

NEW YORK CITY
DEPARTMENT OF CONSUMER AND WORKER PROTECTION
PROPOSED RULES RELATED TO THIRD-PARTY FOOD DELIVERY
SERVICES And THIRD-PARTY COURIER SERVICES

Teleconference Call

December 23, 2021

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1 MR. CHARLIE DRIVER: Okay. We're going to
2 get started. My name is Charlier Driver [phonetic].
3 I'm a Community Affairs Associate here at the
4 Department of Consumer and Worker Protection. Just to
5 make sure everyone is in the right place, this is the
6 hearing about third-party delivery services, the
7 proposed rule that we are considering at the
8 department.

9 I am going to just read out some information
10 about, about this hearing and what's going to go and
11 then we'll get into testimony. Again, if you're
12 interested in testifying, Richard, I have you already,
13 if, if you aren't -- haven't contacted me already
14 about giving oral testimony please just shoot me a DM
15 in the chat, and I'll make sure that you have a chance
16 to do so.

17 Okay. So Good morning. My name is Charlie
18 Driver, I've been designated the hearing officer for
19 the public hearing of the Department of Consumer and
20 Worker Protection on these proposed rules to implement
21 Local Law 100 of 2021, Local Law 110 of 2021, and
22 Local Law 115 of 2021 regarding third-party food
23 delivery services of third-party food cou- courier
24 services. This hearing is being held by a Zoom call.
25 It is now 11:03 a.m. on Thursday, December 23, 2021,

1 and I am hereby convening public hearing on this
2 proposed rule.

3 The proposed rule was published in The City
4 Record on November 23, 2021. Published notice and
5 rules are available online on the NYC Rules website as
6 well as the Department's website. The Department has
7 proposed these rules pursuant to the authority vested
8 in the Commissioner of the Department of Consumer and
9 Worker Protection by Sections 1043 and 2203(f) of the
10 New York City Charter as well as Section 20-104(b) of
11 the New York City Administrative Code.

12 This hearing affords the public the
13 opportunity to comment on all aspects of the rules the
14 department has proposed. The department will
15 carefully review all testimony and written comments
16 received at this hearing and we will give due weight
17 to proposals and recommendations that are submitted
18 for the record at this hearing.

19 Just a few ground rules before we start.
20 Everyone who is testifying orally will have three
21 minutes to do so. That is not a hard and fast limit,
22 I will, I will DM you with a one-minute warning and,
23 then, you know, sort of let you know when that time
24 expires. Please try and keep it right around three
25 minutes, I will cut you off if we're getting into four

1 minute, five minute territory.

2 You have no time limit or length limit for
3 any written testimony. So let's you do give oral
4 testimony and you can't get through everything or you
5 have a longer version of your thoughts that you'd like
6 to share with us, you can feel free to reach out to
7 me, I'll put my e-mail in the chat and send me over
8 written testimony at some point today, and that will
9 also be included in the record.

10 Make sure that you stay muted when you're
11 not speaking. You know, the usual Zoom etiquette does
12 apply here.

13 Linda, I see that you've just joined. If
14 you could just let me know if you're interested in
15 testifying, either unmute and let me know or just send
16 me a message in the chat. That would be great.
17 Totally fine if you're just here to, you know, watch
18 and listen in.

19 MS. LINDA: Charlie, I, I will have
20 questions. They, they -- this is, this is
21 specifically for Community Board 7?

22 MR. DRIVER: No, this is, this is a Citywide
23 rule here. So this is, this is the department has
24 proposed an addition to the rules of New York City
25 enacting the specific legislation that was passed by

1 counsel.

2 MS. LINDA: Mm-hmm.

3 MR. DRIVER: So specifically it speaks to
4 one part of that legislation around licensing third-
5 party apps for food delivery and courier services.

6 MS. LINDA: Okay. Thank you.

7 MR. DRIVER: Great. So, so we can get
8 started with testimony now. Richard, you're the
9 first up. Again, you'll have three minutes to speak
10 from whenever you start speaking, I'll give you a
11 warning about time as necessary.

12 MR. RICHARD: Thank you. And I, I apologize
13 I think my testimony is less than three minutes.

14 MR. DRIVER: That's, that's totally fine.
15 Not a problem.

16 MR. RICHARD: I'm joking. Good morning.
17 When I signed up to speak, I had only gotten notice
18 about the hearing and that rules were being proposed
19 for third-party delivery services. It was only later
20 that I searched and found the specific rules. But
21 overall I support the rules that are proposed
22 especially sharing, the data sharing with
23 restaurants.

24 My comments are more in general, especially
25 about the penalty parts. More work is needed to

1 protect delivery cyclists and pedestrians, many
2 elderly, who are terrified by delivery cyclists. I
3 did not start out as an advocate for delivery
4 cyclists. I, I really care about street safety, and
5 see a strong connection between the two.

6 For that reason this summer, I signed up to
7 work for DoorDash just to try to get the experience
8 of being a delivery cyclists, and I worked two shifts
9 in May and June of this, this year. In doing so I
10 followed every traffic law, riding a regular bike not
11 an e-bike, stopping at every red light and riding the
12 right way on one-way streets, not riding on the
13 sidewalk.

14 The first time I rode, I worked for an hour
15 and I failed to get any business. So I made no
16 money. As I was sitting at red lights, as my
17 competitors, delivery cyclists were, you know,
18 getting to the areas where there delivery is quicker
19 and getting the orders. The second time I had gotten
20 an alert from DoorDash that they were really busy,
21 went out, and within the 90 minutes that I worked, I
22 got three orders, and in that time I made exactly
23 \$22.50 which is the equivalent of minimum wage except
24 as an independent contractor, none of the benefits of
25 being an employee kicked in. And that's when

1 DoorDash was at its absolute busiest.

2 A big challenge we have is that the
3 companies avoid the need to comply with any of the
4 rules and any existing laws or to be held accountable
5 because their workers are not considered employees,
6 they're third-party contractors, they're independent
7 contractors. The DoorDash agreement that I was
8 forced to sign did not alert me and through the
9 entire price DoorDash never alerted to any of the
10 laws such as that cyclists are required to have
11 unique IDs both on the bike and on their bodies.
12 Rather, they had me sign a very comprehensive release
13 saying I'm an independent contractor and indemnifying
14 them of any responsibility whatsoever.

15 Overall, we need to do much more to make
16 sure that the third-party delivery services are
17 accountable for their workers regardless of their
18 classification. I think one solution would be to
19 make them employees. There could be other solutions
20 as well, but in terms of penalties, any penalties
21 right now are meaningless because there's no
22 accountability because they just rely on these third
23 parties, or on they rely on independent contractors
24 and, and yet keep an arms' length as to them. So
25 thank you very much.

1 MR. DRIVER: Great. Thank you so much,
2 Richard. And you snuck that right under three
3 minutes. So, so well done on the, on the timing
4 there.

5 Next up for testimony Linda. You have three
6 minutes whenever you're ready.

7 MS. LINDA: Okay a few comments. We met
8 with DoorDash. I'm, I'm co-chair of the Business and
9 Consumer Issues Committee that works with restaurants
10 and obviously with the third-party delivery folks.
11 When Los Deliveristas Unidas we're preparing to put
12 together a movement and unionize we wanted to hear
13 from them and we wanted to hear from the restaurants
14 and we, we wanted, we, we set up two meetings first
15 with the restaurants and the delivery services of
16 which only one delivery service showed up, it was
17 DoorDash, everybody else refused to come. And
18 DoorDash and Rich was on -- at this meeting and so
19 was Doug Climen [phonetic], I see here and I think
20 Seman [phonetic] was there too.

21 DoorDash it, it had to with the bathroom,
22 access to bathroom and facilities, and DoorDash,
23 which I believe still owns Seamless and Grub Street
24 said that, said that they provided -- that, they
25 provided maps so that there would be access to

1 facilities, and there would be help for the delivery
2 workers and their jobs are very, very difficult as
3 Rich just testified. Rich refuted that because they
4 weren't and a lot of restaurateurs said in the neigh-
5 , the restaurant neighbors of our neighborhoods said
6 and are communities said they had access, but they
7 wanted their consumers to have first access because
8 there's a small, small footprint restaurants.

9 The third-party delivery services are not
10 delivering the independent contractors working for
11 them, they're certainly exploiting them, and it's a
12 terrible situation. And in turn, and in turn they're
13 also asking, also they've been reduced for very high
14 fees from restaurants that are struggling to exist,
15 specifically now in -- we're seeing this again with
16 an- another surge.

17 So we're very concerned with third-party
18 delivery and we, we definitely want to see the
19 workers taken care of and, and, and that these third-
20 party delivery services conform to basic rules as, as
21 employers rather than contractors. So that's, that's
22 my comment and it's based upon these meetings. We
23 did meet the following month with the, the workers
24 and they were great. Thank you.

25 MR. DRIVER: Alright. Thank you so much

1 Linda. I really appreciate you taking the time. So
2 so those are -- that's everyone who is, who is
3 signaled interest in testifying right now. If you
4 would like to testify and you're on this call, feel
5 free to let me know and we can give you three
6 minutes.

7 Otherwise if no one else is interested in
8 testifying at this moment, the way this will work is
9 the -- basically the Zoom call will lie dormant until
10 noon. If anyone else shows up to testify, we'll
11 facilitate testimony at that, at that time.
12 Otherwise, you can feel free to leave your Zoom open,
13 but if you do have other things to get to, and I
14 understand everyone is busy and the holidays are
15 sneaking up, you can also jump off the call. The
16 Department will post all testimony and the transcript
17 of this hearing on our website once we, once we have
18 everything come in. And again, if you'd like to
19 submit any written comments the deadline for doing
20 that is the end of the day today. You can do that
21 either on the NYC Rules website or you can send me an
22 e-mail, I have just put my e-mail in the chat.
23 Linda, yep?

24 MS. LINDA: Ch- Charlie, I have one more
25 question.

1 MR. DRIVER: Sure.

2 MS. LINDA: DCA was an integral part of the
3 process for outdoor seating for many years and did an
4 extraordinary job. Could you explain to me the role
5 and the responsibilities in the purview of DCWP?

6 MR. DRIVER: Just, just in terms of in, in,
7 in general?

8 MS. LINDA: Yeah. What, what is your
9 responsibility in relationship to our communities, to
10 our restaurants now that you no longer, now that it's
11 been relegated to DOT.

12 MR. DRIVER: Sure. So, so Linda, I'm, I'm
13 just going to ask you to send me an e-mail about
14 that, and I'd be happy to send, I'd be happy to sort
15 of write that out in more, in more depth. Right now,
16 this is just not the format really for it. We're
17 just trying to keep this very specifically focused on
18 receiving testimony, but if you send me an e-mail and
19 reach out to me, I'd be happy to give an explainer on
20 that.

21 Okay. So, so no one is -- no one else is
22 interested in testifying at the moment so feel free
23 to just cameras off as people filter in if anyone
24 else comes in, I will see if they're interested in
25 delivery testimony and facilitate that as necessary.

1 Zoom call will end around noon. If you are jumping
2 off, Happy Holidays, I hope everyone gets some time
3 to safely celebrate whatever they celebrate or just,
4 you know, have the time off, but thank you for
5 attending this and, and sharing what you have to say.
6 MR. RICHARD: Alright. Thank you very much.
7 MS. LINDA: Thank you. Thank you.
8 MR. DRIVER: Alright. It is now 12:00 p.m.
9 on December 23rd, and I'm going to end this hearing.
10 Happy Holidays.

CERTIFICATE OF ACCURACY

I, Ryan Manaloto, certify that the foregoing transcript of Proposed Rules Related to Third-Party Food Delivery Services and Third-Party Courier Services on December 23, 2021 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By



Date: February 15, 2022

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