

13 MIKE BRADY: Thank you Mark.

14 STEPHANIE JONES: Thank you Michael. Next up is
15 Pablo Benson Silva followed by Jennifer Tausig and
16 then Matthew Newberg. Pablo?

17 MODERATOR: Time is starting.

18 PABLO BENSON SILVA: Thank you very much. Thank
19 you very much Chair Gjonaj and Cohen. I want to
20 thank you all for organizing this hearing remotely.
21 I am with the New York City Network of Worker
22 Cooperatives. We are the trade association for
23 worker on businesses in New York City and we are also
24 a proud member of the United for Small Business
25 Coalition.

1
2 I just want to second all of the demands that
3 were expressed earlier by Karen, Carina, and others.
4 But I'm here representing the WCBDI, Worker
5 Cooperative Business Development Initiative, which as
6 you know is funded by City Council discretionary
7 funds.

8 Firstly, because like a lot of our businesses
9 were unfairly excluded from a lot of these SBS, the
10 SBS grant and loan program. Partly because they
11 defined employee employment very narrowly. Excluding
12 what we would call member distributions or patronage,
13 especially for LLC structured cooperatives and we're
14 representing 70 percent of our worker owners are
15 immigrants. They are not going to have access to the
16 federal relief direct cash payments. They have a
17 much higher threshold to get the PPP and other
18 federal small business relief programs.

19 And they are also unfairly impacted by the UBT
20 tax, the Unincorporated Business Tax and that is
21 something that we're hoping to get some kind of
22 relief for, just because of the amount of owners
23 right. Since most in Worker Cooperatives, most of
24 the workers are owners of the business.

1 So, for these and many other reasons, we feel
2
3 like this crisis has impacted our community
4 disproportionately but nevertheless, the Worker
5 Development Initiative which has 14 partner
6 organizations has done a lot of amazing work during
7 this period. Our partners have just been inundated
8 with requests. An avalanche of TA requests from
9 distressed businesses in which their operating at
10 double and sometimes triple their capacity.

11 So, we definitely feel that our work is super
12 essential in moments of crisis like this. You know,
13 we've served over 2,000 individuals during this
14 period. You know, our online resources have reached
15 over 125,000 people and supported over 300
16 businesses.

17 One of the things that we think is, its super
18 strategic to think that City Council think about
19 Worker Cooperatives as a model to preserve businesses
20 as business owners retire or are forced to retire
21 because of this crisis. You know, a lot of
22 businesses, 85 percent don't have succession plans.
23 So, telling to their workers is a way of preserving
24 those jobs. We hope that City Council considers our
25 proposed enhancement—

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MODERATOR: Times expired.

PABLO BENSON SILVA: Of \$5.4 million for next year. Thank you very much.

STEPHANIE JONES: Thank you Pablo. Next is Jennifer Tausig followed by Matthew Newberg and then Gregory Frank. Jennifer?

MODERATOR: Time starts now.

JENNIFER TAUSIG: Good evening Speaker Johnson, Chair Gjonaj, Chair Cohen and members of the New York City Council. My name is Jennifer Tausig, I am a Co-Chair of the New York City Bid Association and also the Executive Director of the Jerome Gun Hill Bid in the Bronx.

The Association and 76 individual bid members are stewards of New York City's commercial corridors and are working harder than ever to help our businesses and city during this unprecedented time. Our mission has always been to support our local businesses, keep neighborhoods safe and bring prosperity to our communities. Never has our work been more vital and essential than it is today.

Our association and bid directors are sharing information about relief programs, shut down directives and city agency initiatives with business

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2 owners. They are actively sharing information on
3 businesses that are opening with customers. Staff
4 are still working to the minimum extent necessary to
5 maintain public safety and sanitary conditions as per
6 the states executive orders.

7 The essential work bids continues during this
8 crisis. The Bid Association is also working closely
9 with other advocacy organizations, many of whom we've
10 heard from today. Andrew and Michael and Lisa to
11 have a united voice on how to best support and save
12 our local businesses. We will continue to advocate
13 for both small businesses and property owners in
14 commercial districts across New York and look forward
15 to working with our elected leaders on innovative
16 solutions to ensure our city bounces back stronger
17 than ever.

18 Our small businesses are suffering unlike ever
19 before. We have long been advocates for our
20 struggling storefront businesses but the now face
21 unparallel challenges. Many businesses have been
22 forced to close and the few that remain open have
23 major operational constraints. Our restaurants and
24 bars as we've heard are the life blood of our
25 neighborhoods. They are also a critical food option

1
2 for our residents but are now limited to only take
3 out and delivery. Even when dining in was allowed,
4 many businesses were already losing money on
5 deliveries when working through third-party apps.
6 Now these apps are surely seeing record profits while
7 our local restaurants are hanging on by a thread if
8 at all.

9 We've heard that as many as half of the
10 restaurants that are closed, currently closed may
11 never reopen and many more are closing every day.
12 This is why we fully support legislation to rain in
13 excessive fees and predatory behavior by third-party
14 food delivery companies. We believe that this action
15 could be the difference between survival and closure
16 for countless local businesses. We also support the
17 waiving and refunding of sidewalk café license fees
18 as well as a temporary delay in licensing renewal
19 requirements.

20 Businesses have so many operational costs and
21 regulatory burdens, anything we can do to reduce
22 those costs during this crisis and after, will be
23 critical to ensuring the continued survival of these
24 businesses.

1
2 Lastly, we recognize that many commercial tenants
3 may find it difficult to pay rent during these hard
4 times. However, we must ensure that any legislative
5 efforts also take into account the continued
6 operational costs of property owners and their
7 obligations to creditors. Many of the buildings in
8 our outer borough commercial corridors including the
9 one I represent in the Bronx, are owned by small
10 landlords.

11 We believe that the commercial tenant legislation
12 considered today and others being currently
13 considered are well intentioned; however, the fact
14 that some of those property owners might not see any
15 rental income until April 2021.

16 MODERATOR: Time is expired.

17 JENNIFER TAUSIG: May create another untenable
18 situation. We look forward to working with the City
19 Council to find solutions to these unprecedented
20 challenges. Thank you.

21 STEPHANIE JONES: Thank you for your testimony
22 Jennifer. I see Chair Cohen has some questions for
23 you.

24 CO-CHAIR COHEN: I just want Jennifer to know
25 that I've noticed the work the you've been doing in

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2 these very difficult times. I've very, very
3 appreciative. The Jerome Gun Hill Bid is in my
4 district and I really look forward in working hand
5 and glove and we try to revitalize and maybe even
6 make it better than it was on the other side of the
7 coronavirus.

8 So, thank you for your partnership.

9 JENNIFER TAUSIG: Thank you for all of your
10 support through all the years and we're with you.

11 STEPHANIE JONES: Thank you Chair. I see Chair
12 Gjonaj also has a follow question or remark.

13 CHAIRPERSON GJONAJ: I just want to follow the
14 sentiments of my colleague Jennifer. We're very
15 fortunate to have you in our borough and working hard
16 for our small businesses and for those mom and pop
17 shops and we're grateful to you. But as you can see,
18 we have a lot of work ahead of us and we're going to
19 need to roll up our sleeves. You've always had them
20 rolled up and now we need to engage everyone and the
21 approach must be an attack on any small business is
22 an attack on all small business. United we're going
23 to get through this, so I'm grateful to you.

24 Thanks Jennifer.

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2 JENNIFER TAUSIG: Yes, thank you for your
3 leadership as well and we're with you to the end.

4 CHAIRPERSON GJONAJ: Which doesn't sound like
5 it's far off anyhow the way things are going. The
6 end is closer than we think. Don't respond Jennifer.

7 STEPHANIE JONES: Thank you Jennifer. Next up is
8 Matthew Newberg followed by Gregory Frank, followed
9 by yin Chan. Matthew?

10 MODERATOR: Time starts now.

11 MATTHEW NEWBERG: That's not my video. Alrighty,
12 good evening Council Member Gjonaj and Chair Cohen.
13 My name is Matt Newberg, I'm the Founder and Author
14 of HNGRY. A new media platform dedicated to the
15 emerging intersection of food and technology.
16 Despite having only been a few months since my last
17 testimony, we have witnessed a decades worth of new
18 developments. We are now officially living in a 100
19 percent off premise society where take out and
20 delivery are the sole options for dining in our
21 favorite restaurants.

22 In a post COVID, pre-vaccine world there is no
23 doubt that delivery and take out will continue to
24 remain the dominate lifeline or restaurants.
25 However, the chance of restaurant survival will

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2 continue to decline each and every day until the
3 entire system is rethought. In just a matter of
4 weeks, restaurants have suffered a one, two punch.
5 Depressed sales and on top of that a rising
6 percentage of delivery that accounts for those sales.

7 So, according to a recent survey from the
8 national bureau of economic research, restaurant
9 owners had a 30 percent of remaining open through the
10 end of December if the current crisis lasts for four
11 months. That probability quickly has the 15 percent
12 if it last 6 months. As Momofuku founder David Chang
13 recently Tweeted, restaurants cannot survive off of
14 take out alone, referring to delivery as fools gold.

15 To explain why, consider an example from the CEO
16 of a very successful vegan fast casual chain by Cloe.
17 If delivery accounts for a third of our restaurant
18 sales yesterday and double to two-thirds today, that
19 same business would have to increase its total sales
20 by 50 percent to just break even assuming a 30
21 percent commission to third parties. Compared to
22 that and simply not done any delivery at all, the
23 restaurants selling two-thirds delivery would have to
24 double its sales to just break even.

1 Thus, [INAUDIBLE 4:38:12] presentation to a room
2 full of restaurant execs last November was titled,
3 The Zero Sum Game of Delivery. Of course, this math
4 was all done before the crisis and assumes a
5 restaurants can make a healthy 15 percent margin on
6 dine in. But the principles remain the same. The
7 more deliveries sold to third-party apps like
8 Grubhub, Door Dash, Uber Eats and Postmates the worst
9 restaurants bottom line. An example that turns the
10 zero-sum game into downright unprofitable is Grubhub
11 Super for Support. A controversial promotion that
12 takes advantage of restaurants that don't read the
13 fine print. The scheme offered consumers a \$10
14 discount bared completely by the restaurant. While
15 it's simultaneously charging the same 20 to 30
16 percent commissions of the entire order value, not
17 discounted.

18
19 So, if you do the math, that restaurant would
20 have to pay \$22 of a \$40 order to Grubhub for fees
21 and discounts. That's a 64 percent reduction of
22 profit had it not participated at all.

23 After getting flack, Grubhub responded by setting
24 up a \$30 million fund to provide each of these
25 restaurants with a mere \$250 each.

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2 MODERATOR: Time expired.

3 MATTHEW NEWBERG: If they would be of use. I
4 guess, I just want to close and just show you - I
5 wanted to share my screen very quickly just to show
6 you the economics of this promotions, so you can
7 better understand that.

8 STEPHANIE JONES: Matthew, please feel free to
9 submit that by email with the email address that I
10 shared earlier. Thank you so much for your
11 testimony.

12 MATTHEW NEWBERG: Thank you.

13 STEPHANIE JONES: Next we have Gregory Frank, the
14 Ein Kong and then Alice Lew. Gregory?

15 MODERATOR: Time starts now.

16 GREGORY FRANK: Thank you. Good evening Chairman
17 Cohen and Gjonaj and members of the City Council. I
18 am Antitrust Lawyer and a Partner of the New York
19 City Law Firm Frank LLP.

20 Since I testified before this committee
21 concerning third-party delivery services last July,
22 At the behest of Councilman Gjonaj, I have continued
23 my investigation into any unlawful practices. I have
24 interviewed stakeholders including restaurants and
25

1 consumers and have reviewed numerous documents
2 including the form contracts required of restaurants.

3
4 As a result of the findings of my investigation,
5 I now represent several New York City consumers who
6 filed an antitrust lawsuit against the third-party
7 food delivery services in a federal court styled
8 Davitashvili v Grubhub at Al. The lawsuit alleges
9 that all of the third-party delivery services
10 testified here today, include in their contracts
11 unlawful menu price restraints. The services clauses
12 prevent restaurants from offering lower menu prices
13 to New York City consumers when they make purchases
14 and sales channels other than through the third-party
15 delivery services. This hurts both restaurants and
16 consumers.

17 By precluding restaurants from offering lower
18 menu prices to dine in and direct delivery consumers
19 who order on a restaurant's website or phone, the
20 delivery services unlawfully restrict competition
21 from restaurants for their own customers. Long after
22 this crisis ends, these clauses will continue to
23 cause prices to be higher for consumers in the dine
24 in and direct markets even though the services do not
25 even participate in those markets.

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2 Instead, the menu price restrictions cause prices
3 to be higher for everyone. Moreover, once this
4 crisis ends, these menu price restraints will prevent
5 restaurants from offering discounted menu items to
6 bring consumers back to dine in the restaurants even
7 though they would be more profitable for the
8 restaurants and less expensive for consumers.

9 For this reason, I strongly support bill 1907
10 because restaurants should be allowed to set their
11 menu prices however they want. This is capitalism.
12 The delivery services leveraging their monopoly power
13 in the food delivery market to use price restraints
14 that cause higher prices in other markets is not. I
15 must also voice my support for bill 1908-A, the
16 commission cap and bill 1897 concerning transparency
17 of costs.

18 During my investigation, one restaurant tour
19 observed that Seamless used to offer the same service
20 for a 5 percent fee. Moreover, Grubhub, Seamless now
21 acquire only spends 10 percent of its cost on
22 technology. Grubhub's rates are monopolistically
23 high is reflected in the testimony we heard today.
24 As Grubhub charges almost twice what Uber Eats does
25 for the same service.

2 MODERATOR: Times expired.

3 GREGORY FRANK: I'm happy to answer any
4 questions.

5 STEPHANIE JONES: Thank you Gregory. Next up we
6 have Yin Kong, Alice Lu and then Julian Hill. Yin?

7 MODERATOR: Time starts now.

8 YIN KONG: Good afternoon everyone or should I
9 say evening at this point. My name is Yin Kong, I am
10 the Director of Think Chinatown. We're a nonprofit
11 based in Manhattan's Chinatown advocating to support
12 what we love about Chinatown. I know neighborhoods
13 all across New York are hurting at this difficult
14 time but I am here today to raise a red flag about
15 how the small business economy in my neighborhood,
16 Chinatown has been disproportionately impacted by
17 this pandemic.

18 So, first of all, the economic downturn in
19 Chinatown began as early as January. This was due to
20 xenophobic fears but also due to cultural norms
21 observed in our neighborhoods which lead to stronger
22 practicing of social distancing earlier on in the
23 pandemic. That means that we went on pause in a more
24 intense manner in an earlier timeline compared to
25 other neighborhoods in New York City.

1
2 As early as January, Chinatown community members
3 had already cancelled plans for Lunar New Year
4 gatherings. Second of all, both SBS and SBA grants
5 and loan programs were not inclusive in the grant
6 owned businesses. Language support on the
7 application and on the outreach of the program is
8 sorely lacking. By the time grassroots efforts pulled
9 together to fill in the gaps for translations, the
10 funding was already run out.

11 The cash basis business practice common in
12 Chinatown also results in a paper trail that may not
13 be able to fully reflect loses and informal payroll
14 prevalent in small family owned businesses excluded
15 many businesses from benefiting in meaningful amounts
16 from the PPP.

17 I know the intention of SBS and SBA is employment
18 retention and I appreciate Commissioner Bishop's
19 shout out to his testimony that small businesses in
20 Chinatown were specially kept in mind for the roll
21 out of the SBS relief plans, and I also look forward
22 to seeing his zip code based numbers. Thank you,
23 Councilwoman Chin, for asking for that but even more
24 than that, we really need to take a look at what type
25 of businesses are benefitting from these programs.

1
2 Because I got say, it's really been missing the mark
3 in Chinatown. And this is why the Chinatown
4 community needs targeted support.

5 Here are some places I think the City Council can
6 invest in. One, protect the wholesale produce
7 network in Chinatown. It is the life blood of our
8 neighborhoods economy. I know this complex network
9 of produce wholesalers in Chinatown is not visible on
10 the way to Hunts Point but it's an entire quality of
11 small businesses are depending on that, including
12 grocers, street vendors and hundreds of restaurants.
13 Not only in Chinatown but across New York City.

14 A failure of this infrastructure will lead to
15 many downstream effects such as closures of retailers
16 and restaurants. There is also many jobs. Second
17 recommendation is targeting rent burden. It is the
18 number one concern for business owners in Chinatown.
19 Self-employment as a means of survival, when you are
20 shut out of the mainstream job market due to language
21 skills and citizenship -

22 MODERATOR: Time is expired.

23 YIN KONG: But Chinatown business owners take on
24 these tough business conditions because of necessity.
25 I also want to point out the fact that because

2 Chinatown is a neighborhood with the most rent
3 stabilized and controlled units, our commercial
4 property takes up the burden in any increase of
5 property tax and fees, meaning our community
6 landlords have less flexibility in determining lower
7 commercial rents and street level storefronts.

8 CHAIRPERSON GJONAJ: Thank you for your
9 testimony.

10 YIN KONG: Thank you.

11 STEPHANIE JONES: Thank you again. Next up is
12 Alice Lu, then Julian Hill, then Brendan Martin.
13 Alice?

14 MODERATOR: Time starts now.

15 ALICE LU: Good evening everyone. I won't be
16 able to stream my video because my internet is a
17 little bit glitchy, so I will just have to talk to
18 you guys over audio.

19 So, again, my name is Alice and my family are
20 small business owners in Chinatown, but I was brought
21 to this meeting through Think Chinatown.

22 I want to talk to a little bit about my families
23 experience as well as many other small businesses
24 experience in applying for these existing grants and
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2 loan opportunities that were given to us by the
3 state, the city, and the federal government.

4 So, my family actually applied for the Employee
5 Retention Grant that was administered by the SBS.
6 After having spent one entire day gathering all the
7 necessary documents including bank statements, POS
8 system statements, revenue, annual revenue, etc., we
9 only found out that we were eligible for \$960.00, a
10 mere \$960 and then on top of that when we were called
11 and contacted by the administrator of the grant, we
12 found out that we were not eligible for it because we
13 had no proof of payroll that was acceptable to SBS.

14 So, they insisted to us that the only acceptable
15 document for payroll was check stubs but that's not
16 something that exists for Chinatowns small mom and
17 pop businesses and for microbusinesses. And so,
18 therefore, it excludes all of these small businesses,
19 immigrant businesses and microbusinesses.

20 We offered to instead supplement with W-2 forms
21 to show that employees got paid or NYS45 forms to
22 show that our business paid employees, but none of
23 that was excepted as eligible proof. So, this
24 restrictive pool of eligible documents really needs
25

1
2 to be widened, so that it's inclusive of the unique
3 situation of small business owners.

4 The second thing I want to talk about is rent and
5 property tax in Chinatown. So, with federal programs
6 like the PPP or EIDL, a lot of these businesses have
7 not been able to apply. This is because, well, a lot
8 of it has become too troublesome for small businesses
9 in Chinatown to take advantage of because most of our
10 overhead cost comes through the rent and property
11 tax, not through employees.

12 So, when you are not able to get a large sum of
13 PPP programs, then small businesses have to consider
14 whether it's worth it to even apply for these
15 programs when they are even considering the fact
16 whether they will reopen.

17 MODERATOR: Times expired.

18 ALICE LU: In terms of that, I want to point out
19 a solution which is for future programs to
20 incorporate rent based grants or loans or rent
21 vouchers or even property tax forgiveness programs
22 for the future in order to make this more sustainable
23 for small businesses and immigrant businesses.

24 Thank you.

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2 STEPHANIE JONES: Thank you Alice. Next, we have
3 Julian Hill then Brendan Martin and then Ryan Roy.
4 Julian?

5 MODERATOR: Time starts now.

6 Julian Hill: Speaker, Chairman Gjonaj and Cohen,
7 our committee members, thank you for this opportunity
8 to testify. My name is Julian Hill and I'm a
9 Supervising Attorney at TakeRoot Justice. TakeRoot
10 believes that empowering local organizing is really
11 how we decrease suffering in our city.

12 TakeRoot advisors work with cooperatives through
13 the work of Cooperative Business Development
14 Initiative WCBDI, which was mentioned before. It is
15 a Council funded initiative helping build a
16 solidarity economy. TakeRoot also supports small
17 businesses through the commercial lease assistance
18 program which was also mentioned before. It's an SBS
19 program that's actually up for renewal next year. I
20 thank Commissioner Bishop, countless Council members
21 for supporting these small business programs.

22 Our clients are mostly low income, mostly people
23 of color, mostly women, often non-English speaking,
24 often immigrant business owners currently being
25 devastated by COVID-19.

1
2 I'll take briefly about Intro. Numbers 1914 and
3 1932. Regarding Intro. 1914, we agree that the term
4 harassment should include threatening tenants
5 impacted by COVID-19 directly or indirectly.
6 However, our clients who often can't at this point
7 afford to pay rent, certainly can't afford to pay for
8 a lawyer either. We suggest further thought around
9 sharing what resources are necessary for small
10 businesses to be able hold their landlords
11 accountable under this bill.

12 Regarding Intro. number 1932, we also agree,
13 business owners should not be personally liable for
14 breaking a lease or the terms of the lease due to
15 COVID-19.

16 Two quick suggestions, extend the COVID-19 period
17 by several months to contemplate what would
18 inevitably a need for time to recover and two, expand
19 the definition of personal liability provision to
20 include guarantee agreements which often accompany
21 leases and give effect to personal liability in the
22 first place.

23 Look, before TakeRoot, I've advised domestic and
24 Latin American companies at a very large law firm, so
25 I understand there are multiple perspectives here,

1 but let's not ignore what's obvious. Small
2 businesses need rent relief. Most landlords are not
3 providing that relief despite our efforts. The
4 largest corporations in the world got bailed out.
5 People need to know that City government which has
6 the authority to abate rent will put all of its tools
7 on the table to help them. Failure means power in
8 property in the hands of fewer large corporations and
9 monopolies which has been brought up several times
10 today, and the exploitation of community, labor,
11 culture, and investments.

12
13 Corporate elites are erratically imagining the
14 future of this city post COVID-19, having an
15 organized financing, labor, power, commercial space.
16 We should to.

17 Thank you again for this opportunity to testify
18 and I welcome any questions that folks may have.

19 Thanks.

20 STEPHANIE JONES: Thank you Julian. Next up, we
21 have Brendan Martin, Ryan Roy and then Andrew Ding.
22 Brendan?

23 MODERATOR: Time starts now.

24 BRENDAN MARTIN: Hi, can you hear me? Hi, my
25 name is Brendan Martin, I'm the Executive Director of

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2 the Working World. I want to thank the City Council,
3 the Chairman and everyone for getting together in
4 this time and putting together this virtual hearing.
5 Thanks for hearing all of the extraordinarily
6 important challenges that small businesses in our
7 city are facing.

8 The Working World is a lender who does technical
9 assistance to cooperative businesses in the city.
10 So, I'm following up on some of the comments by my
11 colleagues Pablo Silva that he made earlier.

12 90 percent of the money that the Working World
13 lends out goes to people of color business. The
14 small businesses in this city. The Working World is
15 also part of the Worker Cooperative Business
16 Development Initiative, WCBDI that helps these
17 cooperative businesses, helps create new small
18 businesses and in particular, small businesses that
19 create equity in New York City.

20 What I want to talk about today is the kind of
21 work that we've had to continue doing. The Working
22 World and WCBDI are work lending and supporting
23 cooperative small businesses, not only has it not
24 been interrupted but its multiplied many fold. Like
25 a lot of people doing what you might call essential

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2 type work. We've been up to 4 a.m. most nights to
3 respond by raising over a quarter of a million
4 dollars just our selves for grant relief directly to
5 small businesses by raising almost one and a half
6 million dollars in federal aid by doing dozens and
7 dozens of applications for city and federal support
8 for these small businesses.

9 Most of these small businesses are people of
10 color. The majority of them are in immigrant
11 communities, the places that have been hardest by
12 COVID and the places that are getting the least
13 amount of support. It is the work of WCBDI to target
14 these most marginalized areas of the city and support
15 the small businesses there.

16 However, as we mentioned before, some of the
17 crisis that we see worst in response to something
18 like this pandemic are the crisis that already
19 existed. There was a small business crisis happening
20 in this city of retiring business owners. The
21 majority of our small businesses were owned by baby
22 boomers who were in the process of retiring. There
23 was already a crisis of employment we saw coming if
24 those retirements all went through.

1
2 Now what we're seeing is the retirements we saw
3 coming in the next five to ten years seem to be
4 happening in the next five to ten months, if not
5 sooner.

6 We have had a five times increase, unsolicited in
7 business owners saying I wanted to retire and I'm
8 just going to get out now and no amount of financial
9 support is going to help them bring together the
10 energy as a 70 year old plus person to restart their
11 business. One of the few solutions that have been
12 brought forward -

13 MODERATOR: Time is expired.

14 BRENDAN MARTIN: To not only help weather this
15 storm but actually to rebuild after this storm has
16 passed has been the possibility of conversion to
17 worker ownership. With so few owners available, so
18 few buyers available to buy out these businesses from
19 these retiring owners, the conversion to worker
20 ownership is one of the few solutions that have been
21 presented and it is the core work that we do at the
22 working world and that WCBDI does. And not only is
23 it one of the solutions that is actually not just
24 going to get through, it has to be put on table is

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2 one that can do so with extraordinary equity, an
3 inclusion of people from around the cities.

4 So, we're asking that the for a very small price
5 relative to other things being floated, you can keep
6 the opportunity of worker ownership that has been
7 boomed for the city since the City Council starting
8 funding it a few years ago and it's now all of a
9 sudden become more essential than you could ever
10 imagine as the need for this worker ownership
11 solution for work in the 21st century has become
12 paramount during this crisis.

13 Thank you.

14 STEPHANIE JONES: Thank you Brendan. Next, we
15 have Ryan Roy, then Andrew Ding and then Carlos
16 Martinez. Ryan.

17 MODERATOR: Time starts now.

18 RYAN ROY: Thank you very much for this
19 opportunity to speak. I am a Small Business Owner in
20 Greenpoint, Brooklyn. I am a Brooklyn Native, I grew
21 up here my entire life.

22 My business is located in a building with over
23 100 smaller you know, studio spaces and I'm with a
24 group of tenants who are approximately 80 or so of us
25 that are trying to negotiate with a landlord and you

1 know there's some talk about helping businesses who
2 are being harassed by their landlord. We are
3 experiencing the total opposite where no one is
4 communicating with us except through you know, an
5 intermediary who basically stonewalls us. So, we
6 feel pretty powerless to voice our needs. We are
7 unable to provide income to pay for our retail spaces
8 and then you know, paying for our residential rents
9 on top of that has just become incredibly challenging
10 and I waited five hours because you know, to speak
11 here because there is no other opportunities. There
12 is no where our voice can be heard.

14 So, I'm very grateful for this opportunity to
15 speak and you know, I own a tattoo studio, I do not
16 have employees but my space provides a space for
17 other artists to work, so they rent room from my
18 studio. So, you know, I applied for a lot of loans.
19 I'm not sure how I qualified or didn't, I haven't
20 received anything yet and I was told by my account
21 that the EDL or EIDL loan that I applied in March and
22 there was a glitch or something and now I need to
23 reapply but they are not taking new applications.

24 So, it's a lot here and I want to keep it concise
25 and just I guess I just want to get across that we're

1 just feeling very powerless and like we have no voice
2 and we're really hoping that you know, the people can
3 provide support and you know, we're thinking of our
4 families and our livelihoods are on the line here and
5 we're desperate.
6

7 So, I just wanted to speak for myself and other
8 small businesses that are in my situations. That's
9 all. Thank you for your time.

10 STEPHANIE JONES: Thank you Ryan. Chair Gjonaj
11 has a question for you.

12 CHAIRPERSON GJONAJ: Thank you Stephanie. Ryan,
13 I'm not sure, I didn't catch it, where is your
14 establishment located?

15 RYAN ROY: The address is 67 West Street.

16 CHAIRPERSON GJONAJ: In Manhattan?

17 RYAN ROY: In Greenpoint Brooklyn.

18 CHAIRPERSON GJONAJ: Brooklyn, okay, thank you.
19 So, Ryan, I want you to stay in touch with me. As
20 Small Business Chair, I'm committed to you and all
21 small businesses. I want to be there and be the
22 resource for you and hopefully we can point in the
23 right direction.
24
25

1
2 So, I want you to email me or stay in touch with
3 my office and I promise you that we'll do whatever we
4 can to help you. You are not alone.

5 RYAN ROY: Who can I email? I was actually
6 speaking with someone from TakeRoot before this and
7 they reviewed my lease and they are the ones who told
8 me to come here and speak today. They were very
9 helpful but it also seems like, if our landlord won't
10 come to the table, they can't really help us. You
11 know, so, where can I get your email to be in touch?

12 CHAIRPERSON GJONAJ: I'm going to give you my
13 phone number, 718-931-1721 and my email is m like
14 Mark, Gjonaj and I'll spell it out for you. G-j-o-n-
15 a-j @council.nyc.gov.

16 RYAN ROY: So, dot nyc dot gov.

17 CHAIRPERSON GJONAJ: Perfect.

18 RYAN ROY: Alright, I got that yeah.

19 CHAIRPERSON GJONAJ: Thanks Ryan.

20 RYAN ROY: You'll be hearing from me. Thank you
21 so much, I really appreciate it.

22 STEPHANIE JONES: Thank you Ryan and thank you to
23 all our panelists for your patience. Next, we have
24 Andrew Ding, followed by Carlos Martinez followed by
25 Rahim Ali.

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MODERATOR: Andrew, your time starts now.

ANDREW DING: Hi everyone. Thank you. I am speaking into portal 1898, which is the pro-addition of erroneous telephone order fees by third-party order sites and specifically in my case, Grubhub and Seamless.

Thank you for allowing me to speak on this matter. My name is Andrew Ding and I am the owner of the Expat, a neighborhood bar and up in Harlem way up in last June 2019. The start of this mandated restaurant shut down in March we were forced to furlough nine employees and scramble exclusively to a delivery and take out model in a bid to save the jobs of some of our most vulnerable staff in the kitchen.

Prior to the shutdown, our delivery sales accounted for about 3 percent and right now, we're growing them to about 30 percent but that's 30 percent of what our total sales used to be pre-COVID. This amount is barely enough to cover payroll let alone utilities and other operational expenses and last Tuesday I was reviewing transactions for a customer, I stumbled across an Ivan labeled phone order which after clicking produced a popup window and had a play button. It was recording of a 35

1 second of a phone ringing seven times and then going
2 straight to voice mail and for this call, I was
3 charged \$7.09. No in point and time was I ever
4 informed or advised to be aware of such charges and
5 as such, I didn't know to even look for them
6 previously. So, I immediately conducted a thorough
7 audit and I found that between January 1, 2020 and
8 April 21, 2020, I had 55 similar charges. The total
9 was about \$385. The majority of these calls
10 consisted of questions about the menu, delivery
11 radius, allergy info and hours. I had a bunch of
12 them that were just simply phone ringing and
13 voicemail but what was even more disturbing was that
14 at least ten of these charges were customers who had
15 just placed an order online but called in to ask
16 about the status of that order. Which means we were
17 charged twice.

18
19 More disturbingly was that a whole bunch of these
20 people calling didn't even realize that they were
21 calling and being redirected by Grubhub because they
22 found our information on Yelp, which I later found
23 out was owned by Grubhub.

24 Shockingly, only 3 out of 55 orders were actually
25 orders, all of these charges. So, that means that

1 they had a dismal 5 percent accuracy and a 95 percent
2 margin of error. It appears that Grubhub arbitrarily
3 charged the flat rate for all calls lasting over 35
4 seconds which is barely long enough to pick up the
5 phone let alone take an order.
6

7 The review process is also extremely cumbersome.
8 It requires us to manually review each and every
9 charge on a laptop or a desktop browser only. The
10 play function on your smart phone is not active.

11 In order to submit a request for review, we are
12 asked to take down the time and date.

13 MODERATOR: Time expired.

14 ANDREW DING: Anyway, this is predatory.
15 Everything is calibrated and stacked against the
16 business owners and we need your help to stop them.
17 Thank you for your time everybody.

18 STEPHANIE JONES: Thank you Andrew, I believe
19 Chair Gjonaj has a follow up question.

20 CHAIRPERSON GJONAJ: Andrew, first I want to
21 thank you for waiting so long to be heard because
22 what you just told me, we enforced something that we
23 knew was occurring. But we were told by Grubhub that
24 they corrected this problem. That it is not ongoing.
25 They've also opened up the look back period for any

1
2 phone order charges that were done erroneously. But
3 you're telling me only three out of the 55 charges
4 actually yielded a sale.

5 ANDREW DING: Right.

6 CHAIRPERSON GJONAJ: And a few of them, it was a
7 double charge. Meaning that they called back after
8 they placed an order. Andrew, I'm going to give you
9 my phone number as well, this is so important to me.

10 ANDREW DING: Yeah.

11 CHAIRPERSON GJONAJ: 718-931-1721.

12 ANDREW DING: Yeah.

13 CHAIRPERSON GJONAJ: And my email
14 mgjonaj@council.nyc.gov, I want to stay in touch with
15 you. You are not the only one and unfortunately,
16 from the original hearing that we had, when this came
17 about, I said back then on the record, that I truly
18 believe this was done with intent by Grubhub, knowing
19 the small businesses did not have the time to go back
20 and look at phone orders.

21 ANDREW DING: 100 percent.

22 CHAIRPERSON GJONAJ: It was a calculated move on
23 their part. So, I'm really sorry that this is
24 continuing. This won't be the last of it Andrew. I
25 want you to challenge those orders immediately,

1 challenge them all and we're going to get through
2 this together. Thank you again.

3
4 ANDREW DING: Thank you. Thank you very much.

5 STEPHANIE JONES: Thank you Andrew. Next, we
6 have Carlos Martinez, Rahim Ali, and Mojito Iaba.

7 Carlos?

8 MODERATOR: Carlos, your time is starting now.

9 CARLOS MARTINEZ: Good afternoon Chairperson Mark
10 Gjonaj and distinguished members of the Committee on
11 Small Business of New York City Council. My name is
12 Carlos Martinez, I am a member of Sunset Scholars
13 LLC, a tutoring cooperative and [INAUDIBLE 5:08:07]
14 INC, which is Cooperatives United for Sunset Park.

15 I'm here today to share my experience of my peers
16 from the Work of Cooperative Business Development
17 Initiative, WCDBI. Because we believe that
18 cooperatives are essential for supporting our
19 communities as and they should be supported
20 especially in times of crisis and recovery.

21 I can share a little bit about my experience
22 living and working as a young student here in Sunset
23 Park, I face many obstacles, achieve higher
24 education, and obtain a work opportunities. My very
25 first job here in New York City was at a restaurant

1 where I worked for a merely \$6, \$7 an hour. That was
2 one of my first jobs. I was there a lot of long
3 hours but I later on moved on to being part of a
4 cooperative.
5

6 So, being a founding member of my cooperative
7 since Sunset Scholars at LLC has provided me with
8 many different opportunities to one, have a flexible
9 work special and earn money for school and give back
10 to my community.

11 Since our launch in 2015, the support of the
12 Center at Family Life, we've helped over 100 families
13 in all academic areas. I'm also the board member of
14 Alliance CUSP, a local non-for-profit made up of
15 worker cooperatives advocating for immigrant workers
16 rights, developing social leadership in the worker
17 owned business community and providing direct
18 services to start up work in cooperative businesses.

19 My cooperative person has seen a big hit because
20 of the shutdown of the schools since we are a
21 cooperative business. The crisis hit in very short
22 notice, as it did with many of the other businesses.
23 So, we were not prepared one, to provide online
24 services to our community in such short notice. Our
25 work has been completely put on pause as of now and

1 this includes an exciting scholarship that we are
2 planning to launch to benefit low income families in
3 our community. The crisis has also taken a big toll
4 on other cooperatives as I said who are members of
5 CUSP which work in the industries such as cleaning,
6 childcare, dog walking and other important services.
7

8 These cooperatives are made up of majority low
9 income immigrants and women. For many of these
10 cooperatives, contracts that happened are all now on
11 pause and there is absolutely little to no money
12 coming into these businesses. As cooperatives we try
13 to help each other as much as we can, so we try to
14 share as many resources as possible that we can with
15 our members. But there is still a huge need for
16 financial support at this time. Many are immigrant
17 workers and cannot qualify for stimulus checks and do
18 not have access to funds.

19 None of the cooperatives who are members of CUSP
20 were able to access the federal aid for small
21 businesses.

22 And lastly, I would just like to end with, I
23 would like to ask the City Council to continue
24 providing economic support and language specific to
25 technical assistance to cooperative members. I

1
2 believe in the impact of cooperative businesses to
3 invest in individuals, families and neighborhoods
4 creating a more prosperous and fair New York City.

5 Thank you.

6 STEPHANIE JONES: Thank you Carlos. Next, we
7 have Rahim Ali[SP?], Mojito Iaba and then Shawday
8 Swift[SP?]. Rahim?

9 MODERATOR: Time is starting now.

10 RAHIM ALI: Hi everyone, my name is Rahim Ali and
11 I started my business Chelsea Papaya in New York City
12 in 2016. Since then, my business has grown 300
13 percent thanks to on demand deliveries through
14 Postmates and hundreds of thousands of workers who
15 help make delivery possible in the State of New York.

16 At Chelsea Papaya, we've been able to hire seven
17 new workers that opened two other locations. When
18 the international COVID-19 outbreak began a few
19 months ago, the virus seemed so far away and I
20 remember thinking, what would this response look like
21 in my own community? What would this mean for my
22 employees, my customers, my business, and my
23 neighborhood?

24 And now, our business throughout New York City
25 has been rocked by scores like none we have ever

1
2 seen. Bringing our businesses and our way of life to
3 a halt. But there is an innovative lifeline lending
4 a hand to main street. Before social distancing,
5 customers would simply walk into our business and we
6 would be able to reach so many of the people who make
7 our community what it is. On demand delivery enabled
8 Chelsea Papaya to grow our business base by three
9 times before the pandemic began. But these platforms
10 now enable us to continue keeping our doors open.
11 I've run the numbers and I know what I am paying for.
12 Services that help expand my business but also things
13 like marketing, technology, new customers, I would
14 normally not be able to reach.

15 The significance of delivery services during this
16 time has been recognized in the central service,
17 executive ordinance, and ordinances across our
18 country. Postmates and other delivery companies have
19 been aiding governments all over the country by
20 delivering meals to homebound, elderly, critical
21 medical staff and kids who no longer have access to
22 schools.

23 Small businesses like mine have been halted
24 access to small business administration loans. So,
25 why in this time when on demand delivery companies

1
2 are critical support to our countries, our businesses
3 and our most vulnerable in the city trying to create
4 more red tape for these companies. This is not the
5 time for loss that make it harder for on demand
6 deliveries to operate. My business, our business
7 needs these resources to stay open for business and
8 all of us need the sense of community and closeness
9 we feel when we sit down for our favorite meal, even
10 if it's in our own living rooms.

11 That's why I'm here today, calling on legislature
12 to protect and continue our shared economy
13 prosperity. Restaurants and third-party platforms
14 either sink or swim together. This isn't just about
15 Chelsea Papaya, but about the hundreds of thousands
16 of other businesses that continue to call New York
17 home. Let's set an example with solutions that don't
18 make us chose between restaurants and delivery.

19 Thank you.

20 STEPHANIE JONES: Thank you Rahim. Next, we have
21 Mojito Iaba[SP], Shawday Swift and then Robert S.
22 Altman. Mojito?

23 MODERATOR: Time starts now.

24 MOJITO IABA: my name is Mojito Iaba, I am a
25 small business owners and I am originally from Japan.

1
2 I have two stores in Brooklyn. One is in Williams
3 Park and one in Greenpoint and due to COVID-19 we
4 lost store. They are closed since March 18th and
5 since most of our stores have no business, we have no
6 income since March 18th. So, we tried to file PPP as
7 emergency loans but so far, no luck. So, we've had a
8 month of stress from COVID-19 dealing with PPP health
9 insurance immigration visa for my staff and you know,
10 things never I experienced before.

11 Then my landlord asked for rent for April. We
12 told my landlord we are not making any money since
13 March; he told me rain or shine or whatever is
14 happening now, I have to pay the rent. She told me I
15 have to use my savings money. I told her, we are
16 having a crisis, so we ask for a better deal.
17 Cheaper rent. Her answer was no. If we can't pay
18 April or end of May rent, we have to leave by May
19 31st. We have to leave on May 31st and she is going
20 to keep the \$9,000 deposit.

21 So, we called 311 New York City for help and
22 [INAUDIBLE 5:16:04] the City Commercial Lease
23 Assistance program. They have been helping us to get
24 through this situation but since most of the
25

1 commercial lease are unfair to the tenants, we
2 decided to give up and move out by April 31st.

3
4 So, basically, we are not protected by anything.
5 It's so unfair, you know. Everything is just unfair
6 right now and they told me I have a grace period for
7 three months but that means that I have to pay rent
8 after what June 1st, from June 1st, which is like over
9 \$10,000. I don't have it.

10 Small business needs help from New York City
11 because New York City's economy made from small
12 businesses that attribute from all over the world.
13 In order to survive as a small business owner, New
14 York City has to pass a bill to protect tenants from
15 the landlord ASAP.

16 I don't think we're going to make same amount of
17 money from June 1st.

18 MODERATOR: Time expired.

19 MOJITO IABA: Oh, okay. So, I'm just scared with
20 our future without any help. That's it, thank you
21 guys.

22 STEPHANIE JONES: Thank you for your testimony.
23 I see Chair Gjonaj has some follow up questions.

24 CHAIRPERSON GJONAJ: Mojito.

25 MOJITO IABA: Hi.

1
2 CHAIRPERSON GJONAJ: I hear your struggles and as
3 Small Business Chair, I'm going to offer my services
4 to you as well. I am committed to you. Can you take
5 down my phone number please and my email?

6 MOJITO IABA: Is this the 718-931-1721?

7 CHAIRPERSON GJONAJ: Correct and my email
8 address. Do you have it?

9 MOJITO IABA: M.

10 CHAIRPERSON GJONAJ: Mgjonaj@council.nyc.gov.

11 Did you surrender your lease yet? It's too personal
12 to perhaps do this on Zoom. I want you to call me
13 after this Zoom meeting is over, after hearing, so we
14 can talk.

15 MOJITO IABA: Okay.

16 CHAIRPERSON GJONAJ: Don't give up, I'm here for
17 you.

18 MOJITO IABA: There's just so much work we have
19 to go through right now and we have so, just the
20 stress amount is just too much to handle and it was
21 one of the choice, we just forget about the one store
22 and just concentrate on one store right now because
23 having two stores and getting harassment from two
24 stores is just, we can't handle it anymore. It's
25 just too much stress.

1
2 CHAIRPERSON GJONAJ: Mojito, I'm here for you.
3 After this hearing, I'm hoping to hear from you.

4 MOJITO IABA: I'll call you, thank you so much.

5 CHAIRPERSON GJONAJ: Thank you.

6 STEPHANIE JONES: Thank you. Again, we encourage
7 all panelists to submit any written testimony to
8 testimony@council.nyc.gov. Next, we have Shawday
9 Swift and then Robert S. Altman. So, Shawday?

10 MODERATOR: Time is starting now.

11 SHAWDAY SWIFT: Thank you. Good afternoon. My
12 name is Shawday Swift and I'm a worker, owner based
13 in the Bronx at Cards by Day and Rebellious Root and
14 a member of the Nick Nock Advocacy Council. In all
15 of these spaces I had the opportunity to dream about
16 and practice what a different world looks like and to
17 put in my community in doing the same. I began my
18 journey as Cooperator at the Green Worker
19 Cooperatives Co-op Academy back in fall 2018 and fell
20 in love with the concept of a solidary economy. One
21 accomplished as scale, what that would mean for
22 communities around the world. Through the academy, I
23 learned about the seven guiding principles of being a
24 cooperative and two that have stuck with me and that

25

1
2 ground me daily are cooperation among cooperative and
3 concern for community.

4 Since COVID began, I have found myself seeking
5 ways to support my community and having heightened
6 concern for the most vulnerable cooperators who are
7 undocumented, uninsured, Spanish speakers,
8 chronically ill, etc. Considering that so many of
9 these solutions by our federal government excluding
10 entire communities of people, like PPP asking for
11 information that co-ops do not have. Because we are
12 not employers or giving loans that we are not able to
13 pay back instead of grants. Co-ops only have one
14 place to turn and that is the organizations that
15 built us and that support our growth.

16 Organizations like Nick Nock take worker
17 cooperative and countless others within the WCBDI
18 initiative who have helped me are truly guiding co-
19 ops, especially those with vulnerable workers to a
20 place where they feel seen and heard.

21 We should not have to jump through hoops and
22 break barriers to get the resources we deserve for my
23 city. For example, the MWBE certification being an
24 impossible application to complete, and this possibly
25 being a way to rebuild our cooperative after losing

1 most of our revenue for 2020 in just 40 days and
2 wanting to develop a robust clientele but not having
3 any support to do so.

4 As a queer, Black immunocompromised chronically
5 ill cooperator who is currently financially
6 supporting two households for a total of six people,
7 I know I deserve more from our city. My community
8 deserves more. I know that so many of my fellow
9 cooperators are also supporting multiple household
10 and counting on their co-ops to survive this.

11 Co-ops are the future of our economy and without
12 your help, there will be a race and a time when our
13 society needs hope, assurance, and a place to turn.

14 As a cooperative community, we want to cancel
15 rents to assure that all New Yorkers receive aid that
16 our New York City Immigrant Small Grant is created
17 and that supplemental relief for low income New
18 Yorkers is provided.

19 I hope that today and moving forward you continue
20 to fund the WCBDI Initiative and all the essential
21 programs that guide my cooperatives work. That you
22 consider sharing your check with the most vulnerable
23 communities of New York City. That when you make
24 decisions, you remember all the communities, Black,
25

1
2 Brown, indigenous, LGBTQIA plus, chronically ill,
3 immunocompromised, deaf, and enabled, undocumented
4 poor working class, homeless and all the other
5 vulnerable communities that are counting on you.

6 MODERATOR: Time expired.

7 SHAWDAY SWIFT: To guide us toward the future.
8 The last thing is the only way to create a new and
9 better system is together with those most impacted to
10 the front.

11 Thank you so much.

12 STEPHANIE JONES: Thank you Shawday. Robert S.
13 Altman is our last panelist. If we have
14 inadvertently missed any panelists who have not yet
15 had the opportunity to speak, please use the raise
16 hand function.

17 Thank you for your patience Mr. Altman, you may
18 begin.

19 ROBERT S. ALTMAN: Thank you.

20 MODERATOR: Time is starting now.

21 ROBERT S. ALTMAN: I represent the Queens and
22 Bronx Building Association and the Building Industry
23 Association of New York City. The testimony is for
24 yesterday and today, it's on four bills. The problem
25 with all four bills is they do provide a road map on

1
2 how to gain the system. How that is, is explained in
3 the testimony, I won't repeat that here.

4 A number of members were complaining about the
5 fact that here it was they were having to forego
6 money or delay money. But in fact, they would still
7 be responsible to the city for the water bill, which
8 in some instances is even higher because people are
9 staying at home. They would still be responsible for
10 taxes. They would still be responsible for heat and
11 they would still be responsible for their mortgage
12 and it's important to remember that even in certain
13 commercial mortgages, there is usually a provision
14 which requires that if you are going to amend a
15 mortgage, that in fact, you must get permission from
16 the mortgage bank.

17 So, on many of these situations, realize a few
18 things. Tenants will say that the landlords are not
19 getting back to them or such and maybe for multiple
20 reasons. One, they have limited resources and
21 multiple tenants and they are trying to work it out.

22 Two, they do have to go back to their bank and
23 determine whether the bank will allow them to amend
24 the lease to give relief because once that mortgage,
25

1
2 once the rent is lowered, there is less of the
3 ability to pay the mortgage.

4 A large majority of these landowners are not
5 stupid. There are some that are dumb, I grant you
6 that but most of them know they want to work with
7 [INAUDIBLE 5:24:44 - 5:24:51] landlords and most of
8 them are going to get some relief. Because if
9 everybody closes down, there is no one to rent and of
10 course, at that point and time fair market rents will
11 bottom out and the landlord will probably get less
12 than what they were getting from their current
13 tenant. So, it makes sense for them to do that.

14 Finally, in dealing with this, I think there are
15 other ways of dealing with the problems that exist
16 rather than using a sledgehammer. For example, if
17 there is an eviction proceeding, there probably
18 should be some form of mediation before anything
19 takes place in terms of an eviction or such. Because
20 for those landlords that are not reasonable, you do
21 in fact want them, how should I say, realize that
22 nobody is renting. The fair market rents in the are
23 down and that maybe they want to reconsider.

24 MODERATOR: Time expired.

2 ROBERT S. ALTMAN: Thank you and thank you for
3 the opportunity to testify.

4 STEPHANIE JONES: Thank you so much Robert. We
5 appreciate your testimony. I will now turn it over
6 to Chair Gjonaj for closing remarks followed by Chair
7 Cohen. Chair Gjonaj?

8 CHAIRPERSON GJONAJ: Stephanie, we don't have
9 anyone else that's waiting that we may have
10 overlooked?

11 STEPHANIE JONES: No, we've been looking, it
12 doesn't appear that we have missed anybody, nobody
13 has raised their hand, so I think you can proceed
14 Chair.

15 CHAIRPERSON GJONAJ: So, I want to thank all of
16 you that testified today, that held on, that
17 submitted your testimony in writing. I wanted to
18 start the hearing with, I know that there is a lot of
19 pain and suffering out there including the loss of
20 loved ones. My sincerest condolences to all of those
21 who have had a tragic loss in their lives and my
22 hearts and prayers are with those that are currently
23 battling this virus and fighting for their life.
24 We're going to get through this together. We're
25 going to get through this crisis together because

1
2 we're in it together and when it comes to the small
3 business issues as well as the slew of legislation
4 that we heard today, it's intended to make things
5 better.

6 So, your testimony is important to us. We're
7 going to take into consideration all of your comments
8 and we're going to be paying attention to the needs
9 of your business and the overall needs of New York
10 City. So, I just want to thank you all and I want to
11 thank my Co-Chair Andy Cohen for being such a great
12 partner and a friend. Andy, as you can see, we have
13 a lot of work together when it comes to the issues
14 that were presented today but none more important and
15 pressing to me than the discrimination and prejudice
16 of the limited funds that made its way to our great
17 borough. It truly is an injustice.

18 CO-CHAIR COHEN: Thank you Mark. One, you know,
19 I know that you and I and the entire Bronx delegation
20 are not going to take that laying down. It's really
21 terribly disappointing and I know that we're going to
22 all fight together to try to bring some equity to the
23 Bronx.

24 I do want to thank everybody who helped organize
25 this hearing. It was a long haul. It was a very jam

3 packed agenda and you know, in light of the
4 circumstances, I think that we felt that we wanted to
5 take up all of these issues. So, I want to thank
6 everyone for their patience, their very, very hard
7 work.

8 Again, I want to thank you Chair for your
9 partnership and I'm happy to conclude this hearing.
10 Thank you.

11 STEPHANIE JONES: And if we could just, thank you
12 Chair. If we could just get Chair Gjonaj to close
13 the hearing by gaveling out. Thank you.

14 CHAIRPERSON GJONAJ: Thank you Stephanie and
15 thank you to all the staff. This will conclude our
16 hearing for today. [GAVEL]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date April 1, 2018