

United States Senate

WASHINGTON, DC 20510

February 17, 2023

Tony Xu
Chief Executive Officer
DoorDash, Inc.
901 Market St. Suite 600
San Francisco, CA 94103

Dear Mr. Xu,

We write today to express concern and seek information about DoorDash’s practices, specifically regarding concerning reports that DoorDash engaged in junk fees, a misleading and harmful practice directed at consumers and small businesses. With 16% of Americans reporting income from an online gig platform¹, many small businesses struggling to stay open, and many vulnerable Americans relying on food delivery apps during the COVID-19 pandemic, Congress has a responsibility to ensure consumers, workers, and restaurants that rely on those applications have access to a fair and transparent marketplace. To that end, we are writing to request clarification on the current practices by DoorDash that relate to fees, payments to businesses, consumer disclosures, and compensation for delivery workers.

Food delivery apps play an important role in many Americans’ lives, and they experienced massive growth during the pandemic. Unfortunately, however, the industry has been regularly accused of unfair and deceptive practices. These include listing restaurants on its platform without a contract or consent,² misleading consumers by charging hidden fees,³ using bait and switch tactics,⁴ and misrepresenting whether tips would ultimately increase driver pay.⁵ Consumers should not have to work through a confusing fee structure, deceptive offers and discounts, and potentially inflated prices while attempting to order a meal and support local businesses.

¹ Monica Anderson, Colleen McClain, Michelle Faverio, and Risa Gelles-Watnick, “The State of Gig Work in 2021”, Pew Research, December 8, 2021, <https://www.pewresearch.org/internet/2021/12/08/the-state-of-gig-work-in-2021/>

² Ayana Archie, “D.C. sues Grubhub for allegedly using deceptive trade practices”, NPR, March 22, 2022, <https://www.npr.org/2022/03/22/1087988691/washington-dc-attorney-general-DoorDash-food-delivery-lawsuit>

³ “AG Racine Sues Grubhub for Charging Hidden Fees & Using Misleading Marketing Tactics During the COVID-19 Pandemic to Increase Profits at the Expense of Consumers & Restaurants”, D.C. Office of the Attorney General Newsroom, March 21, 2022, <https://oag.dc.gov/release/ag-racine-sues-grubhub-charging-hidden-fees-using>

⁴ *Id.*

⁵ “AG Racine Reaches \$2.5 million Agreement with DoorDash for Misrepresenting the Consumer Tips Would Go to Food Delivery Drivers”, D.C. Office of the Attorney General Newsroom, November 24, 2020, <https://oag.dc.gov/release/ag-racine-reaches-25-million-agreement-doordash>

As the COVID-19 lockdown immersed communities around the country in March and April 2020, many restaurants turned to food delivery apps to stay afloat.⁶ As a result, companies like DoorDash enjoyed historic profits and unprecedented growth. In the third quarter of 2020, DoorDash reported 543 million total orders for the first nine months of 2020, which is triple the number of orders from the same period a year prior.⁷ The company also reported a \$23 million profit in the second quarter of 2020.⁸ Such growth, however, came at the cost of consumers, who consistently faced deceptive and confusing information and fees.

Of particular concern is the behavior outlined in a 2019 lawsuit filed by the District of Columbia's Attorney General against DoorDash.⁹ According to the allegations, DoorDash "led consumers to believe that any tips would go directly to food delivery workers, while instead effectively treating this money as extra profit for the company."¹⁰ As part of a settlement in 2020, DoorDash agreed to pay \$2.5 million, maintain a payment model that ensures all tips go to workers without lowering their base pay, and provide clear and easy-to-access information about its policies and payment model to workers and consumers.¹¹ DoorDash faced another lawsuit in 2021, when Chicago claimed that DoorDash misled customers about how their tips for drivers would be used.¹² The lawsuit also claimed that DoorDash "misleadingly labeled a \$1.50 fee placed on every order as a 'Chicago Fee.' The city claimed this wrongly implied the fee was required by or paid to Chicago rather than DoorDash."¹³

Based on these concerning behaviors displayed by DoorDash as well as other deceptive and predatory practices we observed from companies with similar business models, we request answers to the following questions:

1. Please provide information on the DoorDash fee structure, including:
 - a. Information relating to any fee charged for optional marketing programs offered to restaurants.
 - b. Which fees, discounts, and offers are paid by or offered to customers and which fees, discounts, and offers apply to restaurants.
 - c. A state-by-state, per month average and distribution range of the cost to restaurants to partner with DoorDash, including both one-time and recurring fees.

⁶ Levi Sumagaysay, "The pandemic has more than double food-delivery apps' business. Now what?", MarketWatch, November 27, 2020, <https://www.marketwatch.com/story/the-pandemic-has-more-than-doubled-americans-use-of-food-delivery-apps-but-that-doesnt-mean-the-companies-are-making-money-11606340169>

⁷ *Id.*

⁸ *Id.*

⁹ "AG Racine Sues DoorDash for Deceiving District Customers by Taking Tips from Food Delivery Workers", D.C. Office of the Attorney General Newsroom, November 18, 2019, <https://oag.dc.gov/release/ag-racine-sues-door-dash-deceiving-district>

¹⁰ *Id.*

¹¹ "AG Racine Reaches \$2.5 million Agreement with DoorDash for Misrepresenting the Consumer Tips Would Go to Food Delivery Drivers", D.C. Office of the Attorney General Newsroom, November 24, 2020, <https://oag.dc.gov/release/ag-racine-reaches-25-million-agreement-door-dash>

¹² Lauren Feiner, "Chicago sues DoorDash, Grubhub for allegedly deceiving customers", CNBC, August 21, 2021, <https://www.cnbc.com/2021/08/27/chicago-sues-door-dash-grubhub-for-allegedly-deceiving-customers.html>

¹³ *Id.*

- d. An average percentage of the total bill and distribution of charges to consumers for each individual fee including, delivery, service, COVID-19 related fees, and any other fees regularly charged.
 - e. Information regarding at what point in the ordering process the customer is made aware of all service charges or fees.
 - f. Information about how the delivery and service charges are determined for each individual order, and how DoorDash and/or the restaurant profits from these charges.
2. Please provide information as to how DoorDash's tip structure works, including:
 - a. The percentage of customer tips that go to the delivery worker.
 - b. Whether DoorDash uses customer tips to offset the guaranteed flat fee paid to delivery workers.
 - c. Whether DoorDash discloses the amount tipped to a delivery worker before the worker accepts the order?
3. How does DoorDash calculate the "base pay", or flat fee paid to delivery workers for any given order?
4. Is DoorDash currently adding "non-partnered" restaurants to its platform, or otherwise adding restaurants without their knowledge or consent?
 - a. If no, when did DoorDash end the practice?
 - b. If yes, does DoorDash provide notice that it is adding the restaurant?
 - c. What percentage of restaurants currently listed on DoorDash are "non-partnered"?
 - d. Please describe the process by which a non-partnered restaurant may remove itself from listing on the platform.
5. Does DoorDash allow listings with higher prices for items than the prices offered by the restaurant directly?
 - a. If yes, does DoorDash disclose the price discrepancy to the consumer in every jurisdiction? How does DoorDash communicate to customers that restaurants may offer lower prices when ordering directly from the restaurant?
 - b. If yes, what percentage of listings contain a discrepancy?
 - c. If yes, on average, how much more are DoorDash listings compared to the price available directly from the restaurant?
 - d. If yes, is this higher price on DoorDash established by DoorDash or by the restaurant itself?
6. Does DoorDash disclose to customers the commission they receive from any given restaurant on the platform?
 - a. Does DoorDash permit restaurants to disclose such information to customers?
 - b. If no, please provide a breakdown of the average commission DoorDash receives from restaurants on the platform.

7. How does DoorDash calculate delivery time?
 - a. Does DoorDash offer dynamic pricing based on delivery time and/or times of high demand?

Thank you in advance for your cooperation. We look forward to receiving your response by March 3, 2023.

Sincerely,



BEN RAY LUJÁN
United States Senator

RICHARD BLUMENTHAL
United States Senator

RON WYDEN
United States Senator