

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON SMALL BUSINESS

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February 6, 2020
Start: 10:35 a.m.
Recess: 2:02 p.m.

HELD AT: Committee Room - City Hall

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Chairperson

COUNCIL MEMBERS: Mark Gjonaj
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Bill Perkins
Ydanis Rodriguez
Helen K. Rosenthal

A P P E A R A N C E S (CONTINUED)

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New York City Department of Small
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2 HONA DOLTAY: Test, test. This is the
3 Committee on Small Business. Today's date is
4 February 6, 2020. This recording is being recorded
5 by Hona Dolтай.

6 CHAIRPERSON GJONAJ: [gavel] Good morning.
7 I'm Council Member Mark Gjonaj, chair of the
8 Committee on Small Business and I'd like to welcome
9 to our tardy hearing this morning. Our hearing today
10 focuses on the rise of ghost kitchens and their
11 impact on local restaurants and the food industry.
12 Technological innovations supporting the consumer
13 trend of ultra convenience have changed the business
14 model of the food insecurity. Online orders are now
15 as important to mom and pop shop restaurants as foot
16 traffic. While food delivery has always been part of
17 the restaurant business, eating a purchased meal
18 outside of a restaurant is now the norm. Between
19 take-out, drive-through, and delivery nearly 60% of
20 food orders were consumed outside of the traditional
21 brick-and-mortar restaurants last year. While in
22 2018 the global online food ordering market was 35
23 billion, a UBS report estimates that this industry
24 will grow tenfold over the next ten years, up to
25 \$365 billion by the year 2030. And third-party

2 delivery sales rose over 30% in 2019. Ghost kitchens
3 represent the next possible step in the food industry
4 shift toward more off-premise dining. Before I
5 continue, I'd like to briefly describe the two
6 differences between ghost, dark, cloud, and virtual
7 kitchens models that will be discussed today. There
8 are virtual restaurants which could produce food sold
9 under a variety of eatery names differing from the
10 name displayed outside of their brick-and-mortar
11 storefront and promote themselves exclusively on
12 third-party delivery platforms. The second, ghost
13 kitchens. The model operates like a commissary
14 kitchen, a shared kitchen space restaurants can rent
15 online ordering pickup and delivery only purposes.
16 As storefront restaurants may have difficult
17 producing food for both dine-in customers and food
18 delivery, renting space in a ghost kitchen facility
19 can help restaurants free up space and time in their
20 brick-and-mortar locations. While the rise of ghost
21 kitchen companies may seem like a win for consumers
22 and restaurants. I have a number of questions and
23 concerns that I hope to discuss today. As the
24 delivery industry will continue to increase
25 efficiency and cut costs, third-party delivery

2 platforms may open up their ghost kitchen facilities.
3 For example, Door Dash has already accomplished this
4 in California and has used its pre-existing consumer
5 data to approach restaurants that its users have
6 requested, filling a cuisine gap in an area that may
7 not currently have a particular type of food in that
8 delivery radius. Because every food order at a ghost
9 kitchen is a digital transaction, ghost kitchens may
10 also have access to a large amount of customer data.
11 To further vertically integrate, some ghost kitchens
12 have begun opening up their restaurants. Ghost
13 kitchen facility, for example, a cloud kitchens, has
14 used data to develop its own in-house restaurant
15 brands. This allows the ghost kitchen company to cut
16 out the restaurant, an existing client building
17 kitchen spaces with their own restaurants with
18 cuisines that they know will succeed based on their
19 data. Since ghost kitchens, mainly in partner with
20 restaurant chains or well-known brands, they
21 typically do not collaborate with our local small
22 businesses. According to the investment firm Kitchen
23 Fund, a brick-and-mortar restaurant will need to be
24 making at least one million dollars in delivery sales
25 to break even in a ghost kitchen. Mom and pop shops

2 seem to have no chance to participate in this rising
3 sector of the food economy. The concern is that
4 because restaurant brands save costs in ghost
5 kitchens by employing fewer workers and renting less
6 expensive commercial spaces they could decrease their
7 menu prices, producing for delivery at below market
8 rates. If this occurs our mom and pop shops will be
9 squeezed even further than they already are and could
10 force some out of business in a market where 80% of
11 our restaurants never make it to year five. High-end
12 restaurants that offer more memorable experiences
13 will be insulated from any harm, but your local
14 trattoria, curry shop, burger bar, sushi place,
15 cannot compete with cheaper menu items delivered to
16 customers at record speeds. With mom and pop shops
17 going out of business vacancy rates will increase,
18 further undermining the character and charm of our
19 city neighborhoods, commercial corridors, something
20 that we already see happening. Brick-and-mortar
21 restaurants also serve as a gathering place for city
22 residents. They offer a space for people of
23 different backgrounds to come together in a social
24 setting. Our local restaurants provide city
25 residents internet access, a warm cup of coffee

2 between shifts at a job, and a meeting point for
3 parents and their children. Chain restaurants moving
4 away from brick-and-mortar locations and opening up a
5 ghost kitchen locations may therefore further erode
6 opportunities for community engagement. While I have
7 a number of other concerns that I hope to further
8 discuss today, including issue related to ghost
9 kitchens, transparency, and how ghost kitchens may
10 seek to undermine grocery stores, which are already
11 struggling to compete with mega supermarkets. I want
12 to make something clear. I support entrepreneurship
13 and innovation and want New York City to be a partner
14 for businesses, not undermine them. If ghost
15 kitchens are planning on proliferating in New York I
16 hope they can support our strong communities and be a
17 partner to our mom and pop stores and help build our
18 neighborhoods. These hearings are important as we
19 learn from stakeholders so we can better understand
20 this marketplace and industry. With that said, I'd
21 like to thank my chief of staff, Reggie Johnson, our
22 legislative counsel, Stephanie Jones, attorney
23 Christofer Jerrolds from the Office of Strategic
24 Initiatives, and our policy analyst, Noah Mexler, for
25 all their hard work in preparing for this hearing. I

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2 also want to recognize we have with us Council Member
3 Perkins and Rosenthal. Thank you for joining us.

4 COMMITTEE COUNSEL: OK, so I'm going to
5 administer the oath. Do you affirm to tell the
6 truth, the whole truth, and nothing but the truth in
7 your testimony before this committee and to respond
8 honestly to Council Member questions?

9 GREG BISHOP: I do.

10 COMMITTEE COUNSEL: Thank you.

11 GREG BISHOP: Good morning, Chair Gjonaj
12 and members of the Committee on Small Business. My
13 name is Greg Bishop and I'm the commissioner of the
14 New York City Department of Small Business Services.
15 At SBS we aim to unlock economic potential and create
16 economic security for all New Yorkers by connecting
17 them to quality jobs, building stronger businesses,
18 and fostering thriving neighborhoods across the five
19 boroughs. I am joined by my colleague Steven Picker,
20 the executive director of SBS's food service industry
21 partnership and Corinne Schiff, deputy commissioner
22 of environmental health with the New York City
23 Department of Health and Mental Hygiene. New York
24 City is home to around 27,000 restaurants and they
25 employ over 270,000 New Yorkers. To assist

2 restaurant owners SBS offers many resources that help
3 them start, operate, and grow. Our services to
4 support restaurants include our government navigation
5 and compliance advisory services, which help
6 restaurant owners navigate the regulatory process and
7 ensure that they are in compliance with the
8 regulations necessary to maintain public health and
9 safety. To date compliance advisors have provided
10 more than 3000 on-site consultations for restaurants,
11 helping these businesses avoid common violations
12 before their inspections and saving them more than 83
13 million dollars in potential fines. We also help
14 restaurant owners access capital, hire new employees,
15 and fund employee training throughout NYC business
16 solution centers. Annually SBS helps open roughly
17 500 restaurants, fill nearly 3000 open positions, and
18 connect about 100 restaurants to around 4 million
19 dollars in financing. SBS is committed to helping
20 neighborhood businesses thrive in their communities.
21 SBS provides eligible business owners with legal
22 services on topics including lease negotiations,
23 formalizing oral lease agreements and landlord
24 harassment through our commercial lease assistance
25 program. Of the more than 500 businesses served

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2 through the program, more than 25% are accommodation

3 and food service establishments. To help

4 neighborhood businesses adapt to changing market

5 conditions SBS runs the Love Your Local grant

6 program. To date we have provided technical

7 assistance and over two million dollars in grant

8 funding to 41 small businesses, including 29

9 restaurants. Through Love Your Local SBS aims to

10 identify common challenges that are impacting the

11 profitability of small businesses so that we can help

12 and test new business services to support the growth

13 and retention of long-standing businesses across the

14 five boroughs. SBS is committed to working directly

15 with the restaurant industry to understand their most

16 pressing challenges. Our New York City food and

17 beverage industry partnership is made up of over 30

18 New York City restaurant industry leaders, key

19 professional associations, and community-based

20 organizations that focus on skills training. This

21 partnership allows us to work directly with the

22 industry on priority issues, impacting both employers

23 and workers to support the growth of the sector. Key

24 priorities include helping restaurants navigate the

25 regulatory environment, addressing the demand for

2 skilled workers, and providing support to adapt to
3 the rising cost of doing business in the city. Of
4 the major challenges elevated by the industry,
5 members of the partnership cites the recruitment of
6 skilled employees as one of the most important. This
7 year SBS launched First Course NYC, an apprenticeship
8 program that teaches the culinary skills necessary
9 for a career as a line cook, a position that is
10 highly in demand in New York City's restaurant
11 industry. Technology continues to impact many
12 industries across New York City. Ghost kitchens
13 capitalize on the popularity of food delivery
14 applications and are a relatively new feature of the
15 restaurant industry landscape. Ghost kitchens, which
16 have also been called virtual kitchens, delivery
17 kitchens, or cloud kitchens, are commercial food
18 preparation in kitchen facilities designed to produce
19 delivery-only meals for consumers. While they share
20 many characteristics with other food service models
21 such food hauls, fast casual businesses, and
22 incubator kitchens, ghost kitchens pose potential
23 opportunities and challenges for small store-front
24 restaurants. For a business that makes the bulk of
25 its profit through delivery ghost kitchens could

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2 provide opportunities for business owners to reach
3 the delivery market without the oversight hearing of
4 operating a full-service restaurant. However, as you
5 indicated, it may be challenging for neighborhood
6 restaurants already struggling to utilize technology
7 and reach the delivery market compete with businesses
8 operating out of ghost kitchens. The landscape of
9 the restaurant industry is continually evolving and
10 we aim to help business owners be nimble in adapting
11 to changing market conditions. SBS is committed to
12 working with our agency partners and industry to
13 better understand the opportunities, the challenges
14 and the impacts of ghost kitchens to better inform
15 our small business owners. This is a new issue and
16 we look forward to continuing to engage with the City
17 Council and to learn from our industry stakeholders.
18 Thank you, and I'm happy to answer any questions.

19 CHAIRPERSON GJONAJ: Thank you,
20 Commissioner. Is the Department of Health going to
21 make an opening statement?

22 DEPUTY COMMISSIONER SCHIFF: Happy to
23 take your questions.

24 CHAIRPERSON GJONAJ: Great. So I want to
25 thank both of you for being here on this very

2 important hearing as we better understand this
3 environment and marketplace of ghost kitchens,
4 virtual kitchens. You've, um, eloquently indicated
5 that we have 27,000 restaurants in New York City that
6 employ over 270,000 New Yorkers, offering a service
7 that is vital to this city, to our residents, our
8 visitors, and our concern is the model that currently
9 exists and the impact that technology is going to
10 have and in particular not only food order apps, but
11 in this regard ghost kitchens. Some of my questions
12 are directed directly to Department of Health. Can
13 you explain to us the current grading system for our
14 local restaurants and food establishments?

15 DEPUTY COMMISSIONER SCHIFF: Sure. Um,
16 all restaurants that serve the general public are in
17 our grading program. We launched restaurant grading
18 about 10 years ago.

19 CHAIRPERSON GJONAJ: And I'm sorry, could
20 you introduce yourself, your name and your title?

21 DEPUTY COMMISSIONER SCHIFF: Sure, yes.
22 Ah, Corrine Schiff, I'm the deputy commissioner for
23 environmental health at the city health department.
24 And I oversee our food safety program. So I can take
25 specific questions about the restaurant grading

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2 program. Um, we launched 10 years ago. Restaurants
3 that serve the public are in the grading program and
4 we have found it to be extremely popular among New
5 Yorkers and really effective in improving food safety
6 practices among restaurants. I will put in a plug
7 that just at the very end of last year in December
8 2019 we relaunched our popular ABC Eats website,
9 which lets New Yorkers look up inspection history and
10 grades for those restaurants and we've got some nice
11 new features. I hope you will check it out. But I'm
12 happy to take specific questions about restaurant
13 grading.

14 CHAIRPERSON GJONAJ: Great. So on the
15 grading systems which is the letter grade that
16 restaurants are closed down? Can you elaborate a
17 little bit on the system that's in place now
18 protecting our consumers?

19 DEPUTY COMMISSIONER SCHIFF: Sure. So we
20 have all of the, all of the conditions that
21 restaurants need to follow that are laid out in the
22 city's health code. So we have a provision of the
23 health code that sets out all of the food safety
24 requirements that restaurants need to meet. That
25 health code is aligned with the New York State

2 version of that, called the State Sanitary Code, and
3 also is aligned with the FDA's model food code. It's
4 a living document. It's something that we look at,
5 ah, regardless and monitor changes in the industry
6 and in food safety science to keep that health code
7 up to date to continue to protect New Yorkers. So we
8 lay out a series of conditions that restaurants need
9 to follow to be aligned with the health code. It's
10 something that we, ah, we have a checklist that we
11 mail out to all of the restaurants and we publish
12 that on the website as well. And our inspectors
13 basically follow that checklist when they do an
14 inspection at a restaurant. Depending, we have a
15 point system, it's all laid out in the rules, all
16 very transparent, provided to restaurants. Depending
17 on the points that they restaurant gets at that
18 inspection that is then converted to an A, B, or a C.
19 Ah, and, um, that is sort of the way we let New
20 Yorkers, we are kind of New Yorker's eyes in the
21 kitchen and this is what we communicate, how we
22 communicate that to New Yorkers. There is no cutoff
23 for a closure, closure by which I think you mean when
24 we see a condition that makes, that we think is
25 unsafe for New Yorkers to, to eat there. We will

2 close that restaurant as a kind of temporary measure,
3 really an emergency measure, um, and require the
4 restaurant to correct whatever conditions exist that
5 created that sort of emergency. There is no, there
6 is no grade cutoff. There is no cutoff. There are a
7 variety of circumstances that can lead to a, to a
8 closure and it's something that, ah, the inspector
9 will report back to the office and it's, and it's
10 reviewed by levels of supervision until there is a
11 decision 'cause we know that it's a very, ah, a very
12 extreme measure so we take that very seriously and,
13 and close that restaurant and then work with them to
14 help them reopen as quickly as possible in conditions
15 that are safe for New Yorkers.

16 CHAIRPERSON GJONAJ: Thank you, Deputy
17 Commissioner. So it's safe to assume that New
18 Yorkers have come to rely on this letter grade and
19 the, in determining where they're going to eat?

20 DEPUTY COMMISSIONER SCHIFF: We have done
21 some polling of New Yorkers and we do believe that
22 New Yorkers do value the grade and that many New
23 Yorkers make decisions based on those grades.

2 CHAIRPERSON GJONAJ: And these grades are
3 visible on storefronts at the point of entry of these
4 establishments and online?

5 DEPUTY COMMISSIONER SCHIFF: Yes.

6 CHAIRPERSON GJONAJ: Can you help us
7 understand how this current grading system, which New
8 Yorkers have come to rely on, which, ah, indicate the
9 level of compliance by our food establishments, how
10 this would be used at a ghost kitchen facility, if
11 you even know where the facility is located?

12 DEPUTY COMMISSIONER SCHIFF: So
13 facilities that are delivery only, that we're
14 describing here as ghost kitchens, are subject to the
15 very same health code food safety requirements that I
16 just described. Um, they are permitted by the health
17 department and inspected by us, and if they, like
18 other restaurants if they directly, um, provide
19 delivery to consumers then they are also part of the,
20 of the grading program.

21 CHAIRPERSON GJONAJ: So ghost kitchens
22 are not your traditional brick-and-mortar, commercial
23 corridor, visible to the average person, is that
24 correct?

25 DEPUTY COMMISSIONER SCHIFF: Understood.

2 CHAIRPERSON GJONAJ: Could be. Where
3 would the letter grade be posted that a consumer
4 seeking to purchase the food from an establishment,
5 where would they be exposed to that information?

6 DEPUTY COMMISSIONER SCHIFF: So those
7 grades, as for any food service establishment that
8 are part of grading program would be on the, at the
9 location and also on our website.

10 CHAIRPERSON GJONAJ: But these are not
11 traditional brick-and-mortar storefront locations.
12 They could be in a basement, they can be on a second
13 floor, an upper floor. They can be in a warehouse.
14 What I'm gathering is there's a potential that a
15 letter grade is not known to a consumer based on
16 visible patronage.

17 DEPUTY COMMISSIONER SCHIFF: Right. The
18 grade, ah, the grade shows the consumer what we see
19 at that, at that location, um, and is on our website.

20 CHAIRPERSON GJONAJ: Now on a website you
21 would identify the restaurant or the food handler, or
22 the restaurant or the name associated with that
23 restaurant would receive the grade, correct?

24

25

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2 DEPUTY COMMISSIONER SCHIFF: The, the way
3 that the consumer looks it up is based on the, on the
4 restaurant name, yes.

5 CHAIRPERSON GJONAJ: Which is affiliated
6 through Consumer Affairs, Department of Health
7 licenses?

8 DEPUTY COMMISSIONER SCHIFF: It's part of
9 the health department permit.

10 CHAIRPERSON GJONAJ: Correct.

11 DEPUTY COMMISSIONER SCHIFF: Yes.

12 CHAIRPERSON GJONAJ: Ghost kitchens allow
13 for multiple names, or virtual kitchens, to be used.
14 Am I correct?

15 DEPUTY COMMISSIONER SCHIFF: That's what,
16 that's what I hear you describing, yes.

17 CHAIRPERSON GJONAJ: And those names may
18 not be in your database?

19 DEPUTY COMMISSIONER SCHIFF: Ah, it would
20 depend on how that, ah, how that establishment is set
21 up. There are different models for these, so they
22 may or may not be on the, on the website. It will
23 depend, it will depend on how they are structured.

24 CHAIRPERSON GJONAJ: So a structure could
25 exist where a restaurant could have one name, with a

2 letter grade, where your agency knows of their
3 physical location, is able to inspect, and operate
4 under other names?

5 DEPUTY COMMISSIONER SCHIFF: That's
6 something I will have to take a look at. I think you
7 might be right and it's an interesting point that
8 you're raising, and we can come back and take a look
9 at it. It's, it's not that different from, um, other
10 kinds of restaurants where the food is not actually
11 prepared on site. So from our point of view this is
12 a twist on other models that exist, but I understand
13 where, what you're, what you're saying and we'll go
14 back and we'll take a look at that.

15 CHAIRPERSON GJONAJ: Let me further
16 elaborate. I'll give you an example. Mikado Bistro,
17 known restaurant, compliant with the Department of
18 Health, registered, has all its licenses and permits
19 necessary to operate. They receive letter grades as
20 low as C. The same establishment, the same
21 restaurant, the same brick-and-mortar structure,
22 operates under several other names, such as Mikado
23 Poke, New Mikado Sushi, Master Raman Bar, Chef Honika
24 Sushi, Raman Yamado, and Mikado Raman. That is one,
25 two, three, four, five, six other names that it

2 operates under. Yet when we search one of these
3 other affiliates on our database there is no letter,
4 there is no grade associated to that restaurant, but
5 yet the food is being prepared from the same brick-
6 and-mortar restaurant, the same kitchen, as Mikado
7 with a grade of C. My concern would be, as I'm sure
8 to the New Yorkers that have relied and rely on these
9 letter grades to indicate whether or not they're
10 going to purchase the food from this eatery and
11 they've used it as a guide. They're not aware that
12 they may be purchasing food from an establishment
13 that is not up to code or a standard that they feel
14 comfortable with. How are we allowing this to
15 happen?

16 DEPUTY COMMISSIONER SCHIFF: So what I'd
17 like to do is follow up with your office and get that
18 list and it's something we can take a look at. It's
19 an interesting point and we're happy to take a look
20 and think about what else we might be doing.

21 CHAIRPERSON GJONAJ: Well, Deputy
22 Commissioner, I think it's more than interesting. It
23 should be an alarm and a concern, especially when
24 we're dealing with foods like sushi or shellfish, or
25 that New Yorkers and people have allergic reactions

2 to, or could be, their health could be in jeopardy
3 because we're not informing them of the standard that
4 those kitchens and restaurants are operating at.
5 Which is contrary to what our traditional brick-and-
6 mortar establishments are currently held to. I think
7 it's much more alarming that we understand and the
8 more we discuss this the more alarms and bells should
9 be ringing in our minds as government and agencies
10 and departments and the roles that we have to protect
11 New Yorkers. The letter C in a sushi restaurant or a
12 seafood restaurant I can assure you would deter
13 people from eating there. But if you're operating
14 under a bistro name, not aware that your seafood is
15 being prepared at that same eatery, it's deception.
16 What are your thoughts?

17 DEPUTY COMMISSIONER SCHIFF: So the, you
18 know, we're, we're very committed to transparency,
19 um, that's why we launched the restaurant grading
20 program and have been putting more and more
21 inspection data up online for New Yorkers and, again,
22 I'd like to take a look at that, and maybe that's an
23 example that we can use to dig into this. I, I hear
24 your point. I think it's, it's an important one. We
25 are concerned about food safety and we know that, ah,

2 leveraging New Yorkers' consumer power has been very,
3 very helpful in helping restaurants comply with the
4 health code. So it's an important point. That's
5 what we are interested in. We are interested in
6 compliance with the food safety rules and we want to
7 promote transparency to encourage that so what I'd
8 like to do is follow up and use those examples to
9 help us take a look at this.

10 CHAIRPERSON GJONAJ: Deputy, I, ah, thank
11 you for that response. I'm truly concerned that
12 we're jeopardizing, um, New Yorkers by exposing them
13 to restaurants that are not operating at a standard,
14 ah, that they are entitled to make a decision on.
15 Um, I'm going to mention some other things that
16 should be alarming to us and I'm glad that the
17 commissioner is here as well. We know that so many
18 people are allergic to shellfish. The word bistro
19 does not indicate that shellfish are on their menu,
20 but when you see a name specifically associated to
21 seafood and many New Yorkers, including my own
22 friends and family members, do not dine in
23 establishments where they know seafood is on the menu
24 because of the severe allergic reactions that they
25 could have. So in this case, I'm just using one as

2 an example of a Mikado Bistro that operates with six
3 other names, where four indicate specific seafood
4 use, should be more than a concern. And when we
5 think of perhaps allergic reactions to peanuts and
6 nuts that so many of us experience in our own
7 households with our family members we would not know
8 that, I'll use an example, like a Thai restaurant
9 that relies heavily on peanuts and nuts, could be
10 operating as another food establishment that would
11 give a consumer a level of comfort and not even think
12 of asking the question about peanuts and nuts
13 interacting with their food that they could have an
14 allergic reaction. I'm stressing the importance of
15 this as a health concern, Deputy Commissioner, and
16 I'm not looking to, and the commissioner is probably
17 concerned, now is looking at us as what are we
18 looking to do, close these establishments down?
19 Absolutely not. But we need to be much more
20 aggressive in determining the type of food for
21 transparency, the letter grades that inform our
22 customers, New Yorkers, give them the information
23 they need to better determine whether or not they
24 will patronize a establishment. And in this case the
25 establishment is a virtual establishment and there is

2 no letter grade that your agency can associate to
3 these restaurants. Commissioner, New Yorkers, New
4 York City relies on the tax base and the employment
5 base and the services that these establishments
6 provide. They are vital to our economy. They are
7 vital to our city. I want to work with you,
8 alongside of the Department of Health, to ensure that
9 they continue to thrive and provide the services that
10 are so desperately relied on, but not at the health
11 risk. Not at a level where we're not transparent as
12 to who's the operator, at what level of, ah, standard
13 are they operating at. The current models that exist
14 now could undermine the very existence of the
15 traditional brick-and-mortar restaurant. We see our
16 commercial corridors, the vacancy rates, which are
17 concerning to us, and when commercial vacancies occur
18 on some of our main thoroughfares they also bring
19 less foot traffic to those areas, which is then a
20 downward spiral on the other small businesses. We
21 should be proactive, not reactive. I encourage you
22 both to start looking at this before there's a
23 problem. Not stop it from, not stop change and
24 evolution and technology, but help shape it where it
25 is a partnership that other small businesses benefit

2 from and New York benefits from while being
3 transparent and putting the interest, the health
4 concerns, first. The little we understand and know,
5 and that's why these hearings are so important,
6 traditionally if there was an example of a mouse
7 dropping in a location it would impact that
8 establishment. In a shared kitchen facility with a
9 common corridor who would get that violation, where a
10 number of restaurants [inaudible] closed doors
11 operator independently but yet the storage facility
12 which they use jointly has mouse droppings, or the
13 corridor that connects to their refrigeration,
14 shared, and dry storage areas, which are shared. In
15 this case according to the rules and how they're
16 implemented who would get that violation?

17 DEPUTY COMMISSIONER SCHIFF: In the
18 situation that you just describe it is the owner of
19 the overall facility who also has a permit who is
20 responsible for the common areas and the facilities
21 issues.

22 CHAIRPERSON GJONAJ: I'm sorry, please
23 elaborate once more on that?

24 DEPUTY COMMISSIONER SCHIFF: In the
25 situation that you just described the, ah, the owner

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2 of the overall facility is responsible and has a
3 permit from us and is responsible for the common
4 spaces, and for example the facility issues that, and
5 pest control.

6 CHAIRPERSON GJONAJ: That would be quite
7 different than from the common space of a brick-and-
8 mortar single-occupied restaurant. If there were
9 mouse droppings in their waiting area that would
10 impact that food establishment, correct?

11 DEPUTY COMMISSIONER SCHIFF: So the owner
12 of a restaurant that is not shared, the owner is, the
13 owner who holds the permit is responsible for all
14 aspects of that restaurant. In a shared kitchen
15 there is dual responsibility. The owner of the
16 overall facility is responsible for those common
17 areas. The restaurant that is essentially renting a
18 space there is responsible for what happens in their
19 space, their food preparation, for example.

20 CHAIRPERSON GJONAJ: Does the common
21 operator get a letter grade?

22 DEPUTY COMMISSIONER SCHIFF: I'll have to
23 get back to you. There are letter grades for shared
24 kitchens, but let me get back to you about exactly
25 how those, how those grades work.

2 CHAIRPERSON GJONAJ: So an example like
3 Zuul, operating under a similar scenario, the Zuul
4 operator would have the license that you, the
5 umbrella, that would receive violations and they may
6 or may not get a letter grade.

7 DEPUTY COMMISSIONER SCHIFF: I don't know
8 this particular operator and it will depend on how
9 they have structured their, their business, so we can
10 take a look at any particular entity that runs one of
11 these delivery-only businesses and see how they have
12 structured themselves.

13 CHAIRPERSON GJONAJ: My understanding is
14 Zuul, and we're using them as example, does not get a
15 letter grade. So a violation that's issued to Zuul
16 that does not impact their letter grade and not
17 impacting the other shared kitchen operators is
18 misleading, at best, and not complying with the
19 intent of the letter grade system. Isn't this a
20 concern for us?

21 DEPUTY COMMISSIONER SCHIFF: It is
22 something that we're looking at to see how we might
23 be able, whether there's more we should be doing in
24 terms of transparency. So the, the kinds of things
25 that you're raising is something, some of the things

2 that we're thinking about it, and so it's very
3 helpful to hear, um, that this is a concern. We are
4 thinking about this and where else should letter
5 grades apply, and what would be useful to New
6 Yorkers, what information would be useful to New
7 Yorkers so that they can make these decisions, both
8 as a matter of expanding transparency and because we
9 know that New Yorkers making these decisions is what
10 is motivating restaurants, ah, is one of the things
11 that's motivating restaurants to maintain very high
12 food safety standards.

13 CHAIRPERSON GJONAJ: We have a lot of
14 work ahead of us. I'm gonna ask another question.
15 It can be directed to both of you, um, and I want to
16 elaborate, because there's the, the more I think
17 about this the more that comes to mind. So we have
18 religious concerns, whether it be halal food or
19 kosher food. Could you imagine what we're allowing
20 to occur, aside from the health concerns from peanuts
21 and shellfish and other known, um, foods that, ah,
22 have allergic reactions, it can impact a person's
23 well-being, could there be a scenario where a shared
24 kitchen is operating under the pretense of halal or
25 kosher, allowing to market their products to a

2 specific targeted audience and in their shared
3 kitchen facilities there could be a compromise to the
4 authenticity of that product. And I'll let either
5 one of you answer that question.

6 COMMISSIONER BISHOP: So, I mean, um, I
7 think what you're raising is, is the fact, and what
8 we are both saying is that, um, you know, ghost
9 kitchens, it's, it's a new phenomenon and we're
10 looking at, um, and we're working closely with the
11 industry to understand, you know, where the
12 challenges can be for the industry and where there
13 are opportunities. Um, you know, your, specifically
14 on the health side I think my colleague is saying
15 that, you know, there's things that we need to look
16 at, um, ah, and for us on, on the business side
17 because you have, um, and I have reinforced that
18 message, you know, our, the industry is important to
19 New York City. It's important to the fabric of
20 neighborhoods and we want to make sure that our
21 small, our mom and pop restaurants are not impacted
22 negatively from this, but more so that they may
23 actually see an opportunity, because there's a number
24 of, as you know, technology has disrupted a number of
25 industries and we want to always make sure that our

2 small businesses are prepared to pivot, ah, to grow
3 and take advantage of new income opportunities. Ah,
4 we have seen, ah, some restaurants actually expand
5 their delivery capacity by utilizing one of these
6 models. But to your point, ah, there are certain
7 challenges that we want to make sure that we don't
8 allow, um, whether it is cross-contamination or
9 anything like that, um, that we, we make sure that we
10 address that as well. It is relatively new, um,
11 we've heard concerns from the industry. We work
12 closely with the industry and we'll continue to
13 listen to the industry and make adjustments to the
14 way we operate based on what we hear.

15 CHAIRPERSON GJONAJ: And so while we have
16 a responsibility to make sure these businesses
17 continue to thrive and succeed, we also have a
18 responsibility to consumers and that's point I'm
19 making here.

20 COMMISSIONER BISHOP: Absolutely, and,
21 and, you know, the fact that we're having this
22 hearing I think it's timely because this industry is
23 nascent, so we want to make sure, to your point, um,
24 if this is a business model that could increase the
25 capacity of our small businesses to, to smart

2 restaurants actually grow and utilize the fact that
3 consumer behavior is changing, ah, we have talked
4 about this, where your kids, they no longer go to
5 restaurants, right? They order from the phone and
6 you keep on telling them to put down the phone. But
7 a lot of consumers are, are focused on the fact that,
8 you know, convenience, and I think, and you and I
9 have hammered this message a number of times,
10 sometimes convenience, ah, we have to educate New
11 Yorkers what that truly means, um, and when, ah,
12 you're looking to get delivery the day of, ah, what
13 you're doing is you're removing or you're actually
14 eliminating a sale from a neighborhood business, and
15 that business, ah, could, it could be [inaudible]
16 fabric of a neighborhood, um, and if you're not
17 buying from that business what you're saying is that
18 you're not gonna support that business or you're not
19 gonna support that neighborhood. So I think with
20 this, um, you know, with ghost kitchens we need to
21 make sure, ah, that not only do we prepare our small
22 restaurants to understand what this is and how they
23 can actually take advantage of that and, and leverage
24 the fact that people are using their phones to order
25 in to grow their capacity there, but we also want to

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2 make sure, to your point, that we do not, ah, create
3 an atmosphere where those same small businesses that
4 are the fabric of the neighborhoods are, ah, impacted
5 negatively from this.

6 CHAIRPERSON GJONAJ: Thank you,
7 Commissioner. The industry numbers are 35 billion,
8 expected to grow to 300, tenfold that, in the next 10
9 years. It's, ah, it's incumbent upon us to be
10 involved in this as we help shape...

11 COMMISSIONER BISHOP: Absolutely.

12 CHAIRPERSON GJONAJ: ...and navigate
13 these credible that we're faced without undermining
14 existing battles, ah, existing concerns and
15 rightfully so our restaurants are suffering day in
16 and day out, not only from competition, online
17 ordering, third-party food apps that are yielding a
18 net loss in many cases to these restaurants, charging
19 as high as 33% for delivery, and we know that these
20 establishments are not making that level of profit on
21 an order. It's our responsibility to be there to
22 make sure that this partnership is one we're both
23 benefit from. Where the data and what could have
24 been at one time a good working relationship and
25 partnership that both benefitted from can turn around

2 and undermine the very existence of that restaurant
3 just by simply using the data that was taken from the
4 establishment, their own client, and given to another
5 restaurant, or worse, be used to open up your own
6 kitchen selling the same products or menu as your
7 very client, giving competition an unfair advantage
8 to these virtual kitchens and shared kitchens and
9 third-party food delivery apps. I'm concerned. You
10 know the numbers yourself. Eighty percent of
11 restaurants never make to year five. And if we allow
12 a model which could undermine the very existent
13 business models we have to be involved, attentive,
14 and proactive. I'm gonna give, I'm gonna ask one
15 more question before I pass it over to my colleague,
16 Council Member Perkins, if he has any questions. But
17 are any of you concerned about the health effects for
18 an average New Yorker of eating out more at
19 restaurants and less often at home? We know that at
20 home typically you're buying fresher products,
21 cooking, ah, with less salt, ah, a balanced meal, um,
22 and many times in homes they feel like restaurants
23 'cause you're catering to, depending on your
24 children's eating desires, ah, the menu could be one
25 thing and you could operate like a typical

2 restaurant. But are you concerned about the
3 direction New Yorkers are going in where they're
4 eating less at home, they're spending less time
5 preparing their foods, and dining out, which has an
6 impact on our local grocery stores as well and
7 supermarkets, which is another business that is being
8 impacted, so I want to make sure that we see
9 overlapping rings here, um, across the board, ah,
10 which we know are struggling now to compete, whether
11 you be a small grocery store, bodega, or mid-size or
12 small supermarket, where they could barely compete
13 against big box supermarkets, these mega-supermarkets
14 that exist. Is that a concern for either one of you?

15 COMMISSIONER BISHOP: So I'll take the
16 last part of the question in terms of, um, the small
17 supermarkets, bodegas, ah, competing. It is a
18 concern and it is one of the reasons why we launched
19 Lovely Local, because we wanted to make sure that we,
20 ah, understand what are some of the interventions
21 that we need to help our small businesses adapt. Um,
22 and when I say adapt there are certain things that we
23 know that, you know, no matter how convient online is
24 you just, you just still need to go out, um, to the
25 store. And we want to make sure we understand what

2 that is, what are those products, and we want to make
3 sure that the businesses in our communities
4 understand how to actually pivot, ah, to make sure
5 that they still remain competitive. I will also say
6 that small businesses will always have a competitive
7 advantage because that owner knows who you are. That
8 owner knows the type of product that you want, um,
9 whether you want, whether you're coming in for a cup
10 of coffee, they know how you want your coffee, ah, or
11 whether it is you have a particular type of, um, you
12 know, product or food or whatever it is that you
13 like, they know you. And no matter how sophisticated
14 you get with technology and, you know, artificial
15 intelligence, there's something about that human
16 interaction that will always keep small businesses at
17 a competitive advantage. However, ah, there are
18 changes that's happening, um, and we know that with
19 online purchasing, the convenience of being able to
20 sit in my living room and order, you know, the week's
21 groceries and it gets delivered the next day, um, we
22 want to make sure that, you know, we help our small
23 businesses adapt to that. And in some cases it could
24 be moving particular products that you can't order
25 online because you need to actually touch and feel

2 and actually, ah, maybe even smell, moving those
3 products or maybe even adding those products to your
4 inventory mix, ah, or maybe understanding a little
5 bit better of what your inventory looks and
6 eliminating the products that sit longer. Ah, these
7 are sort of, and using technology to make sure, you
8 know, because a lot of folks when they move into
9 neighborhoods the first thing they do, they go online
10 and search. Ah, if you do not have online presence
11 as a small business, if you're not necessarily
12 accessible, ah, online then you're missing out on
13 that. So we have programs where it's either how to
14 have a better search engine optimization strategy,
15 ah, a lot of small business owners don't even know
16 what SEO means, and so we educate small business
17 owners on what that looks like, um, we help them
18 develop that, ah, how to develop an e-commerce
19 strategy, um, really how to incorporate technology
20 into your business, and certainly with Love Your
21 Local one of the things we saw was lack of
22 understanding of an inventory, and then the other
23 part was then figure out ways to, ah, change your
24 display in your business to make it more attractive
25 for the things that people need immediately. So we

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2 are concerned. We will continue to learn from our
3 learnings from Love Your Local and feedback that
4 we're getting right now and that will influence the
5 type of services that we will build out at SBS or the
6 different classes that we will have to help business
7 owners adapt.

8 CHAIRPERSON GJONAJ: Commissioner,

9 Deputy?

10 DEPUTY COMMISSIONER SCHIFF: So we know
11 that New Yorkers love to eat out and eat out a lot,
12 and it's one of the, you know, our vibrant and
13 varied, ah, restaurant industry is one of the core
14 things in New York that makes it a wonderful city.
15 So from the health department's perspective we see
16 this as the restaurant setting can be a place to
17 provide information to New Yorkers about health, and
18 so we've had initiatives over the years, um, to be
19 providing information about calories and sodium and
20 eliminating trans fats in chain restaurants. The
21 council in the last year has also enacted some new
22 laws, um, providing information to New Yorkers in the
23 restaurant setting, and so it is an important, um,
24 and it's an important setting for health messaging
25 given how often New Yorkers eat out.

2 CHAIRPERSON GJONAJ: I want to thank both
3 of you for being here today. We have our work ahead
4 of us. We outlined some of the work and I'm sure
5 much more will come to mind as we dig deeper into
6 this. Ah, Commissioner, from the Small, I am
7 grateful for your friendship and the work that you do
8 to protect our small businesses and understanding how
9 viable they are and we can't afford to lose any one
10 small business, let alone an entire industry that
11 could be threatened and currently is being threatened
12 by these third-party food apps and which has brought
13 us to the point where we are today, just the
14 continuation of that model that has led us to this
15 hearing. I'm fearful of the future for the
16 traditional mom and pop restaurant. The chains and
17 the franchises and the owners that have multiple
18 locations have the expertise and the infrastructure
19 in place to adopt. Our local eateries, our long-
20 standing eateries that have become household names in
21 our communities are not prepared for this. I'm not
22 sure how we're going to help them but these models
23 could threaten their very existence and with that
24 it's the loss of a business, loss of employees, and
25 loss of a tax base, and a concern that with these

2 vacancies there is no assurance that someone else
3 will come in. They will be faced with the same
4 challenges. So, yes, consumer behavior changes,
5 changes to big box store competition and the internet
6 has changed the world as we know it. You have to be
7 much more proactive and come up with creative ideas
8 so it's a fair system. Deputy Commissioner, we have
9 real concerns. I'm hopeful that today we shed light
10 on some of those concerns, the need for transparency
11 and putting the health and safety of our New Yorkers
12 first, especially when it comes to allergies and
13 grading systems which we have come to rely on to
14 determine whether or not we will patronize an
15 establishment. I want to thank you, and I don't know
16 if Council Member Perkins has any questions for
17 either one of you.

18 COUNCIL MEMBER PERKINS: [inaudible] of
19 what might be considered to be some sort of dangerous
20 perspective that, that's being brought to our
21 attention as to how the industry is managing its, ah,
22 performance for the customers that, ah, do you
23 understand where I'm coming from?

24 COMMISSIONER BISHOP: Yeah, so I...
25

2 COUNCIL MEMBER PERKINS: So for instance
3 do you share, ah, some of the concerns that have been
4 presented already just in this preliminary
5 conversation and can you respond to some of those
6 concerns, or how are those concerns have met you and
7 how you respond?

8 COMMISSIONER BISHOP: Yes, so I just, as I
9 indicated in my testimony we, um, at Small Business
10 Services we have, ah, an industry partnership with
11 the restaurant and the food and beverage industry.
12 So we have individuals from the industry who, um,
13 alert us to different concerns and challenges, um,
14 and our goal as government is not only to listen but
15 also to be responsive. Ah, so everything from the
16 work force and the lack of, um, skills in particular
17 areas that is well needed in the restaurant industry,
18 like line cooks, we were responsive to that. We
19 still continue, and it's a work in progress, to
20 address the regulatory environment and we talked
21 about this a number of times. Ah, so yes, so outside
22 of media reports, ah, we heard, um, concerns from the
23 industry about ghost kitchens, but we have yet, um,
24 in terms of getting data to measure the impact, we
25 don't have that yet. Ah, so that's why I said this

2 conversation is timely because we will be continuing
3 to talk to the industry, understand, you know, how
4 it's actually affecting especially our mom and pop
5 restaurants, um, and what we can do as a city to
6 respond to that. And as I said, and I think the
7 Council Member shares this, ah, we're not saying that
8 we don't want to see this, ah, flourish. We want to
9 make sure that we just, um, make sure that our small
10 restaurants have the ability to take advantage of
11 this, maybe to actually increase their sales. Ah,
12 but we also want to make sure that, um, it doesn't
13 decimate the industry that's already dealing with a
14 number of challenges.

15 COUNCIL MEMBER PERKINS: There's no
16 question that the decimation of the industry is not
17 on your agenda, or any of our agenda for that matter.
18 However, the dialogue that's taking place represents
19 a very great likelihood that the industry may be in
20 some kind of danger and that the customer, the folks
21 who are going to, ah, I guess support the industry in
22 terms of their, ah, the products that they provide
23 and the needs that the people might have [inaudible]
24 have those products. How do we, how do we assume
25 let's say, for instance, the worst case scenario as

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2 made to some extent have been expressed already, how
3 do we, how do we tackle that? How do we assure the
4 public that this is not as bad as it obviously being,
5 to some extent, portrayed?

6 COMMISSIONER BISHOP: So I think it's a
7 combination of education. Um, to your point, I think
8 consumers need to know, um, you know, the impact of
9 their, their choices, um, so, you know, ah, I have
10 continually reminded New Yorkers that, you know,
11 support your local small business, support your local
12 restaurant. Um, I think, you know...

13 COUNCIL MEMBER PERKINS: Well that's
14 already happening. The, obviously the consumers are
15 supporting these businesses that are still, still in
16 operation. The problem becomes, I think from the
17 conversation we're having, is that there is a measure
18 of, ah, concern about the quality of what the
19 consumer is engaging and the transparency to some
20 extent of how this industry is operating, and speak
21 on behalf of the consumer. Is that, does that
22 challenge, do you see that challenge and does it, and
23 has it?

24 DEPUTY COMMISSIONER SCHIFF: It sounds
25 like the concerns that you're referring to are with

2 safety, and we don't, we don't see anything, we don't
3 see that specific to these kinds of delivery-only
4 businesses, um, that we're talking about here. The
5 same requirements apply to them, the same inspection
6 happens. I think that we have highlighted some areas
7 where there's an interest in expanding transparency
8 and we're happy to look at that transparency, um, as
9 I've noted is a priority is for us and so we can look
10 at that. But in terms, I don't want New Yorkers to
11 feel like these not businesses that are, um,
12 regulated and inspected by the health department.
13 They are.

14 COUNCIL MEMBER PERKINS: But there seems
15 to be somewhat of a hue and cry about how much of
16 this is actually taking place. That's what's on,
17 that seems to be the nature to some skepticism, to
18 say the least, about how well the industry is being
19 managed.

20 DEPUTY COMMISSIONER SCHIFF: Well, I do
21 want to assure...

22 COUNCIL MEMBER PERKINS: [inaudible] is
23 performing...

24 DEPUTY COMMISSIONER SCHIFF: I want to...
25

2 COUNCIL MEMBER PERKINS: ...in terms of
3 the, the reaction of the consumers, I guess.

4 DEPUTY COMMISSIONER SCHIFF: So I do want
5 to assure New Yorkers if the concern is that these
6 are businesses that are outside our purview that is
7 not true. They are businesses that are, from our
8 point of view, these are food service establishments.
9 They are required to get our permit. They are
10 required to follow the same, ah, health code food
11 safety rules, and they are subject to the same
12 inspections. I can also, in case this might be
13 helpful, in preparation for this hearing I, I spoke
14 to the director of our, ah, of the unit that conducts
15 food-borne illness outbreak investigations and asked
16 her to take a look over the last few years to see if
17 she saw anything in her investigation history that
18 would suggest that we are seeing some new trend and,
19 and we're not. So from a food safety perspective,
20 um, these are, are the same kind of food service
21 establishments that we see. The delivery-only is, is
22 different. Perhaps some of the transparency issues
23 is an area we can work in so that New Yorkers can
24 have information that they want. But New Yorkers
25 shouldn't feel that these are out of our, out of our

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2 sight. We, we know about this. We are inspecting
3 them and they are subject to the very same important
4 food safety requirements.

5 COUNCIL MEMBER PERKINS: So, but how are
6 New Yorkers reaching out to let you know how they
7 feel about this, or how are you communicating?

8 DEPUTY COMMISSIONER SCHIFF: I mean, we
9 take, we take, ah, if New Yorkers want to, have a
10 complaint we take a complaint. We follow up on all
11 of the complaints through 311, and it doesn't matter
12 how they receive their food. Sit down at a fancy
13 restaurant, take-out, delivery, we take all of those
14 complaints. I don't think we have heard any
15 particular concerns from New Yorkers about this. I
16 think that the concerns may be coming to SBS as an
17 industry matter. But from the health department we
18 have not heard anything, ah, as far I know we have
19 not heard anything particular about this.

20 COUNCIL MEMBER PERKINS: [inaudible]
21 scenario that there is something that you haven't
22 heard that you would be alarmed about if you did hear
23 it, and how would you go about searching that out to
24 confirm one way or another what is actually the

25

2 reality that, that the consumers are experiencing.

3 That's, that's what my concern is.

4 DEPUTY COMMISSIONER SCHIFF: I see.

5 COUNCIL MEMBER PERKINS: You, you need to
6 make sure, let's assume it's all gossip. Let's
7 assume it's all [inaudible]. Let's assume the worst-
8 case scenario that it's, it's something that, ah,
9 that is, ah, perceived, if not in fact happening.
10 But sometimes perception to people is more important
11 than the fact. If they think the system is not
12 working on their behalf then they're gonna react as
13 if it's not working on their behalf. How do we
14 challenge that and overcome that perception? Let's
15 assume it's a misperception, or something like that.

16 DEPUTY COMMISSIONER SCHIFF: So I think
17 there's a couple ways to think about your question.
18 One is one of the things that I think was really
19 wonderful about restaurant grading...

20 COUNCIL MEMBER PERKINS: All right,
21 that's fine.

22 DEPUTY COMMISSIONER SCHIFF: ...was that
23 it not only, ah, showed New Yorkers where restaurants
24 were not practicing, um, optimal food safety, ah,
25 requirements, were not meeting them at a, at a high

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2 level. It also showed New Yorkers places that you
3 might think were not practicing high food safety
4 standards but actually they got an A. So one of the
5 ways that we counter some of those perceptions is
6 through restaurant gradings, which is why I think
7 your points about transparency are very important.

8 COUNCIL MEMBER PERKINS: In conclusion
9 for me, so you might be saying that it's a, it's a,
10 you have a PR problem, public relations in a sense of
11 what the community is perceiving to be the reality
12 versus what, the negative reality as opposed to
13 something much more positive. And so therefore I, I
14 think, you have to help folks understand that
15 everything is OK.

16 DEPUTY COMMISSIONER SCHIFF: Well, that's
17 right, and that was, and I think that was one of the
18 really powerful things about restaurant grading. We
19 think of it as it let New Yorkers find out who was
20 not practicing good food safety standards, the
21 restaurants that got a C. But one of the other great
22 things that restaurant grading did is it let New
23 Yorkers see that a place that they might have been
24 worried about, actually we went in there, we're the
25 eyes in the kitchen for New Yorkers, and what we saw

2 was good food safety practices, and I think that
3 that's a way that it, it has been helpful to
4 restaurants. In the end we have more than 90, about
5 93% of restaurants now have an A in the window, um,
6 and so I think that that addresses some of your, some
7 of the kinds of things that you're describing. But
8 also if it's not about perception, if it's about a
9 real issue, um, that New Yorkers have experienced we,
10 as I said, we take complaints, we follow up on all of
11 those complaints, that's our routine food safety
12 inspection program. We have another program that,
13 ah, addresses food-borne illness outbreaks. We are
14 taking in reports of, ah, of food-borne, of potential
15 food-borne illness. We have a surveillance team that
16 is monitoring those, looking for patterns in space
17 and time, and we have a really robust follow-up to
18 that, which includes both following the people who
19 have complained to try to understand what has
20 happened with those cases, and also in examination
21 and environmental investigation at those restaurants.
22 So both in letting New Yorkers know what we are
23 seeing during our routine inspections, following up
24 on complaints, and also doing these investigations

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2 for the unusual, ah, situations where we do have
3 food-borne illness.

4 COUNCIL MEMBER PERKINS: Just one final
5 question. In following up on complaints, how does
6 that follow-up, ah, touch the consumer?

7 DEPUTY COMMISSIONER SCHIFF: Um, well,
8 they...

9 COUNCIL MEMBER PERKINS: How does the
10 consumer become aware of the follow-up and the value
11 of the follow-up, the changes that have been made,
12 and what is the...

13 DEPUTY COMMISSIONER SCHIFF: So the
14 particular complainant that will come in through 311
15 and they get a service request number, and all of
16 that information is available to the consumer to find
17 out how, ah, what our activity was.

18 COUNCIL MEMBER PERKINS: Are there sort
19 of like consumer reports that sort of spell out some
20 of the challenges and how they've been overcome?

21 DEPUTY COMMISSIONER SCHIFF: So the, in
22 their, if a consumer who calls 311 and, and wants to
23 follow up on their service request number can do
24 that, and also on our ABC Eats, um, ah, website we
25 report our, the inspection history for the last three

2 years. So New Yorkers who are very interested and
3 want to look into the history of their, of their
4 favorite spot, um, can do that. Not only what grade
5 do they have in the window right now, but they can
6 look and see what has been the pattern of practice
7 for those restaurants. We make all of that
8 available.

9 COUNCIL MEMBER PERKINS: So if it's
10 possible whatever reports towards, in that regard
11 that you might have or that you may do I would
12 appreciate if my office could have a copy of such
13 reports.

14 DEPUTY COMMISSIONER SCHIFF: Well, we can
15 certainly send you the link to the website so you can
16 look at that.

17 CHAIRPERSON GJONAJ: Thank you, Council
18 Member. I want to thank you both, Commissioner and
19 Deputy Commissioner, for being here.

20 COMMISSIONER BISHOP: Thank you.

21 CHAIRPERSON GJONAJ: I'm looking forward
22 to our follow-up conversations. Um, we're gonna call
23 up a panel and there was a request made, um, because
24 of time issues. We have Jim Collins, Sean
25 Fitzgibbons, and Corey Manicone. Commissioner, ah,

2 before you leave, I'm sure you're leaving staff here
3 for the remainder of the hearing. Gentlemen, if it's
4 OK, we'll begin with you, Jim, and move in this type
5 order.

6 JIM COLLINS: [inaudible]

7 CHAIRPERSON GJONAJ: Mr. Collins, if you
8 could just recap quickly, because there's people in
9 the audience that may not have been privy to this as
10 of yet.

11 JIM COLLINS: Sure, thank you. Thank
12 you. Ah, I'm the CEO of Kitchen United. Kitchen
13 United is an operator of, ah, what we call kitchen
14 centers in what, in the City of New York is coming to
15 be called dark or ghost kitchens. We are, we have
16 plans to deploy facilities in the New York City area.
17 We don't know how many yet. It will depend on the
18 market. Um, our operating method is to, um, use, ah,
19 distressed retail space, um, in a 7000 to 10,000
20 square feet range and use, and, ah, we work with, ah,
21 a combination of national and local restaurants.
22 Usually about 30% to 40% of our space is filled with
23 larger chains and then 60% to 70% is filled with, ah,
24 local restaurants.

2 CHAIRPERSON GJONAJ: Mr. Collins, you
3 just indicated that you work primarily with chains
4 and larger established restaurants or eateries,
5 correct? That's your preference of?

6 JIM COLLINS: So the, um, the first third
7 of our space, ah, we reserve for the larger, um,
8 restaurant chains. But we reserve two-thirds of the
9 space for local restaurants. We honestly find, ah,
10 local restaurants have better success energizing
11 consumers in the local neighborhoods than the
12 national chains do.

13 CHAIRPERSON GJONAJ: OK. I'm gonna ask a
14 few question across the board afterwards, OK, Jim?

15 JIM COLLINS: Sure.

16 CHAIRPERSON GJONAJ: Sir, if you can
17 introduce yourself.

18 COREY MANICONE: Yeah, so, ah, founder
19 and CEO of, of Zuul Kitchens, Corey Manicone.

20 CHAIRPERSON GJONAJ: You have an opening
21 statement for us?

22 COREY MANICONE: I, yeah, absolutely.
23 Um, so, again, my name is Corey Manicone. I'm the
24 founder and CEO of Zuul Kitchens. Joining me today
25 is also my co-founder, Sean Fitzgibbons, ah, and also

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2 chief business development officer. Um, I'd like to
3 start off by saying thank you to Council Member Mark
4 Gjonaj.

5 CHAIRPERSON GJONAJ: Gjonaj. And I just
6 wanted to, you don't have to read that whole
7 statement, if you could just sum it up for us. It's
8 quite lengthy and we're a little pressed for time and
9 I apologize.

10 COREY MANICONE: Absolutely, so, again,
11 we are the cofounders of Zuul Kitchens here in New
12 York City, um, very similar to, to ah, Jim and
13 Kitchen United. Ah, we operate facilities that allow
14 brands to come in and operate in a delivery-only
15 capacity. Ah, very fortunate to open up New York
16 City's first ghost kitchen facility last September.
17 Ah, it is a 5000 square feet facility, actually just
18 located outside of Soho. Ah, it's, it's equipped
19 with nine individual four-walled kitchens where we
20 have six brands occupying said kitchens, um, the
21 majority of them being local shops here in New York
22 City, such as Sarge's Deli, Murray Hill, ah, Deli
23 Institution, 55 years, um, to Stonebridge Pizza,
24 who's a, a one-stop shop in midtown as well.

25

2 SEAN FITZGIBBONS: I also would like to
3 thank the committee. As Corey referenced, my name is
4 Sean Fitzgibbons. I'm cofounder and chief business
5 development officer with Zuul as well.

6 CHAIRPERSON GJONAJ: I want to thank you
7 gentlemen for being here. So help us understand.
8 Are you a threat to our local mom and pop
9 restaurants, or should you be embraced as a partner
10 that's going to help them continue to flourish and
11 grow and, ah, benefit from, um, the low cost-
12 efficient manner which you operate in, and while
13 benefitting consumers, New Yorkers?

14 COREY MANCIONE: Yeah, absolutely. I, you
15 know, candidly I think this is an incredibly archaic
16 and challenging industry. Um, my father actually
17 owned an Ihop while I was growing up out in Colorado.
18 Um, massive success, which lead to opening up a bar
19 and grill, um, which is where I really began to see
20 just how challenging this industry can, can present
21 itself. Ah, and without going into too much detail,
22 so my parents go through incredible hardship and
23 unfortunately lose both restaurants. Ah, and I think
24 there's an immense opportunity for folks such as
25 ourselves, um, to truly partner and, and be the

2 operational partner for brands that, ah, really is,
3 is a necessity in the market today. I think there's
4 a lot of quote unquote disruption happening in the
5 restaurant industry, but it's unfortunately on the
6 backs of the operators. Um, so it's incredibly
7 important for, for us at Zuul, ah, is, is to position
8 ourselves as a true partner at the, the tide is
9 rising and, and we, you know, help these brands kind
10 of ride the wave, if you will.

11 JIM COLLINS: Yeah, I guess the way I'd,
12 I'd approach the question is I, I would say, you
13 know, one person's threat is often another person's
14 opportunity and, um, the extent to which a small
15 business, a restaurant, um, understands the changing
16 landscape and, and is able to understand how to adapt
17 their business to it and approach it, um, I, I really
18 strongly believe we present an, an interesting new
19 opportunity for them to grow, ah, in, in a fashion
20 that requires, ah, dramatically less capital, ah,
21 dramatically less financial risk, um, than, you know,
22 anything that's really been presented to them before.
23 So, um, change frightens people and, and I commend
24 the Councilman and the committee for the time you've
25 obviously spent in understanding the industry. This

2 is the first, ah, session like this that I know of
3 anywhere in the country. I believe that these should
4 be happening all over the place and that might come
5 as a surprise to you given that I'm an operator of
6 one of these ghostly dark, you know, spaces, um, but
7 we really truly hope that, um, one of our tenants at
8 Kitchen United is, ah, that we're really committed to
9 the success of our restaurant partners and to
10 educating the restaurant community with regard to the
11 challenges and opportunities created by the industry
12 we're working hard to create.

13 CHAIRPERSON GJONAJ: I want to thank you,
14 Mr. Collins. It should be no surprise to you that
15 New York leads the way for the rest of the country in
16 many instances, and this should be, this is just one
17 example.

18 JIM COLLINS: It is not a surprise.

19 CHAIRPERSON GJONAJ: All right, thank you
20 for that. So obviously you are, your models also
21 rely on profit, otherwise you're not Mother Teresa,
22 right? You're not here to help these eateries
23 establish themselves. Explain to me about the
24 percentages. Are you flat fee-based? Are you flat
25 fee plus percentage-based? Explain to us the model

2 as it currently works with both of your
3 establishments and they may be the same practices,
4 and I'll let either one go first.

5 JIM COLLINS: I guess I'm gonna, I'll
6 show you mine first. [laughter]

7 CHAIRPERSON GJONAJ: Keeping company
8 secrets. [laughter]

9 JIM COLLINS: Ah, the, ah, Kitchen United
10 business model is effectively a membership model. So
11 our restaurants pay a membership fee to be in our
12 facility. It's structured very similar to a lease.
13 Um, in addition to that, if they choose to opt in to
14 Kitchen United's, um, own order management system,
15 which is another order channel that we make available
16 to our restaurant partners, then the orders that they
17 take through that restaurant channel they'll pay
18 Kitchen United a 15% fee for those orders.

19 CHAIRPERSON GJONAJ: Thank you.

20 SEAN FITZGIBBONS: Yeah, so what we've
21 been able to execute on to date, ah, is, is generally
22 a flat membership fee, similar to what Jim had, had
23 referenced. Um, at the early onset here what we're
24 also exploring is an element of a revenue-share
25 structure with the restaurant brand as well. Um,

2 what we're sharing on the upside, or the top-line
3 revenue we proactively are driving for the restaurant
4 operator to ensure their business is a succeed. Ah,
5 I think what's important to, to highlight as well is
6 we're partnering with these restaurant brands, um,
7 and went to market with a flat membership fee. What
8 we also realized was that we wanted to make sure that
9 that, the economics of the model, and the unit
10 economics as it specifically pertained to the
11 restaurant brand, um, would ensure their success. So
12 one of the variables that we incorporated as a best
13 practice was financial modeling with the restaurant
14 operators, understanding, ah, as I referenced, their
15 own unit economics, what their average check size
16 were, what some of their [inaudible] metrics goals
17 are, what their labor model looks like, what their
18 cost of goods are. And we factor those variables in
19 to then, um, as a take-away, really ensure that the
20 type of ecosystem that we're creating and the
21 economic structure guarantees the brands will be
22 profitable and successful in our establishment.

23 CHAIRPERSON GJONAJ: So basically you're
24 operating similar to a landlord-tenant relationship,
25 but then you also have the shared, or not even

2 shared, profit, you have a percentage fee based on
3 the sales that, that independent operator or could be
4 co-owned, I'm gathering, um, works under your
5 umbrella. How is that profitable when we understand
6 that the average profit on an order is anywhere
7 between 6% and 11%, and if they're paying fees as
8 high as 15%, I believe that's your number, Mr.
9 Collins? What is the number for Zuul?

10 UNIDENTIFIED: It's right around 15 as
11 well.

12 CHAIRPERSON GJONAJ: 15 as well. That
13 would actually mean a net loss on every transaction.
14 Am I wrong here, or my math doesn't add up? Is one
15 and one equalling two?

16 JIM COLLINS: So the 6% to 8% percent
17 member is a, is a, first of all, I would say that a 6
18 to 8 member, just being candid, um, would indicate a
19 restaurant that isn't doing a good job of managing
20 its costs. You're, um, if you're an average
21 restaurant in the United States your profit margin on
22 a per-plate basis is about, is actually around 10%.
23 That still leaves you upside down on the math you're
24 doing. So there's not a lot of point in me saying

2 other than just, you know, the, the probably right,
3 the accepted number would be 10. Um...

4 CHAIRPERSON GJONAJ: And by the way, the
5 operating costs in New York City are a little bit
6 different than the rest of the country...

7 JIM COLLINS: Yeah, that's true.

8 CHAIRPERSON GJONAJ: ...from real estate
9 taxes, water and sewer, and minimum wage and
10 regulations and the fines and the licensing. It's a
11 different environment.

12 JIM COLLINS: Yeah, so my minimum wage in
13 Los Angeles is \$15 an hour, and I don't get a tip
14 credit for my servers. I'm, I'm the, I'm acutely
15 aware of the, um, of the profit challenge created by,
16 um, just the changing climate in the, in the world
17 we're living in. I think the, we knew that. When we
18 started KU we knew that, Kitchen United, we knew
19 that, ah, one of the challenges our restaurants would
20 face would be profitability because of the
21 commissions charged for orders. And so we wanted to
22 make sure that restaurants could operate profitably
23 and to do that provide a shared labor model, um, that
24 takes on, takes on all, basically a lot of the non-
25 food producing aspects of running the facility, so

2 that the restaurants can literally operate in our
3 facility with just their trained cooks, um, operating
4 in their kitchens. And that allows them actually to
5 operate in these facilities in spite of the charges
6 that they pay typically at a higher margin than they
7 would operate in their own four-wall space. And so,
8 um, it's one of the things actually we're proud of
9 is, you know, we're watching those metrics, working
10 with our clients, that so far, ah, our restaurant
11 clients are actually doing well on the profit side.

12 CHAIRPERSON GJONAJ: Mr. Collins, I
13 believe you also indicated that some of your clients
14 have traditional brick-and-mortar establishments with
15 existing...

16 JIM COLLINS: Yep, all, of them do.

17 CHAIRPERSON GJONAJ: They all do?

18 JIM COLLINS: So they're already paying
19 rent. They already have a kitchen. They already
20 have staff. They already have all the overhead and
21 soft costs associated with operating a business.

22 JIM COLLINS: Yep.

23 CHAIRPERSON GJONAJ: Why would it be
24 profitable for them to have a shared kitchen and pay
25 additional staff, um, rent, build-out costs, whatever

2 the minimum that dollar amount is, according to what
3 you just said, plus 15%. Why just not do it where
4 they are now?

5 JIM COLLINS: In a lot of cases, ah, the,
6 if we're working with a restaurant that's local, we,
7 we actually have restaurants that operate in a couple
8 of our spaces where they have, um, a local store
9 that's within just a few blocks of our space. Um,
10 the reason that they open with us is because what
11 they find is that during their busy hours, um, you
12 know, if you think about it, just from a, from a
13 common-sense perspective, people eat when people eat.
14 You know, during the lunch hour, during the dinner
15 hour, these are busy hours for restaurants, and so
16 their brick-and-mortar establishments are, are,
17 basically they were designed to serve what they felt
18 their need would be during those busy hours. What's
19 happening is in addition to all the people coming
20 into the restaurant during the busy hour they also
21 have significant delivery demand during that hour,
22 ah, off-premise demand, pickup or delivery demand
23 during that hour, and in that case, ah, what they're
24 doing is opening in Kitchen United facility so that,
25 ah, they can effectively offload the pressure from

2 that off-premise business into a nearby facility
3 rather than having all that impact their, ah, retail
4 space.

5 CHAIRPERSON GJONAJ: I understand what
6 you're saying but there's obviously a second rent, a
7 second or staff members that need to occupy, um, and
8 I'm, again, I'm not a conspiracy theory individual,
9 but I'm just wondering could this be a, um, a way for
10 some of these restaurants as they build up their
11 pickup only, delivery, um, orders to eventually close
12 up their brick-and-mortar? And I share this only as
13 I think more about the banking industry as an exit
14 strategy, something that scares me and keeps me up at
15 night when I reflect on vacancies and, ah, our
16 commercial corridors. Our traditional brick-and-
17 mortar banks are on every corner in New York City.
18 We're grateful to them for their real estate taxes
19 that they contribute to our base. And the employment
20 that they create. But as more, less and less people
21 use banks and we go to the point where I've seen now
22 that banks are selling their existing properties and
23 renting them back as tenants. Now in my world that's
24 an exit strategy. I come from small business. If I
25 own a property why would I sell the property I'm

2 currently occupying and then lease it back at a rent?

3 I envision that some day with the consumer behavior

4 changes we won't need the traditional brick-and-

5 mortar banks no longer. We'll operate out of kiosks,

6 which means no need for bank tellers. I'm not sure

7 the last time I walked into a bank was and I'm sure

8 many people in this room would agree with me. Could

9 this be going in that direction, whereas a restaurant

10 is establishing its online presence, ah, stepping

11 away from the more traditional eat-in dining,

12 creating an environment to where it establishes a

13 business model where it can close its brick-and-

14 mortar, operate on a back street somewhere, pay less

15 in retail rent and be able to profit? Is this a

16 concern that we should be looking at?

17 JIM COLLINS: It's an excellent question,
18 and I think it's also a sort of function of
19 [inaudible]. The...

20 CHAIRPERSON GJONAJ: I do too.

21 JIM COLLINS: You know, does the business
22 rise to change consumer, does the rise in a business
23 model change consumer preference or does changing
24 consumer preference change the business model? Um, I
25 think what's happening in our world is that, and

2 people who are, um, you know, more and more double-
3 income families across the country, people are
4 choosing not to cook. They're getting home later at
5 night and for whatever reason cooking isn't a hobby.
6 They just have decided not to cook. And for that
7 reason they're getting food delivered. I always,
8 when I speak at conferences I have to point, one of
9 the points I, I make is the numbers right now seem to
10 be suggesting to us that, ah, people are still going
11 out to eat. They're just choosing not to cook at
12 home. As you said in your opening remarks, ah, and
13 in the earlier conversation one of kinds of
14 businesses that's being impacted by this shift is the
15 grocery business because the, you know, consumers are
16 not cooking at home. So they're not buying
17 ingredients and grocery stores are adapting to figure
18 that out. Interestingly, ah, the kinds of
19 restaurants that we're working with that are located
20 near us, um, you know, I don't think that they would
21 ever consider closing the kinds of businesses that
22 they have that are near us because it's, it's success
23 that's driving the need to expand, not decline. And
24 so, um, these businesses are, you know, wildly
25 successful businesses that just need, um, in a

2 financially reasonable way to expand, um, to be able
3 to meet this new consumer need. Whether at some
4 point that drives a more nascent change in, ah, or a
5 more fundamental change in the restaurant landscape
6 will depend on what the consumer chooses that they
7 want to do over time.

8 CHAIRPERSON GJONAJ: But, Jim, the basic
9 principles of business is great and expanding, what
10 we do is we expand this way or this way. We occupy
11 more square footage, um, where we share facilities,
12 ah, share common charges. What you've just described
13 is where there are now sharing or expanding at a
14 complete different facility where there is more
15 overhead for them versus expanding their existing
16 establishment. I'm still having a difficult time
17 understanding how this works. Now, unless you tell
18 me that they could not expand because the, there's no
19 vacancies, ah, that allow them to expand their
20 business and they're forced to move to a different
21 location to offset some of the services that, ah,
22 that they need to meet the, the consumer demand. I'm
23 still not understanding how it could be profitable
24 when you have a kitchen in place already to have a
25 second kitchen, I just don't understand that that

2 other kitchen has to be not only, the infrastructure,
3 the investment for capital to begin with, where you
4 have a sink here, having two sinks at two different
5 locations, there's a cost factor. So to use that
6 sink there's manual labor that is going to increase.
7 And on top of that pay rent and a percentage of every
8 sale, which I think we're getting closer and closer
9 to understanding, is a net loss at those percentages,
10 and one of the reports, and you heard in my opening
11 statement, for a food order establishment solely
12 online you have to do about a million dollars in
13 transactions to be, to break even. That was the
14 number that, um, I read out earlier. What is the
15 profit level for an average client of yours? What is
16 the break point for them, considering all these
17 factors?

18 JIM COLLINS: Ah, uncomfortably, I'm
19 running out of time.

20 CHAIRPERSON GJONAJ: Yep, I know.

21 JIM COLLINS: I'll try to answer this
22 question. I'm really sorry, um, and, and my, my, ah,
23 colleagues are fully expert and I feel a little like
24 I've monopolized the conversation. Um, I would tell
25 you that, ah, when we're working with restaurants

2 looking to operate at Kitchen United facilities the
3 number that we talk about with them is a minimum of
4 somewhere between, um, \$325,000 and \$450,000 to
5 operate in our space in top-line revenue. Um, and we
6 are, I'm very careful of the restaurants that we
7 actually operate in our space because, ah, we want to
8 make sure that the restaurants that are operating in
9 our space are profitable and successful. Um, a
10 restaurant's operating margin in a Kitchen United,
11 ah, facility today averages somewhere between 15% and
12 25%. What they're seeing is that their profit margin
13 is actually significantly higher than, than the
14 profit margin that they're achieving in their regular
15 brick-and-mortar store and they attribute this to
16 much more efficient use of staff, um, in these
17 facilities both because of the dynamics of delivery
18 order versus retail pickup, and because the, ah, they
19 don't have to staff the facilities with sort of
20 management and support positions. Ah, those, ah,
21 functions are provided separately. So the
22 restaurants, um, operating in these spaces are
23 actually able to, ah, derive, ah, margin gain by
24 operating in this space. I understand, I'm so, ah,
25 ah, acutely aware, um, because of my position and,

2 and what I do of the confusion in the market with
3 regard to all of the, you know, it's a lot of change
4 happening all at once, right? And sort of different
5 topics. There's virtual restaurants...

6 CHAIRPERSON GJONAJ: And different
7 models.

8 JIM COLLINS: Exactly. Models, there's
9 even different models for ghost kitchens. There's
10 all of that sort of thing. Um, I think that, um,
11 conversation like this is, is extraordinary and
12 extraordinarily beneficial. And I would like to make
13 myself available to you, the other members of the
14 council, and at your request, whatever time is
15 necessary, um, in order to be a resource for you.
16 Um, and also trust and respect, um, the other
17 gentlemen sitting at the table with me.

18 CHAIRPERSON GJONAJ: I want to thank the
19 gentlemen for your indulgence. I know that you had a
20 loss in your family. My condolences to you on the
21 loss and for making it a point to be here and that
22 you're flying out. With that, I just want to bring
23 up three quick things that you don't have to answer
24 here that we'll follow up on. Data.

25 JIM COLLINS: Yep.

2 CHAIRPERSON GJONAJ: Um, do any of your
3 establishments sell liquor?

4 JIM COLLINS: No.

5 CHAIRPERSON GJONAJ: No alcohol? Third -
6 what prevents you from raising the rate from your 15%
7 to 25 after a business has been established, um, has
8 proven profitable, what prevents you from becoming a
9 Trojan horse and taking over that existing model,
10 that you may have helped build by providing this
11 growth opportunity, but you also have on one hand the
12 opportunity to throw him out or raise the rate and be
13 able to take over his existing model under your own
14 ownership.

15 JIM COLLINS: Yeah, I'm happy to, happy
16 to those conversations with you, the, um, you know, I
17 think what I would say on the, on the number three
18 question is um, the consumer speaks loudly and
19 clearly. The, as, as we move forward, as we figure
20 out how the business works there's no question in my
21 mind that, um, one of the big differences that we see
22 between the international making and the US market is
23 the prevalence even of local brands and the power of
24 those local brands in meeting, um, the consumer. And
25 consumers tend to look darkly on companies that

2 impede access to their favorites and they look even
3 more darkly on, um, companies that damage their
4 favorites. And so I think what you find is that, um,
5 it's in our best interest to work with those brands,
6 help them flourish, make sure those brands are saying
7 great things about is in the market. Because if that
8 works then we have a really great symbiosis. Thank
9 you again for the time.

10 CHAIRPERSON GJONAJ: I just want to
11 answer that.

12 JIM COLLINS: Yeah.

13 CHAIRPERSON GJONAJ: While making a
14 profit, right?

15 JIM COLLINS: Oh yeah, oh yeah.

16 CHAIRPERSON GJONAJ: And you...

17 JIM COLLINS: If they don't make a profit
18 they move out, so.

19 CHAIRPERSON GJONAJ: No, and your model
20 as well.

21 JIM COLLINS: That's right.

22 CHAIRPERSON GJONAJ: Are you making a
23 profit currently?

24 JIM COLLINS: [inaudible].

25 CHAIRPERSON GJONAJ: OK, great.

2 JIM COLLINS: We'd better.

3 CHAIRPERSON GJONAJ: Thank you. Zuul,
4 I'm gonna ask that you remain, ah, safe travels to
5 you, Mr. Collins, and again my condolences on your
6 loss. I want to thank you gentlemen for indulging
7 me, understanding the circumstances, allowing Mr.
8 Collins. You heard some of the questions.

9 UNIDENTIFIED: Yeah.

10 CHAIRPERSON GJONAJ: And maybe you can
11 help me understand...

12 UNIDENTIFIED: Yeah.

13 CHAIRPERSON GJONAJ: ...better, and all
14 the stakeholders, as to how this industry operates,
15 not only from the data concerns, but I do want to ask
16 you before we get, do you offer liquor sales,
17 alcoholic beverages, as part of your platform?

18 UNIDENTIFIED: No.

19 CHAIRPERSON GJONAJ: No interactions
20 whatsoever?

21 UNIDENTIFIED: Correct.

22 CHAIRPERSON GJONAJ: So this is, and they
23 can order a pizza from you as well as a six-pack of
24 beer? Not happening?

25 UNIDENTIFIED: [inaudible]

2 CHAIRPERSON GJONAJ: [inaudible] good.

3 Um, the data that you obtain through the
4 transactions, is that co-owned? Are you allowed to,
5 does your business model, um, keep that confidential?
6 Are you allowed under your agreement to sell that
7 data or use it for any other purpose that benefits
8 you?

9 COREY MANICONE: Yeah, great question.
10 So as it stands today, um, we're actually not
11 capturing any of the data from the brands on an order
12 basis. Again, we wanted to take a separate back. We
13 weren't trying to reinvent the wheel completely. We
14 wanted to de-risk the opportunity for these folks to,
15 to expand their, their delivery or their digital
16 business. Um, you know, that said, they still manage
17 the relationships with all of the third parties. Um,
18 however, we did actually just acquire a small company
19 out of Philadelphia that's gonna help us drive
20 demands for our brands to the 15% that we were
21 speaking to earlier. Ah, and we have full intention
22 of, ah, of supplying and, and being incredibly
23 transparent around that data.

24 CHAIRPERSON GJONAJ: So you don't see the
25 transactions at all? The person making the order,

2 the credit card, you're not involved in any of that
3 at all?

4 COREY MANICONE: We just help them take
5 the finished product from their kitchen up to the
6 front and hand it off to the courier.

7 CHAIRPERSON GJONAJ: You don't help
8 marketing, you don't come up with, um, options and
9 discussions to further enhance their profitability or
10 market, ah, of specific items?

11 COREY MANICONE: Yeah.

12 SEAN FITZGIBBONS: Yeah, no, absolutely
13 we do. We, we think about that all time, right? And
14 I know Jim, um, was able to provide some insight on
15 their approach and, and one of the things that I
16 think it's important to address here is that Corey
17 and I are fortunate on a daily basis to talk to small
18 business operators regionally here in New York City.
19 And one of the thing that is very evident in terms of
20 why they're electing to partner with Zuul is based on
21 the fact that there are a multitude of challenges
22 that they're dealing with on a daily basis in this
23 industry. I think we're all well aware of that. Um,
24 and part of our objective then is to listen to the
25 restaurant operator and understand how we can build a

2 solution set to support those variety of challenges.

3 So, um, as we were referencing earlier about, um, the

4 use case for the business model I'll, I'll bring to,

5 to light a actual single-unit operator that Corey

6 mentioned earlier, Sarge's Deli, 55-year operator in

7 Murray Hill, and what's happened to them over the

8 last couple of years due to consumer habits is 40% to

9 50% of their overarching business has been driven by

10 off-premise dining. Consumers prefer the catering or

11 delivery aspect of that business. Now, if you were

12 to look at the logistics of operating in the city,

13 one of the things that Sarge's is doing, or unable to

14 do, I should say, from Murray Hill is actually

15 deliver effectively from a logistic standpoint south

16 of 14th Street. So part of their strategy of not

17 only growing their business and allowing consumers

18 the autonomy to access their product in new markets

19 was partnering with Zuul. And the, the reason that

20 that was an appealing endeavor for Sarge's Deli was

21 the nominal [inaudible] associated with expanding

22 into new market share and it was part of the

23 marketing initiatives and overarching strategy that

24 we developed to ensure they were successful. Are we

25 going to curate their menu differently based off of

2 what travels better, based off of what are top-
3 selling items, that they're giving us insight from
4 their own data that we can take into consideration as
5 we're designing how their operation is going to work.
6 Or understanding what the hours of operation should
7 be, knowing that we're supporting predominantly
8 business in the financial district, which has a high
9 peak of lunch hours, um, and orders throughout the
10 course of the day. Or figuring out other creative
11 ways to drive demand for them from marketing
12 campaigns to ensure that their catering business is
13 increasing, um, guaranteeing their success in the
14 space as well. So all of those variables, in the
15 spirit partnership and ensuring they're successful,
16 are taken into consideration by both us and the
17 restaurant operator when we're looking to work
18 together.

19 CHAIRPERSON GJONAJ: Now is it that on a
20 case by case basis, or do you also use some of the
21 data from the other customer, clients that you may
22 have? For example, if one of them is selling garlic
23 knots and the other one is not and he's a pizzeria,
24 or selling pizza, do you encourage them to start
25 adding garlic knots to their menu, ah, that the

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2 profit level is much greater there, rate of return,
3 and you already have the existing dough. We know it
4 works 'cause next door to you, you have the model
5 here, that we've seen the markup and how it works.
6 Is, does that occur or can it occur.

7 SEAN FITZGIBBONS: Yeah, I think more
8 specifically what's been fascinating is that, ah,
9 that does occur after we've established an element of
10 trust with each independent restaurant operator. You
11 know, today there's so many different solutions being
12 proposed to them and the restaurant industry that
13 generally don't have always have their best interest
14 in mind of ensuring they're a successful operator,
15 and, ah, Mr. Gjonaj, after we've been able to
16 establish an element of trust what happens over a
17 period of time is the restaurant operator then shares
18 insights into their data, into what menu items are
19 selling more than others, um, specific times of days,
20 what the margin is for them on respective product
21 sets, and what we're able to do then is analyze how
22 do we curate a menu, how do we cross-utilize product
23 to allow them to be thinking a little bit more, ah,
24 differently about how they're gonna build a menu set

25

2 in this type of operation, again, ensuring they're
3 successful.

4 CHAIRPERSON GJONAJ: Do you also go to
5 the extent of determining that a product that they
6 may be selling or offering on their menu is a net
7 loss to them, ah, that it's perhaps not priced
8 correctly?

9 SEAN FITZGIBBONS: Occasionally, I think
10 depending on the operator and, and the extent of the
11 their knowledge in terms of their own menu set.
12 Sure, we can have conversations about ultimately kind
13 of the overarching design of, of the menu set, yeah.

14 CHAIRPERSON GJONAJ: What prevents you
15 from raising your rates as these establishments, ah,
16 build a business model that works and they turn a
17 profit?

18 COREY MANICONE: Yeah, I mean, I think if
19 you take a step back, you know, the success of Zuul
20 is predicated upon the successful of our members. So
21 the last thing we ever want to do is hemorrhage their
22 P&L from any capacity. Um, so inherently I don't
23 think it would be in our best interest to raise our
24 rates, thus making them less successful.

2 CHAIRPERSON GJONAJ: You know, there was
3 another third-party app that said the same thing when
4 they began, and they began at a very profitable
5 partnership. They began at 10%. They infiltrated.
6 They became a part of their existing model. They
7 took over their model and today that same client that
8 they helped build is paying 33% for the very existing
9 third-party app. That's scary. As you learn more
10 about me and integrate more about my business and
11 become a part of it that you can take it over by
12 charging me a fee of your choosing because you
13 understand, and I think it's obvious today, without
14 third-party apps and these delivery systems that
15 exist it's instant death. With them it's a slow
16 death.

17 SEAN FITZGIBBONS: So I think the
18 response to that is we agree, we recognize and
19 acknowledge that a 33% fee is unsustainable for the
20 restaurant operator in an aspect of the business that
21 is growing the fastest. Um, hence the threshold of
22 coming in at a 15%, you know, objective of figuring
23 out how to take more control of the margin back to
24 the restaurant operator. Um, at the same time, since
25 data has been a subject here, um, when we, as Corey

2 referenced, are able to drive demand for our own
3 technology, not only re-envisioning doing so, um,
4 with a better margin that's ever been achieved, um,
5 in the industry, which is really [inaudible] to the
6 operator, but it's also with the receptiveness of
7 utilizing and sharing data and having the element of
8 transparency that doesn't exist today for the
9 restaurant operator with the way that the platforms
10 are functioning at the moment. So all of those
11 objectives that we're looking at incorporating into
12 the solution set are part of, um, with, are fully
13 with intent of, of disrupting, um, the way the model
14 works today, doing [inaudible], ensure the restaurant
15 operator can take control back, um, with that aspect
16 of their business.

17 CHAIRPERSON GJONAJ: Because you're
18 already established in New York City, can you
19 elaborate on some of the issues and hurdles that you
20 had to overcome, whether through bureaucracy or
21 regulations, and you heard the opening testimonies
22 of, um, Department of Health and the concerns we
23 have, and around the letter grades and how that
24 system operates, and how it impacts the shared

2 kitchen scenarios. Can you elaborate any on any of
3 these topics?

4 COREY MANICONE: Yeah, absolutely, so,
5 ah, very similarly to opening up a brick-and-mortar
6 restaurant we had to go through the similar steps,
7 you know, working with the Department of Building to
8 ensure that our design and construction plans were,
9 um, in accordance to their, their laws. You know,
10 similarly we worked very closely with the Department
11 of Health, you know, as this was New York City's
12 first ghost kitchen facility. How do we work
13 together to figure out how to make sure that
14 everyone's being held accountable from a sanitation
15 standpoint. Um, to working very closely with Con Ed.
16 As you can imagine, with nine kitchens the gas and
17 electrical load there is significantly different than
18 what a typical restaurant sees, um, and I think, you
19 know, what Sean and I have really strived to do with
20 our incredible team is position ourselves as New York
21 City's ghost kitchen partner, and really the go-to,
22 and I think if you were to, to take a peek under
23 Zuul's hood you'll see that we've got an open book,
24 ah, transparency, you know, core value through and
25 through. Um, we understand this, you know, industry

2 is, ah, incredibly new. That said, as Jim said,
3 consumers are really dictating that this is the model
4 of the future. I think the trends and the data
5 certainly supports that. So we welcome, you know,
6 opportunities to connect with, with folks such as
7 yourself to ensure that we are putting out not only
8 Zuul's best foot forward but our brands as well.

9 CHAIRPERSON GJONAJ: Does Zuul get a
10 letter grade by the Department of Health?

11 COREY MANICONE: So we don't get a letter
12 grade. We are actually a shared kitchen, which is,
13 ah, permitted as H26. That said, it is very similar
14 to the grading system. Um, happy to announce that we
15 only had two points docked, ah, on our first
16 inspection. Um, that said, I'll just lead in to
17 probably your next question. Our brands do have
18 letter grades that they very proudly display in
19 their, their windows of their kitchens as they all
20 have, ah, obtained As, ah, at the earliest onset
21 here. And that's a, a part of us helping to keep
22 their facilities clean as well, you know, certainly
23 the shared space, um, within Zuul.

24 CHAIRPERSON GJONAJ: So when you heard
25 the questions that I posed earlier to the deputy

2 commissioner of health, um, if you, if you have or
3 are responsible for the common area, whether it be
4 dry storage or just a hallway leading to the,
5 connects the restaurants or the small shared kitchens
6 to the refrigerators or shared, or shared dry storage
7 rooms, who receives the violation currently?

8 COREY MANICONE: So that would fall on
9 us.

10 CHAIRPERSON GJONAJ: Great.

11 COREY MANICONE: I know that that does
12 fall, it can fall down to, to the individual license,
13 which obviously incentivizes us to make sure that we
14 maintain an incredible level of sanitation in our
15 facility.

16 CHAIRPERSON GJONAJ: I'm, I'm happy to
17 hear that. So if there was mouse droppings found in
18 a commercial, in your shared corridor, that violation
19 would be issued to Zuul.

20 COREY MANICONE: Correct.

21 CHAIRPERSON GJONAJ: And that would have
22 no impact on the kitchens that operate within the
23 facility?

24 COREY MANICONE: As it stands today,
25 correct.

2 CHAIRPERSON GJONAJ: You see the
3 difference between our traditional brick-and-mortars?
4 If that was the scenario in a normal establishment
5 that would have an impact on that restaurant, which
6 could be easily tracked, ah, through the internet.
7 You can see how many violations an establishment has
8 received. And if there is concerns it will impact
9 their grade. And as you heard earlier when it comes
10 to, ah, food such as seafood, which we're very
11 sensitive about, we want to make sure that they're
12 operating at the highest standard possible, because
13 of cross-contamination and the health impacts. Do
14 you see that there's a concern here?

15 COREY MANICONE: Oh, absolutely. And I
16 think it's the top of mind for us. I mean, you
17 should see our, our binder that has our, our health
18 cleaning standard operating procedures. Um, we run a
19 very tight ship because we know that the, you know,
20 that the common, ah, common areas, um, can have an
21 impact on, on the brands in overall sanitation as
22 well.

23 CHAIRPERSON GJONAJ: Right, but in this
24 case it doesn't. In this case the violation is
25 issued to you, not to the independent kitchen.

2 They're actually shielded from ever being impacted by
3 it. And that same protection is not afforded to
4 traditional single owner-occupied brick-and-mortar.
5 I, I'm concerned as to how do we make sure that we're
6 transparent and I'm sure you're operating, I've been
7 at your locations and I'm, um, I can attest that it
8 was incredibly clean and organized.

9 COREY MANICONE: We have that on the
10 record, right?

11 CHAIRPERSON GJONAJ: Yeah. That was the,
12 but I haven't been back since then, so I don't know
13 what happened last week. But my concern, the double
14 standard. And obviously if there was mouse droppings
15 inside one of the four walls of this independent
16 kitchen that you're, that's renting space from you,
17 that violation will go to them and not you. But if
18 that mouse was running between two doors, unless we
19 can trace that there was mustard on the mouse's
20 moustache to know which, where he dined or she dined,
21 we have no way of actually issuing violations to
22 those other kitchens. And the consumer may not be
23 aware that they could be operating with a substandard
24 grade. You heard about that one example?

25 SEAN FITZGIBBONS: Sure.

2 CHAIRPERSON GJONAJ: As a bistro with a C
3 grade operating a virtual restaurant with six other
4 entities with no cross connection to the person
5 placing the order and selling something as sensitive
6 as seafood. You, I guess we'll have to sit and look
7 to figure out how to shape this moving, so everyone
8 understands that if you're gonna operate in a shared
9 facility there's gonna be a shared impact and
10 responsibility on violations, whether they're the
11 responsibility of the umbrella, there is a meaningful
12 and I guess intent for transparency and better
13 informed, ah, our customers as to when they patronize
14 an establishment. Um, I don't know if you want of
15 the add to that at this moment, but this is a work in
16 progress.

17 SEAN FITZGIBBONS: No, I think we, we
18 acknowledge you and hear you on that. I mean,
19 there's a paradigm shift in consumer eating habits.
20 There's something monumental happening in the way
21 restaurant operators are evolving, and I think, um,
22 what excites Corey and I is, and the reason we're
23 here right now is we're at the forefront of this in
24 New York City, and really look forward to
25 collaborating together to figure out from an element

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2 of transparency, ah, being able to, to recognize the
3 fact, which we're incredibly proud of, as is our
4 team, as are our brands, and all of them received A
5 letter grades, um, that there is an element of
6 transparency and collaboration to make sure that
7 consumers are aware of the quality that's happening
8 in our facility.

9 CHAIRPERSON GJONAJ: Look, I want, I, I
10 get phone calls from my small businesses that are
11 being crushed. Crushed by these violations that
12 could be interpreted differently by an inspector.
13 Where a day earlier an inspector found no problems,
14 or found the problem and suggested [inaudible] in
15 this manner. Next inspector comes in and translates
16 that code to mean something else to give another
17 violation, and these fines are hefty. They're not
18 nickels and dimes. Now, again, what your business
19 model is sounds great and it's offering, it's
20 successfully, obviously, 'cause you continue to
21 thrive and expand. But when I hear from one, from
22 the industry that we're literally being destroyed by
23 the Department of Health, that they can walk in at
24 any given time, shut down our kitchen at our busiest
25 moment, whether it be lunch or dinner, and here's an

2 advantage that your model is offering that shields
3 those kitchens from, without any consequence or
4 potential damage. I'm, I'm concerned, as you could,
5 as you hear in my voice. I'm not sure how we're
6 going to be able to do this and as a piggyback 'cause
7 I'm looking at, again, understand that we shape
8 things together, do you see a future where food prep
9 is going to be automated as you strive to lower the
10 cost, um, of operation and come up with more
11 efficient ways, do you foresee this day or strive to
12 automatic delivery service or, ah, using drones, as
13 we're now thinking of, to robots that are going flip
14 burgers for you and, um, cook the food to the perfect
15 temperature and degree and get rid of the need of
16 human skill?

17 SEAN FITZGIBBONS: Yeah, you know, I
18 certainly don't have a, a crystal ball here, but I do
19 think that, ah, ah, operators are always looking for
20 efficiency gains. Um, and I think it's something
21 that we offer, and inside of our, our first facility,
22 um, by way of, you know, aggregating multiple brands
23 under one roof it allows us to, you know, share
24 resources, if you will, in this incredibly archaic
25 and challenging industry. So you know, to answer

2 your questions I don't have that, that crystal ball
3 today, ah, but know that folks are looking at how to
4 make themselves more efficient.

5 CHAIRPERSON GJONAJ: But you would strive
6 to do this, to help your clients lower their costs,
7 the operating costs, robotics is not out of the
8 question?

9 SEAN FITZGIBBONS: Sure, I think there's
10 an ecosystem that exists where we can, ah, provide
11 ancillary support to make our brands more successful.

12 CHAIRPERSON GJONAJ: I think Mr. Perkins
13 you have a question? OK. I'm grateful to you
14 gentlemen for being here today and bringing your
15 expertise. We have quite a bit more, um, to discuss,
16 ah, and I'm grateful that you've kept your, ah, the
17 lines of communication open as we start looking at
18 the changes that, um, how we adapt to this change in
19 consumer behavior and industry, ah, to shape it
20 where, um, it's fair for all and not undermining the,
21 um, models that currently exist that are so important
22 to this city. Um, my door will always be open to
23 you. This committee will always be open to you. Um,
24 we'll fight for you, ah, as a small business as well
25 and that's what you are, with a different model. So

2 if you have issues that you need to bring to our
3 attention, whether it be the Department of Health or
4 Sanitation and the Department of Buildings we're here
5 to fight for you as well. Um, thank you for your
6 time.

7 COREY MANICONE: Thank you.

8 SEAN FITZGIBBONS: Thank you.

9 CHAIRPERSON GJONAJ: Um, next up we're
10 gonna ask for Andreas Katasoudis and Andrew Schnipper
11 please. And we're adding Jeff Banks as well. No
12 particular order, any of you gentlemen can start.
13 Just introduce yourself and where you're from.

14 UNIDENTIFIED: Sure.

15 CHAIRPERSON GJONAJ: Thank you. And
16 thank you for your time, and I hope you found this as
17 interesting as I did and, um...

18 ANDREW SCHNIPPER: Yeah, thank you,
19 Councilman.

20 CHAIRPERSON GJONAJ: I'm grateful to
21 you.

22 ANDREW SCHNIPPER: I find this actually
23 very interesting and, ah, I commend you on, on
24 digging into this topic so early in the game because
25 I know you're also, there's, there's a lot of

2 discussion about third-party delivery platforms that,
3 that you and the council is looking at and, ah, you
4 know, I don't want to say we're late to it, but it's
5 been around for a long time and, and I'm sure a lot
6 of us wished we looked at this 10 years ago. So, you
7 know, I don't think any, any of us, and I'll speak
8 for myself. I'm not against those kitchens. I think
9 there's, I'm sorry, I'm Andrew Schnipper, my
10 apologies. Ah, Schnipper Restaurants here in New
11 York City. Um, just a real brief overview and then I
12 have a few, few comments to make, is that I'm not
13 against ghost kitchens and as you said earlier about
14 innovation and entrepreneurship, the market is
15 certainly changing in certain ways and I do think
16 that, um, these businesses exist because the market
17 is heading that way and, and regulation and, and
18 impeding businesses from, from existing is certainly
19 not something that I would ever advocate for. But I
20 do think it's very, very important as a New Yorker,
21 as a small business owner, that we, all the
22 stakeholders, whether it be small businesses,
23 restaurants, the citizens of New York, employees
24 understand what's coming as this grows a bit and to
25 what degree should it be looked at and are they

2 regulated or rules set in motion. Um, I've
3 personally have owned and operated in the restaurant
4 and delivery space for over 25 years. So I've, I've
5 been heavily in delivery space. It's not a small
6 part of my business. It's been as much as 30%, 40%,
7 even 50% of restaurants that I've owned, ah, over
8 many, many years and maybe I was one of Seamless
9 Web's first customers back in the late '90s, so I'm
10 very, very familiar with, with the space and, and
11 what happens with it. Um, delivery has gone from an
12 important profitable part of business, not just for
13 me but I think for most of my peers, to a, a business
14 area that is either not profitable or marginally
15 profitable. And you just see it in the fees and the
16 costs and what-not, and what's been particularly
17 difficult is the competition in the space has grown
18 quite a bit. Which makes sense, customers are
19 demanding, demanding more. But whereas there are
20 some restaurants that never delivered before and now
21 we're starting to do some deliveries, the pie is only
22 so big, and I think one thing that's very important
23 that hasn't been said here yet today is New York City
24 is very different than the rest of the country.
25 We've had delivery for a very, very long period of

2 time. It's not new to us. And one of the things
3 that makes New York City interesting is it, you can
4 get pizza at 2 o'clock in the morning and that's not
5 new. That's gone, that's been my whole life and, you
6 know, for many, many decades. So the business has
7 been here for a while. When you talk about a tenfold
8 increase in delivery business a lot of that is
9 because there are small towns in Iowa where it
10 doesn't exist at all. And New York City has had that
11 for quite a while. So, so, you know, I think, I
12 think that one of the big issues for us as an
13 industry and for me personally is, is, it relates to
14 what's going on with the third-party platforms and
15 how deliveries become very not profitable and where I
16 see ghost kitchens as an issue is it only extends
17 that. It's an extension of third-party delivery,
18 third-party, ah, data control, you know, etcetera,
19 etcetera. We, we know in our restaurants that
20 customers are, ah, ordering our products and then
21 being asked or being pinged by third-party platforms
22 to order similar products from competitors that might
23 pay a higher commission. Um, so, you know, I, I,
24 there's a whole variety of issues with data and with
25 the cost of fees. The other thing that I'm

2 particularly concerned about is as there are more and
3 more delivery players in the space what will likely
4 end up happening, it's already happened to some
5 degree, and this is exactly how I get marketed to
6 from the Grub Hubs and Door Dashes and Post Mates of
7 the world, they're, if you want to do more business
8 pay us more and you'll do more business. That's what
9 ends up happening. So when you see these 30% things
10 and, you know, fees or whatever it is, their argument
11 is you don't have pay quite that much, but do you
12 want to do business or don't you want to do business.
13 The more players in this market the more that that's
14 likely going to happen. So, you know, there's a
15 real, a real concern that not only for our bottom
16 line and profits, perhaps at some point or another
17 that does get passed on to the consumer. Um, outside
18 of that I, you know, we've looked personally at
19 third-party, ah, at doing something with a ghost
20 kitchen. You know, our sense is that, as you
21 commented earlier, that it just makes more sense for
22 us to do it internally. Our restaurants rely upon
23 delivery. If we wanted to do a new market we might
24 consider it. Um, but I actually think the million-
25 dollar number is correct and just being in the

2 delivery business I know what it takes to do a
3 million dollars in delivery. It's quite a bit. So
4 just to close it out, um, you know, I'm not a fan of
5 the [inaudible] but I just caution everyone that the
6 repercussions of widespread ghost kitchens are hard
7 to probably see today. But once they're in place it
8 will change the landscape dramatically. I think
9 there should be regulations on, um, how they're
10 registered so that customers know that they're ghost
11 kitchens, how they're, how they exist, and just the
12 last thing, getting back to the data, you know,
13 something that we've all talked about in the
14 restaurant community is the ownership of data really
15 should belong to the restaurants. And we feel, I
16 feel very strongly about that. Thank you.

17 CHAIRPERSON GJONAJ: Thank you, Andrew.

18 JEFF BANK: Thank you. I'm Jeff Bank, ah,
19 CEO of the Alicart Restaurant Group, Carmine's and
20 Virgil's restaurants, 30 years here in Manhattan.
21 Most of my comments, I'm going to turn to my prepared
22 remarks. I probably have more questions than
23 comments now after listening to everybody else, and
24 then hopefully we can try and find some, ah,
25 alignment here. I feel a lot of this is just a

2 classic bait and switch. I don't think we're aligned
3 at all with these ghost kitchens. I feel like this
4 is the exact same playbook that's happened to us with
5 every third-party app and technology, whether it's
6 from Open Table and Reservations, Seamless, ah, and
7 third-party deliveries and so forth. These companies
8 come with, you know, doing it again, you have cloud
9 kitchens coming in with 400 million dollar war chests
10 from Saudi Arabia, literally by the guys from Uber
11 that did this exact playbook. They come in, they're
12 not aligned with us. They can get as much market
13 share as they want because they're not running a
14 profitable business. I've had 30, ah, years of
15 profitability in the city and Seamless last quarter
16 lost 25 million. Uber only lost one billion. So
17 they're not worried about what they're losing. So
18 these guys are gonna wind up building up their
19 businesses on my back. And while they may have,
20 think they have altruistic, you know, ideas about
21 their supporting Sarge's Deli and this and that,
22 let's see if Sarge's Deli is really with them a year
23 from now. Friends with the owners, I promise you
24 they're not. Unless someone just heard this comment
25 and now Sarge's Deli will keep their fees low. So

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2 some of my questions are right now is 40% of chain,
3 60% locals. Do the local restaurants pay the same
4 fees as the chains or the chains have a better deal?
5 OK, they probably do. Ah, from the health department
6 they're very excited about letter grades, you know,
7 and letter grades fix everything, you know, a
8 completely aside I'm going off on. Love to see
9 letter grades in the public schools if it's such a
10 great system, OK? It belongs there, it's
11 phenomenal, I don't why I don't see it in my kids'
12 school.

13 CHAIRPERSON GJONAJ: But I think that's
14 an easy answer. It's an F.

15 JEFF BANK: Yes, which is why it'll never
16 be there. From the Small Business Administration
17 giving me a nice lecture about it'll help me with my
18 SEO and SCM, I do spend money on SEO, SCM. Probably
19 most restaurants can't afford to. I can. Google
20 Carmine's Delivery. I'll be number nine. After I'm
21 buried by Seamless, Grub Hub, which is the same
22 company, Yo Beats, No Wait, Seamless bought Yo Beats
23 and Grub Hub was sorry about that. Um, Open Table,
24 Easy Caterer, you won't find me. So what these guys
25 are doing is taking my customer. They're not

2 increasing my sales. My customers can't find me. I
3 have customers for 30 years. If they want to order
4 from me they gotta wade through 15 other programs,
5 fake web sites, phone calls, money that still hasn't
6 been returned to me. You've seen this game a
7 thousand times. So I don't think we should fall so
8 quickly for all these cloud kitchens are meeting, you
9 know, so well to help us build our brands. They will
10 build up the brands and then they'll double our fees,
11 and then there's really nothing we can do about it.
12 Um, it's just where I am. I think it's not anything
13 that I'm telling you that you don't know, because
14 we've all seen this happen already three or four
15 times. And it's gonna happen again. Little mom and
16 pops are gonna get steamrolled. I'll wind up being
17 fine. My businesses will do well in one of these
18 places, this and that, and all of a sudden someone
19 will say, oh, why don't just run a Carmela's Italian
20 Restaurant, and then my customers will be moving a
21 little fast and won't really realize it. So I don't
22 see them as partners. I think if they were partners
23 they'd still be here today, you know, and they would
24 be talking with us and working hand in hand. I don't
25 see it.

2 CHAIRPERSON GJONAJ: Thank you, Jeff.

3 JEFF BANK: You're welcome.

4 ANDREAS KOUTSOUDAKIS: Good afternoon.

5 Thank you for having us. My name is Andreas
6 Koutsoudakis. I have a restaurant with my father,
7 ah, which my father has run and, and been in the
8 restaurant business his whole life. I'm actually a
9 restaurant lawyer. So I'm gonna give a few examples
10 that have come up just in the last few weeks, ah, in
11 my dealings with different restaurant owners
12 throughout the city, as well as in speaking with my
13 father. Um, relating a lot of the messages that have
14 been said by Andrew and Jeff, um, one of them is the
15 bait and switch issue. Um, that's exactly what
16 happens. It's also, ah, a, the data issue which you
17 identified, which is a big problem. So the first
18 example is Grub Hub contacts, ah, a restaurant and
19 says hey, you're a diner, ah, people don't order
20 pastas from diners. But a lot of people are buying
21 pastas in your area. They're just buying them from
22 Joe's Italian and Mike's Italian and so on and so
23 forth. We're gonna create your name, but a diner,
24 but a pasta version. So Maria's Italian Pastas. You
25 have a pasta section on your menu. We're just gonna

2 change the names, change the descriptions, call it
3 this, and take away diner, put a new brand on there,
4 and it's gonna be an Italian restaurant now, coming
5 out of the same address. This is just, this happens
6 every single day. And all of a sudden customers are
7 ordering a lot of pastas from this diner that they
8 never ordered pastas from. Same exact item, marked-
9 up prices because they think they're buying a better
10 product or a different product, and they're doing it.
11 Whether this is legal or not is irrelevant. The
12 point is that there's this flood of customers and,
13 ah, tying the two concepts of data and the bait and
14 switch together here, it's not enough that they're
15 coming in to innovate and create a new way to connect
16 buyers and sellers, customers and restaurants. It's
17 not enough from them, the actual locations. Now they
18 want to create more locations within the restaurants
19 so that they can get more commissions and more and
20 more and more, um, which is happening as a result of
21 the data that they have. They might very well be
22 taking the data from the Italian restaurants in the
23 surrounding neighborhoods. That's exactly where
24 they're getting it from and saying people are buying
25 these pastas. Restaurant X, Y, and Z are priced

2 between 15 to 20. So we're gonna put Maria's Italian
3 at 14. You're at 10. We're gonna mark it up at 14.
4 You're going to be better priced than everybody else.
5 We're gonna know exactly when to put it up there and
6 when to put you up because this customer always
7 orders Italian on a Thursday. So these are the
8 things that you're literally manipulating our
9 communities' minds, creating a ridiculously unfair
10 competitive scenario in the market that can only be
11 controlled with a tremendous, tremendous wallet, um,
12 one that even the most successful restaurant will
13 never have. The business is just not designed for
14 venture capital, ah, money. That's, that's Monopoly
15 money. It's not earned blood, sweat, and tears
16 money. Um, the second example is, ah, again to
17 reiterate the point that Jeff said, which is their
18 partners, a lot of these founders, particularly the
19 group that was here before, it's sounds like their
20 coming with good intentions. Business does well,
21 they have good ideas. But the problem is when you're
22 backed by hundreds of millions of dollars eventually
23 you gotta make sure that money gets backed with a
24 certain multiple so that they can sell it to the Grub
25 Hub or whoever else they're gonna sell it to and cash

2 out. So even if intentions are genuine now, and they
3 very well might be, in fact I believe they are, um,
4 especially the gentleman who said his family had an
5 Ihop and they lost everything in the restaurant
6 business. It's a great story. I believe him. If
7 that's true then he's coming from a good place. But
8 that doesn't mean that at some point someone else who
9 put in a hundred million dollars into the company is
10 not gonna force direction one way or another to make
11 sure that hundred becomes one billion. Um, so an
12 example that I encountered last week which was
13 unbelievable is a restaurant called me, a restaurant
14 client called me and he said I want you to send a
15 cease and desist letter to Restaurant X. I knew both
16 restaurants, actually, through family friend,
17 neighboring competing restaurants. The neighboring
18 restaurant that he was complaining of had created,
19 literally on the spot, created a new restaurant
20 within his restaurant. Named it clearly my client's
21 name under his restaurant's, under the other, the
22 competitor's address. He called Grub Hub and said
23 what's going on, this is mine, I'm a customer of Grub
24 Hub. I have four locations. This guy is not, he's
25 not that, he's unrelated to me. I want it shut down.

2 You have to go through lawyers. We can't control
3 that. I'm sorry, we can't help you. So not only is
4 this, literally with the switch of a button someone
5 can create a competitor's business as their own ghost
6 kitchen in their own restaurant for horrible reasons,
7 right? But the, but Grub Hub or whoever it is, is
8 not even able to help you. You're left, go figure it
9 out on your own. So, again, that's just another
10 example of very, very, very dangerous territory, um,
11 that most people can't, can't deal with.

12 CHAIRPERSON GJONAJ: I want to thank you,
13 and have some questions for you. But I just wanted
14 to help, tell, show the difference between virtual
15 kitchens and ghost kitchens.

16 ANDREAS KOUTSOUDAKIS: Yep.

17 CHAIRPERSON GJONAJ: Or shared kitchens.

18 ANDREAS KOUTSOUDAKIS: Sure.

19 CHAIRPERSON GJONAJ: Like Kitchen
20 Centers, and there's so many different names.

21 ANDREAS KOUTSOUDAKIS: Yeah, the
22 commissaries, as you described them, have their own
23 problems and I think the health inspection one is one
24 of the biggest ones.

2 CHAIRPERSON GJONAJ: Right, and also
3 going back to the virtual kitchen of what you just
4 described where one restaurant with, that is known
5 and a database of agencies and departments and
6 registered can operate a list of other names and no
7 one would even know.

8 ANDREAS KOUTSOUDAKIS: Correct.

9 CHAIRPERSON GJONAJ: And in essence
10 hijacking a competitor's business. I just want, I'll
11 ask a question and then we'll go back and forth on
12 this. This industry is completely different than the
13 other industries where we've seen technology really
14 change. So, Uber, we know the impact that it had on
15 the yellow medallions, but the yellow medallions all
16 coalesced together. There was, TLC represented them,
17 the needs, and there was a different type of
18 scenario. Ah, AirBNB versus hotel chains.
19 Technology and the software, consumer behavior
20 demands changed the model. But the big chains came
21 together and are able to push back through
22 advertising, better informing, offering discounted
23 rates if you come directly to us. Travel Velocity,
24 right, with airlines. The airlines coalesced, they
25 came back and pushed back. In this field, in this

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2 industry of food service you have 27,000
3 independently owned restaurants. You can never agree
4 on anything. There's no one that represents you
5 wholly or that you can coalesce around. So it's easy
6 pickings. I get it.

7 ANDREAS KOUTSOUDAKIS: Right.

8 CHAIRPERSON GJONAJ: There's no umbrella
9 organization that currently exists that will help
10 push back, and technology is going change our way of
11 life, right? We know this. The internet has
12 infiltrated our business models, um, or look at toll
13 booth workers. When was the last time you saw a toll
14 booth operator? It's gone.

15 ANDREAS KOUTSOUDAKIS: Sure.

16 CHAIRPERSON GJONAJ: So that work force
17 is no longer needed. These are my concerns and not
18 stopping change, though.

19 ANDREAS KOUTSOUDAKIS: Sure.

20 CHAIRPERSON GJONAJ: The advancements are
21 gonna, 'cause we just need to make sure that we shape
22 them where we can all benefit from it and your
23 businesses and the question I'm gonna ask you, you, I
24 have very little knowledge, going back to my pizzeria
25 days, how is it possible for you to have a separate

2 kitchen at a separate facility paying 15% of your
3 total sales price plus the additional labor
4 profitable?

5 JEFF BANK: Plus rent for the space.

6 CHAIRPERSON GJONAJ: Right.

7 JEFF BANK: So there's a couple of things
8 that are going on. One, I agree with you about, you
9 know, technology, it's different, [inaudible]
10 disruptive in other industries. In this industry, in
11 this industry something you can go back to is the
12 health and safety factor. If you go back 20 years,
13 or 15 years before all these apps and this and that
14 and you ordered delivery from my restaurant everyone
15 who worked for me, I'd have people on the premise who
16 had been trained through the health department, we
17 had safety inspectors, and everyone in the business
18 was beholden to me. Now when you order from these
19 third-party apps and a complete stranger picks up the
20 order, does that person have any food, ah, safety
21 handling certificates? What is the responsibility of
22 that person? So if the person, if the guest gets
23 sick at the end of the day and then complains and
24 sues the restaurant, you without even reading it
25 could probably tell me the answer to this question.

2 What, who do you think has the liability when I sign
3 that contract of adhesion that I had no choice to
4 sign, that was shoved down my throat? Who's probably
5 liable for the, for the healthy and safety, me or the
6 third-party kid who works for 12 different companies
7 and took the delivery? So there's a health safety
8 factor that has to be looked into this one for sure.

9 CHAIRPERSON GJONAJ: Help me, because I
10 want to stay focused on the ghost kitchen, virtual
11 kitchen environment and not so much on the third-
12 party apps. We had a hearing on that already, but
13 they overlap.

14 JEFF BANK: But it's a part of these
15 ghost kitchens because if you're, if you're working
16 [inaudible] only paying 15% and your lease and your
17 rent who's delivering for you?

18 ANDREW SCHNIPPER: But you, sorry, but
19 you're not only paying 15%, it's one of the piece
20 that was missed. You pay 15% if they can get
21 customers to order through their app, but the reality
22 of the matter is the other third-party apps are much
23 larger. So if you're operating in a ghost kitchen I
24 can guarantee you, without a shadow of a doubt, your
25 largest deliverer of orders to your restaurant will

2 still be Seamless, Grub Hub, Door Dasher, Postmates.

3 It's not gonna be their apps. So you're at 30%.

4 Your smallest piece is 15%.

5 CHAIRPERSON GJONAJ: So you're, you're,
6 you just brought something to light that I didn't
7 mention earlier. Ah, under the shared kitchen
8 scenarios, the virtual kitchens or ghost kitchens,
9 when they're paying 15% to those, whether it be Zuul
10 or whatever the other entities are, in addition to
11 that an order can come in through a third-party app
12 where you could be paying up to 33% plus the 15%, ah,
13 on top of that, you are now at a, based on the
14 numbers we know, at a loss of 60%?

15 JEFF BANK: You're paying rent, you're
16 paying labor, and you do have a brand that you're
17 supporting out of your other brick-and-mortar
18 restaurant. You're not just opening up in this place
19 out of nowhere selling sandwiches. So as much as
20 Sarge's may be downtown Zuul you still have to
21 attribute some of the good will back to the original
22 restaurant, the costs and overhead over there. This
23 model doesn't flush out. And the problem is a lot of
24 collateral damage during all this. But the companies
25 don't worry because of the 400 million.

2 CHAIRPERSON GJONAJ: Do any of you have
3 any evidence that the third-party food apps are
4 working with, ah, these shared kitchens, ghost
5 kitchens?

6 ANDREAS KOUTSOUDAKIS: I'm sure there, I'm
7 sure they try to.

8 ANDREW SCHNIPPER: The Door Dash, Door
9 Dash...

10 CHAIRPERSON GJONAJ: They have an
11 agreement not to [inaudible]...

12 ANDREW SCHNIPPER: But Door Dash built
13 their own ghost kitchen in California. So, and then
14 put in their own, and put in, put in concepts, and
15 they own the actual ghost kitchen, so it may be not
16 here yet and, and, there's only one concept here at
17 the moment, one ghost kitchen, as Corey pointed out,
18 or Sean. But the reality is that it's already
19 happening.

20 CHAIRPERSON GJONAJ: Are you, your
21 current models, are you able to compete with ghost
22 kitchens, where they don't have a traditional brick-
23 and-mortar, commercial corridor, you know, paying
24 high retail space for, um, the storefront, ah, plus

2 the lower costs? Are you guys able to compete with
3 that type of [inaudible]?

4 JEFF BANK: No, because I'm trying to
5 make a profit and they don't have to. So they can do
6 whatever they need to do, throw at the internet,
7 advertising, subway ads, whatever they need to do to
8 get their business. Like I said, if you google
9 Carmine's Delivery, forget whether I'm in the ghost
10 kitchen or in the store, by the time you find me
11 you're going through one, you're going through either
12 the cloud kitchen, saying they deliver for Carmine's,
13 or this, I'm kneecapped and cut off. Can't afford to
14 compete on that level and I'm a bigger, I'm a bigger
15 group. So I have no idea how an independent could,
16 you know, do that. It'd be impossible.

17 ANDREW SCHNIPPER: But also getting to
18 what Jeff said earlier about, um, how, their business
19 model doesn't necessarily require profits, there's a
20 lot of collateral damage. So can we compete? The
21 question may be how much business are they gonna take
22 from us while they're losing money. So maybe one day
23 they go away, maybe one day it consolidates and it
24 gets worked out. But in the interim while they're
25 not operating in a traditional business environment

2 where we, we all need to make money to keep our doors
3 open, there is a lot of collateral damage. We're
4 losing a lot of sales in the process. So there is a
5 piece, it's not a question of competing. It may be a
6 question of how much share they're taking.

7 ANDREAS KOUTSOUKAKIS: I think, I think
8 really it just comes down to, you know, the same
9 analogy, the same problems that you heard a few years
10 back with the food carts that pay nothing, that
11 didn't, you know, are renting a license of one vendor
12 and you have 30 vendors copying the same license and
13 all of sudden you have this big problem. Where are
14 they going to the bathroom? Where are they, you
15 know, washing their hands? Where are they doing all
16 these things, at the same time that the letter grade
17 was happening. So from a high level you have on the
18 one had the city and state and everyone's complaining
19 and worried and oh my God, all these storefronts are
20 empty. Um, and on the other hand why, why is it
21 happening, and there's always a target. The target,
22 the reason, the explanation of why is because look at
23 the burdens of the actual traditional brick-and-
24 mortar storefront business. I don't care if it's a
25 nail salon, a restaurant, or anything else, versus

2 the technology version who is in some random
3 location, who is loopholed around health inspection,
4 who does not have to worry about as many employees,
5 does not have to worry about, you know, sexual
6 harassment training and handbook policies and
7 disclosures. The rules are stacked against the
8 brick-and-mortar and it's much more expensive to do
9 business that way than the other way.

10 CHAIRPERSON GJONAJ: Andreas, help me,
11 going back to the relationship that you described
12 before where you knew both, ah...

13 ANDREAS KOUTSOUDAKIS: The restaurants
14 using, the competitor using the other one, ah, the
15 restaurant's name?

16 CHAIRPERSON GJONAJ: Under the ghost
17 kitchen, virtual restaurant scenario, were the prices
18 competitive or lower than his competitor?

19 ANDREAS KOUTSOUDAKIS: So that, the
20 example when my, when my client was telling me about
21 his conversation with Grub Hub, the conversation was
22 exactly what I said. I know what the customers in
23 this area want. The only way they know what they
24 want is because of the data they accumulate through
25 Grub Hub's sales orders, from presumably their own

2 customers, other restaurants, what are people
3 searching for, where are they buying it from, at what
4 price, right? You have all of these menu items.
5 This is the price point that you're gonna be. We're
6 gonna set you up. We're gonna do your brand. We're
7 gonna create your menu, your description. You have
8 to do nothing. The orders are gonna come through the
9 same fax that you receive your other orders, your
10 same print-out machine, however it's gonna be coming,
11 same POS, everything is the same. Actually I think
12 they gave them a separate POS for that business, so
13 they got a little smaller iPad for it. But that's
14 it. And so they knew exactly what to do and it was
15 on-off switch.

16 CHAIRPERSON GJONAJ: Right. So that...

17 ANDREAS KOUTSOUDAKIS: That's the danger
18 of this, it's just market manipulation.

19 CHAIRPERSON GJONAJ: Pricing was, the
20 pricing was compatible to his competition?

21 ANDREAS KOUTSOUDAKIS: It was higher, it
22 was not, you know, a \$12.99, ah, you know, spaghetti
23 and meatballs at a diner. It was, you know, \$18.99,
24 I don't know the specifics. But the, the more...

2 CHAIRPERSON GJONAJ: [inaudible] the
3 opposite.

4 ANDREAS KOUTSOUDAKIS: More, most...

5 CHAIRPERSON GJONAJ: That I get your data
6 and I go to Carmine's and I'm gonna up now a virtual
7 kitchen that mirrors Carmine's, well known.

8 ANDREAS KOUTSOUDAKIS: Yep.

9 CHAIRPERSON GJONAJ: Famous.

10 ANDREAS KOUTSOUDAKIS: Well, the example
11 is Carmine's was the customer they were taking
12 business from...

13 CHAIRPERSON GJONAJ: Carmine's? OK.

14 ANDREAS KOUTSOUDAKIS: ...in my example.

15 CHAIRPERSON GJONAJ: That's a little
16 different. Now, yes, I, and I'm just gonna point out
17 a scenario that if I were to open up a virtual
18 kitchen known as Carmine's to compete directly with
19 Jeff, and now I offer the same products coming out of
20 a other kitchen, similar to the...

21 ANDREAS KOUTSOUDAKIS: Yup.

22 CHAIRPERSON GJONAJ: ...example that you
23 just shared, but Carmine, now I lower my price. I
24 now, I've stolen your identity, your business model,
25 and now I'm able to offer the same products with the

2 same logo name at a reduced price. What would happen
3 to your business?

4 JEFF BANK: I can't compete with that.

5 CHAIRPERSON GJONAJ: What's the, and give
6 me a range, what's the profit on your, ah, products,
7 across the board, average?

8 JEFF BANK: Across the board, with food
9 costs, 25%.

10 CHAIRPERSON GJONAJ: You're 25%?

11 UNIDENTIFIED: I'm selling [inaudible]

12 UNIDENTIFIED: [inaudible] just the food.

13 UNIDENTIFIED: [inaudible]

14 ANDREW SCHNIPPER: Just the ingredients.

15 JEFF BANK: If you want me to be all in
16 and my costs are good, 65%.

17 CHAIRPERSON GJONAJ: Say that again?

18 JEFF BANK: 65%, 10% rent, 75%, 15%
19 miscellaneous, that gets me to 90%. Then I get a
20 snow day, I lose a point. You know, it's a, you're
21 in a 10% model, 8% to 10%.

22 CHAIRPERSON GJONAJ: 8% to 10% businesses
23 model?

24 JEFF BANK: At the end of the day, yup.

25

2 CHAIRPERSON GJONAJ: Perfect. Roughly
3 the same for you gentleman?

4 ANDREAS KOUTSOUDAKIS: Even less in my
5 father's, in the diner business it's, the margins...

6 CHAIRPERSON GJONAJ: So please help me
7 understand. How are you able to survive paying 15%
8 if you're a shared kitchen scenario or as high as
9 33%?

10 JEFF BANK: Their argument is they're
11 giving me incremental sales [inaudible]...

12 CHAIRPERSON GJONAJ: Which we know, we've
13 seen the [inaudible].

14 JEFF BANK: ...which is not true. That's
15 where the problem comes in. So, no, you can't
16 survive on that model, which is why we're here today.
17 The last four questions I have for you is are they
18 gonna be forced to be transparent and disclose all
19 the fees so the local guys know what the chains are
20 paying 'cause they can't negotiate the same, so are
21 they really gonna be transparent with their fees?
22 Who's gonna protect our trademarks, 'cause we can't
23 fight these 800-pound gorillas? Are they gonna pull
24 a We Works and drive up the real estate, you know,
25 real estate around the whole city? Are they gonna

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2 pull an Amazon and pay no tax and transfer everything
3 out to their Nevada headquarters for management fees,
4 and is that gonna destroy the New York City tax base?
5 Are all their employees gonna be 1099, you know, it's
6 not a level playing field, it's just not. Sounds
7 great, but it's not.

8 CHAIRPERSON GJONAJ: So to answer your
9 questions, that's why these hearings are so
10 important.

11 JEFF BANK: Sure.

12 CHAIRPERSON GJONAJ: We get to
13 understand, ask our questions, hear from the public
14 stakeholders and they bring to our attention issues
15 and this is going to continue, and I'm grateful to
16 you for again making the time to be here. Ah, we're
17 gonna stay in touch. And always, my door is open to
18 you as we continue to figure out how to best protect
19 all stakeholders. Thank you, gentlemen.

20 JEFF BANK: We're thankful you have a
21 flashlight on us.

22 ANDREW SCHNIPPER: Thank you, Councilman.

23 ANDREAS KOUTSOUDAKIS: Thank you very
24 much.

25

2 CHAIRPERSON GJONAJ: Ah, Robert Bookman,
3 Andrew Rigue, and Matthew Newburg.

4 ROBERT BOOKMAN: Good afternoon. My name
5 is Robert Bookman. I am counsel to the New York City
6 Hospitality Alliance, that umbrella organization with
7 about 2000 establishments in the City of New York in
8 the hospitality industry and we would certainly like
9 to cover everybody. I want to thank you once again
10 for holding a hearing such as this. It is rare in
11 government at any level where there is concern about
12 the future, um, and we're always looking for current
13 problems and the future comes and bites us you know
14 where. And I think the lack of future looking is
15 what's caused this crisis that we have with small
16 business vacancies right now in our neighborhoods,
17 because there was no future look at what's happening
18 to the retail and what are we doing to small
19 businesses that is making them so expensive to
20 operate that nobody's taking over these, these
21 spaces. So this is part of an important
22 conversation. What keeps me up at night, and I
23 jotted down some notes when I literally woke up in
24 the middle of the night, was the following. A five-
25 step program to turn individual and independent mom

2 and pop restaurants into the next generation of
3 independent bookstores, meaning they're gone. Step
4 one - get everyone addicted to a home delivery
5 virtual platform. Step two - once they're addicted,
6 significantly raise the fees to restaurants so they
7 can continue on that platform. Step three - move
8 existing restaurant customers to their platform by
9 making it difficult to find their restaurant that
10 they've always ordered from anyway and order directly
11 from them, charge them bogus fees for people calling
12 them directly, and collecting fees that they
13 shouldn't be entitled to in the first place, because
14 this is my customer trying to call me, but they find
15 their phone number instead, like Jeff just said.
16 Step four - spend millions of dollars in advertising
17 directed at consumers with the message why eat out,
18 just get delivery. And step five - open their own
19 virtual kitchens where they own the names which only
20 exist in the virtual university and cut out the need
21 for local restaurants completely. That's what I
22 worry about, and that's when your independent
23 restaurant in the neighborhoods outside of, you know,
24 Times Square, you know, where you have 60 million
25 tourists coming a year, ah, will become the next

2 generation of independent bookstores, they'll be
3 gone. These multibillion-dollar companies are not
4 here to expand our business. They're here to
5 ultimately become the business. They don't need us in
6 their long-term plans. They want to own the food.
7 They want to own the delivery. They want to own the
8 spaces, ah, and the names, and why bother, quote,
9 partnering with a restaurant. So that's what keeps
10 me up at night, and I know it does you as well, and
11 we need to find solutions for that.

12 CHAIRPERSON GJONAJ: Now I just, Robert,
13 and I hear your concerns, and I, we just want to push
14 back on one thing. Change is inevitable, right? I
15 mean, um, if we look back at the history, at one
16 point someone was making the best wheel for a wagon
17 ever. Cars came in, did away with the need for wheel
18 wagons and wagons altogether. In your own home I'm
19 sure you can remember a time when Mom or your
20 grandparents would sew their own clothing. We no
21 longer do that at home. It's much more convenient
22 and efficient for us to purchase products. Change
23 and evolution in demands. I'm not frightened by
24 that. I embrace it. We just want to shape it,
25 right?

2 ROBERT BOOKMAN: Of course.

3 CHAIRPERSON GJONAJ: We don't want a
4 hostile takeover and the use of data to, the very
5 data that we have, you have given and your partner to
6 be used against you is the concern. Ah, or when they
7 become a part of your business model and then raise
8 your fees to a point where you can no longer stay in
9 business. These are the things that concern us.

10 ROBERT BOOKMAN: Of course, those other
11 examples ultimately resulted in more jobs and better-
12 paying jobs building cars than they did wagons, ah,
13 and the clothing industry, etcetera. What we're
14 seeing with these changes are a reduction in jobs, a
15 reduction in good-paying jobs, no need for waiters
16 and waitresses making a good, you know, middle-class
17 living working three shifts a week. That's...

18 CHAIRPERSON GJONAJ: [inaudible] is
19 coming, ah, the short-term gain, long-term loss, the
20 less people that are working, the less people can
21 afford to buy services and products and food and
22 what-not.

23 ROBERT BOOKMAN: And empty stores.

24 CHAIRPERSON GJONAJ: Right.

25 ROBERT BOOKMAN: Lots of empty stores.

2 CHAIRPERSON GJONAJ: I want to circle
3 back to a few questions, so no particular order.

4 ANDREW RIGIE: My name is Andrew Rigie.
5 I am the executive director of the New York City
6 Hospitality Alliance. Ah, we represent about 2000
7 businesses in the five boroughs, um, and there was a
8 lot said so I'll do my best not to repeat. I've
9 submitted testimony for the record. But I do want to
10 thank you, Mr. Chair, and these are the conversations
11 that need to be had, need to be happening
12 proactively. You're right. Change happens, it's
13 inevitable, and the pace of change is faster now than
14 it has ever been, ah, in the past, and it will only
15 continue to accelerate. Um, I think what we're
16 seeing here with ghost kitchens are there's pros for
17 brick-and-mortar restaurants and if not checked there
18 can be a lot of cons, um, many of which were listed
19 here. I think one of the best ways when it comes to
20 customer data and the potential damage to our
21 traditional brick-and-mortar restaurants is something
22 like Amazon Basics. You know, there's tons of
23 merchants that sell products on Amazon. Amazon said,
24 wow, batteries, you know, we're, our merchants are
25 selling a lot of batteries. So what do they do?

2 They come out with their own battery line. Now they
3 have, I don't even know, probably 10,000-plus Amazon
4 Basic products that were the most popular being sold
5 on their site. Ah, so if you use that analogy to
6 what we have with ghost kitchens, ghost kitchens will
7 have many different restaurants within their venues.
8 They will have a burger place, a pizzeria, a pasta
9 place, um, the list goes on. They will then be able
10 to collect that data and say, you know what, these
11 tacos are selling really, really well. Sure, we
12 could go to the restaurants and tell them this, like
13 Andreas in the previous panel, and tell him, you
14 know, why don't you start this virtual pasta
15 restaurant? Um, but more likely what could
16 potentially happen as well is they say why do we even
17 have the restaurant as the middle business there.
18 Let's just use all this data and start our own
19 virtual taco restaurant in there. And then what
20 would be the next logical step, which we've seen in
21 the Amazon and in other cases, is they will then open
22 that virtual taco restaurant within the venue that
23 would directly compete with the ghost kitchen that's
24 tied to the brick-and-mortar business. And they'll
25 say hey, if you want to be listed higher in the

2 search result you need to pay us more. So you will
3 get into this circular issue where they are able to
4 in a very sophisticated way using technology not only
5 be higher in the listings but then use that data to
6 say you pay us a higher fee, we'll get you more
7 sales. And if you want more sales you're gonna keep
8 paying more. So that's, you know, one example. So
9 when we talk about potential ways to regulate I think
10 the ownership of customer data is vital. Now, I
11 understand this is a much larger issue when you're
12 looking at Facebooks and everything, but I think
13 that's something that could certainly be studied.
14 There needs to be co-ownership to not just the data,
15 but all of the analytics that are actionable that are
16 being used. Um, two, fees. This is one of the
17 ongoing issues. Most of the fees, the third-parties,
18 which I would say include ghost kitchens, and perhaps
19 not yet but certainly the direction they're going in,
20 will be to charge additional fees. The problem is
21 the end user, the consumer, never sees those fees
22 because they're baked into the cost of the product.
23 So that, one, will mean the restaurants will increase
24 their, you know, their fees for their products,
25 causing more, you know, being more expensive for the

2 consumer, making New York City even more, you know,
3 expensive for everyday New Yorkers to live. But it
4 also means that people don't think that there is a
5 cost to convenience and there is a severe cost to
6 convenience. So another regulatory measure could be
7 allow the restaurant, the brick-and-mortar business
8 the option, not mandate, but mandate that they have
9 the option to pass on third-party fees to the
10 consumer. It's consumer transparency. The New York
11 City Department of Consumer Affairs is into making
12 sure consumers know what fees and charges are, you
13 know, being charged. So those are, you know, two
14 things that could do. You could also look at zoning.
15 We've dealt with our night life establishments.
16 Where you can dance wasn't so much this cabaret law
17 that was repealed, it was whether or not the business
18 was located within a zone that met a proper use
19 group. So if we want to talk about where these types
20 of establishments can be located, zoning is certainly
21 something that can be looked at as well. And I think
22 the big 800-pound gorilla, you know, in the room is
23 that consolidation in the industry, is that these
24 companies are able to so much market share and
25 they're backed by so much finance where they have the

2 ability to burn through cash to gain this market
3 share that you'll see vertical integration. So right
4 now you have a, the ghost kitchen, but nothing will
5 stop them, as we've heard, from them purchasing or,
6 ah, you know, merging with a third-party delivery
7 site. So then they are not only the ghost kitchens,
8 but they're also the site where you transact the
9 orders. Once they have all this data, why wouldn't
10 they then create a buying group? There's 10
11 different restaurants in here. We're gonna start
12 purchasing. Then they're gonna get all of the data
13 from all of those purchasing behaviors. And the
14 company will benefit from that probably more so than
15 the individual restaurants. Um, so the list goes on
16 and on and on, but what will happen eventually is you
17 will have a brick-and-mortar establishment by name,
18 but the production, the labor, as we've heard before,
19 where the orders are transacted, how the food is
20 purchased, how it is delivered from the ghost kitchen
21 to the customer, will all be owned by one major
22 entity that is backed by billions of dollars and they
23 can burn through this cash. So the small, everyday
24 restaurant basically doesn't own their business
25 anymore.

2 CHAIRPERSON GJONAJ: Andrew, we've spoken
3 about this. I'm grateful to both of you and all of
4 you for the months and months, and if not years that
5 we worked on small business needs with you. Let's
6 also remember that we are a free market society and
7 we have to be very careful when we start looking at
8 some big-picture items here. Otherwise, we should
9 all be selling pizza at the same price, a gallon of
10 milk should be all the same price, and whatever
11 products and services are offered there should be no
12 competition. Competition is good. Unfair
13 competition where that, and we go back to some of the
14 [inaudible].

15 ANDREW RIGIE: Yes.

16 CHAIRPERSON GJONAJ: These are concerns.
17 So although I am well aware and agree with you on
18 many of these issues, this is still the freest
19 country in the world, um, operating on free markets
20 and not socialist views where we're going to dictate
21 everything across the board.

22 ANDREW RIGIE: Yep, and I, I agree with
23 you. I think, I think most, as you heard on the
24 prior panel as well, um, this is the way business
25 works, but it goes down to what is fair. And

2 currently, as you know, with small businesses there
3 are tons of laws and regulations. Right now we talk
4 about passing on charges. You know, currently many
5 restaurants would love nothing more than the
6 opportunity to add a clearly disclosed surcharge to
7 restaurant menu prices. They are not allowed to do
8 that. Every other industry, even the restaurant
9 industry outside of the five boroughs, is permitted
10 to do that. Um, so, you know, again, it comes back
11 to being fair. We don't want to do anything that's
12 going to hamper...

13 ROBERT BOOKMAN: And that's by, local
14 regulation prevents us here in New York City from
15 doing that.

16 ANDREW RIGIE: We don't want anything
17 that's going to hamper innovation, but at the same
18 time customer data, you know, what is being put in
19 agreements, ah, is that a business, although it is
20 really their data about their direct customers, um,
21 it is being owned by a third party and as has been
22 put out, you know, you can't compete. So I think,
23 again, it's just having fair and equitable access to
24 the information.

2 ROBERT BOOKMAN: I think what we
3 [inaudible] I think what we've been saying is we, we
4 don't disagree with you, ah, it's just that, as we
5 see it on a national level as well, that these new
6 large mega corporations that have developed are
7 unregulated compared to the mom and pop businesses
8 that have always existed. We're looking for more of
9 a level playing field of regulation.

10 CHAIRPERSON GJONAJ: So, ah, Matthew, you
11 just witnessed the two superheroes, Batman and Robin,
12 and how well they play together and they are a great
13 tag team and you would be a great add-on to their
14 conversation.

15 MATT NEWBURG: Thank you. Thank you,
16 Council Member Gjonaj. My name is Matt Newburg.
17 I've spent the last eight years living in New York
18 working as a product manager and entrepreneur in the
19 technology field after graduating from the Wharton
20 School of Business and the University of
21 Pennsylvania. Last summer I released a 25-minute
22 investigative online video that featured three
23 delivery-only ghost kitchens providers in Los
24 Angeles, interviewing restauranteurs from each of
25 them to make better sense of this new trend. While

2 this began as a side project, the response from this
3 pieced launched me on a new path to form Hungry, a
4 new media platform that examines how technology
5 shapes the way people eat. I have done extensive
6 research into online food delivery and ghost kitchen
7 providers, visiting different sites in LA, San
8 Francisco, and New York, speaking with as many
9 restauranteurs, real estate operators, and employees
10 as possible. I'm here today to share my knowledge of
11 the power that these kitchens hold and the potential
12 impact that I foresee on our communities, workers,
13 and small businesses. My conversations have led me
14 to conclude that the goal of these startups is to
15 build kitchen infrastructure automation and logistics
16 that are optimized to deliver food at a lower price
17 than dining in a restaurant or cooking at home just
18 like in China. Because they aggregate dozens of
19 restaurant brands and convenience items under a
20 single roof, large players like cloud kitchens can
21 leverage higher, higher average order values to
22 subsidize the cost of delivery, making it free for
23 the end consumer. Imagine ordering a burger, your
24 significant other ordering sushi, and adding in a
25 bottle of wine into a single delivery order. And

2 because they are located in facilities that are
3 optimized for the last mile delivery rather than for
4 foot traffic, all of this is delivered at breakneck
5 speeds that we have yet to fully experience in this
6 country. At a high level, as many people said, you
7 can think of a ghost kitchen like a virtual food
8 court that you might find an airport where a very
9 small number of companies are responsible for a wide
10 variety of concepts. Today these kitchens plug into
11 third-party delivery marketplaces, like Uber Eats,
12 Seamless, Postmates, and Door Dash, but tomorrow it
13 could very easily exist on a single platform. It's
14 quite analogous to Amazon, but instead of books it's
15 freshly prepared, freshly prepared food that we put
16 into our bodies. This infrastructure is largely
17 fueled by nearly two billion dollars of foreign
18 capital from the sovereign wealth funds of Saudi
19 Arabia and Dubai for startups like cloud kitchens and
20 REEF technologies, respectively. On the surface they
21 are repurposing real estate like parking garages,
22 warehouse, and strip malls for the on-demand economy.
23 They have eliminated the front of house in exchange
24 for designated delivery pickup areas and feature
25 exterior signage designed to ensure that drivers, not

2 diners, can locate the right facility. Thanks to a
3 credit line provided by Goldman Sachs, cloud kitchens
4 alone has the ability to turn its 700 million dollars
5 of equity capital into a 2.8 billion dollar war
6 chest, at a minimum. To purchase any property that
7 can be conceivably subdivided into dozens of
8 kitchens. As famous entrepreneur and early Uber
9 investor Gary Vaynerchuk explained cloud kitchens to
10 a roomful of marketing executives last summer, it is
11 unbelievable how much disruption is coming. The only
12 thing that's going to be left is the brand, the
13 affinity that the customer has for the brand, and
14 that is it. It makes total sense that it's fast,
15 casual, and quick serve restaurants witnessed the
16 majority of their sales shift from dine-in towards
17 off-premise channels like drive-through, pickup, and
18 delivery that restauranteurs adapt to this very new
19 world of convenience. But despite these kitchens
20 lower upfront costs, the significant fees charged by
21 delivery marketplaces, the operating costs still make
22 it incredibly difficult for the average independent
23 restauranteur to turn a profit. The recent study
24 from Kitchen Fund, which you pointed out, an investor
25 group that backs brands like Sweet Green, Buy Chloe,

2 and End Day found that a ghost kitchen operator must
3 generate at least \$650,000 in annual sales from a
4 ghost kitchen in order to break even. By comparison,
5 the average Chipotle store generates just under
6 \$400,000 from both pickup and delivery. That's about
7 18% of the average retail location sales. Both cloud
8 kitchens and Kitchen United have experienced
9 significant turnover from tenants since they both
10 opened. The latter only has two of its original
11 seven tenants remaining from its first location in
12 Pasadena, California. Because many restauranteurs
13 cannot stay afloat selling a single brand in a ghost
14 kitchen, providers like cloud kitchens equip their
15 tenants with custom-built software that makes it very
16 easy to launch multiple concepts from each of their
17 225-square foot kitchens. To illustrate this point,
18 inside a single cloud kitchen's 11,000-square foot
19 warehouse in West Adams, Los Angeles, there are 27
20 individual kitchens that are responsible for 115
21 restaurant listings on every single delivery platform
22 at the time of my investigation.

23 CHAIRPERSON GJONAJ: Repeat that sentence
24 one more time. Lot of numbers.

2 MATT NEWBURG: To illustrate this point,
3 inside just one cloud kitchen's 11,000-square foot
4 warehouse in West Adams, Los Angeles, there are 27
5 individual physical kitchens that are responsible for
6 115 unique virtual restaurant listings on every
7 single delivery platform at the time of my
8 investigation. Many of these are virtual concepts
9 rather than physical restaurant brands, some of which
10 aggregate items across multiple kitchens inside the
11 warehouse, enabling that dinner date scenario I
12 mentioned to you earlier. You won't discover them by
13 walking down the street. If you want to see them
14 firsthand, I suggest you google site:postmates.com
15 1842 West Washington Boulevard. If successful, I
16 fear that the diverse set of local restaurants around
17 this very neighborhood, such as Sophie's Cuban
18 Cuisine, Basilo Italian Panni, Bombay's Indian
19 Restaurant, and Leo's Bagels would be replaced with
20 virtual concepts like Fry Me a River, Italian
21 Stallion, WTF is a Queserado, Late Night Munchies,
22 Panni Gang, Try Tasty Tacos, and Morning After. I'm
23 not making these up. There are 185,000 single-unit
24 full-service restaurants in the United States
25 accounting for nearly a third of the total dining

2 landscape by volume. According to the Bureau of
3 Labor Statistics independently owned restaurants
4 employ just over 3 million workers. As restaurants
5 shift towards an optimized off-premise ghost kitchen
6 model, the need for front-of-house staff is
7 eliminated. The number of back-of-house cooks is
8 drastically reduced. Cashiers, hosts, and waiters
9 account for 60% of this work force. These jobs are
10 replaced by apps in a ghost kitchen environment.
11 Dishwashers become a shared service within the entire
12 facility, therefore that number trends towards zero.
13 The remaining third of the back-of-house shrinks in
14 half from five to two or three, leaving a total
15 population of 500,000 cooks to find new work in ghost
16 kitchens, about 17% of the current work force. Those
17 two to three workers could have again, thanks to
18 cloud kitchen Silicone Valley operation that is
19 working on building advanced conveyor systems. This
20 could hypothetically evolve towards robotics. While
21 ghost kitchens could create positive efficiencies,
22 like lowering carbon emissions through batch delivery
23 orders or enabling restaurants to rapidly test new
24 concepts, they simultaneously add another
25 intermediate layer that makes it incredibly difficult

2 to trace our food back to its original source. On a
3 recent investigation I discovered that a Rachel Ray
4 virtual restaurant concept on Uber Eats was
5 originating from REEF Technologies kitchen trailers
6 in Chelsea and Long Island City parking lots, the
7 latter of which was adjacent to a Port-A-Potty.
8 These kitchens were recently shut down by the fire
9 department due to their abundance of propane tanks
10 that pose as a safety hazard. If there are any take-
11 aways from my testimony today it's the power of
12 leverage that these kitchens have in their ability to
13 shrink an entire city block into a single warehouse.
14 One liquor license that has the potential to blanket
15 an entire city, one location that equals 13
16 operators, 27 kitchens, 115 concepts. There are four
17 cloud kitchen locations in New York already and more
18 on the way - two in Tribeca, one in midtown, and
19 another in Long Island City. By the end of this year
20 the 300 person-plus company will have a presence on
21 every single continent in the world. It is my hope
22 that today's discussion will inform future action
23 that allows us to innovate while ensuring the future
24 health and diversity of our modern workers, small
25 businesses, and communities. Thank you.

2 CHAIRPERSON GJONAJ: Matthew, you are
3 very sobering, I can tell you that.

4 MATT NEWBURG: [inaudible]

5 CHAIRPERSON GJONAJ: You've just
6 predicted Armageddon and the end of the world as we
7 know it. [laughter] Um, the number that startles me
8 the most, I guess, where do you see, you just pointed
9 out ghost kitchens of the future, this is a
10 marketing, electronic, no need for, ah, walking down
11 a commercial corridor, stay at home or bring it to
12 you at your place of business. Got it. Consumer
13 behavior demands changes, we adopt. The automation,
14 is that your concern of the future, that we will no
15 longer, once they've built this concept and control
16 the market share, ah, alleviating entire need for
17 brick-and-mortar establishment, ah, that we now look
18 to further cut costs and go fully robotic with
19 automation at that point, three million jobs, is that
20 where you're headed with all this?

21 MATT NEWBURG: Yeah, I am. I think you
22 touched on all the right points. I mean, for me
23 it's, personally as a New Yorker it's, it comes down
24 to perceived value of choice, but really having that
25 all being provided by a very few handful of players,

2 and we've seen that play out in the industrialized
3 food system that we have today with, you know,
4 factory farming and what-not. So I see this
5 following a very similar trend.

6 CHAIRPERSON GJONAJ: All right. So based
7 on your scenario I think we just solved the housing
8 crisis for New York City 'cause we're gonna have
9 plenty of empty retail space to convert to housing,
10 um, and we'll address that issue. I'm with you. But
11 between, and you, you all have a purpose here and you
12 represented your industry and fight for your members,
13 ah, bringing to light many of the issues completely.
14 I just want to make sure that be careful what we ask
15 for because the same principles can be applied to
16 you. So whether it be under the same notion, ending,
17 seeking to end franchising, um, which some small
18 owners have complained about and want to do. It's a
19 problem for us. We want to figure out how to work
20 with the changes so that everyone can benefit, and I,
21 I'm alarmed and concerned about the future of our
22 retail establishments, in particular this case
23 restaurants. We see the impact. We see, um, major,
24 um, name brands closing down their establishment,
25 keeping one flag store open and everything being done

2 online. It has changed retail. We are facing the
3 same challenges for restaurant establishments, food
4 establishments, except that the model is allowing for
5 an identity in the business model that it was
6 received from to be used against that very same
7 establishment. Is there anything besides the passing
8 on of the fees that these third-party apps are
9 charging? Is there, besides the zoning that you
10 brought up and the protection of the data that
11 belongs to the actual restaurant. Anything else that
12 we can add that we should be reflecting on as how,
13 not to stop this, but help shape it where it's more
14 fair and balanced?

15 ROBERT BOOKMAN: Yes, and...

16 CHAIRPERSON GJONAJ: Let me direct it
17 first to, if you don't mind, to Matthew and then I'll
18 spring back to you.

19 ROBERT BOOKMAN: As Batman on the behalf
20 of Robin, I want to, by the way, welcome Superman to
21 the Justice League. [laughs]

22 MATT NEWBURG: Thank you, thank you. Ah,
23 I don't, sorry, your question was about...

24 CHAIRPERSON GJONAJ: What can we do?

2 MATT NEWBURG: ...what other, what else
3 can we do? I, I don't really have the, you know,
4 those exact answers. I do think sitting in this room
5 today gave me a sense, from what you were speaking
6 about with the health ratings was a very good point
7 about transparency. If, you know, I think we can
8 have all this convenience as long as we know what the
9 costs are, if we can externalize those costs and
10 someone is, is paying it, um, I think that that's,
11 that's a, if I know this restaurant had a low health
12 rating when I went to order, right, even if it just
13 said which kitchen it came from I'm, I know these
14 tactics to look up all these kitchens and I'm pretty
15 good at looking up public records, um, and that's how
16 most of this information came, came about today. But
17 the average consumer is not gonna spend as much time
18 as I'm gonna spend doing this homework, right? So
19 the more that we can, we can educate the consumer
20 about what it is they're being sold, um, I think
21 it's, that's, that's kind of all you can really do.
22 I do want to point out aggregation theory. I do
23 think, you know, everyone said Amazon, AirBNB,
24 Netflix, I mean that's effectively what's being done
25 here today. You know, these kitchens are being

2 built, the larger companies, that ones that raise
3 hundreds of millions, not the ones that came to
4 testify today, they're the ones that are really
5 looking at the brick-and-mortar retail, sorry,
6 they're looking at the physical kitchen
7 infrastructure as a mousetrap to aggregate the
8 supply, in turn get a crazier valuation for
9 aggregating the supply side.

10 CHAIRPERSON GJONAJ: Any solution that
11 [inaudible] mentioned that you think we should be
12 looking at?

13 MATT NEWBURG: And we also need to
14 educate small business owners who might be signing
15 leases in these kitchens. If you look at the
16 marketing materials for cloud kitchens, ah, they
17 suggest that if you want to go and open up a
18 restaurant that it's, they make it sound easy. They
19 make it sound like you only need \$30,000 of
20 equipment. Um, that's true, but, you know, you're
21 going to sign a 12-month lease. You could lose
22 \$100,000 to \$150,000, maybe even more, \$200,000 of
23 your personal savings, ah, going into one of these
24 kitchens. So I think outlining for those, those

2 restauranteurs and knowing what they're getting into,
3 um, is another area.

4 ANDREW RIGIE: Yeah, I would just add
5 something. I think part of even at the Department of
6 Small Business Services when they offer services on
7 lease negotiations as these, um, you know, kitchens
8 continue to expand and grow the larger, sophisticated
9 restaurant companies will have the resources to
10 review all these leases. But simple things like non-
11 competes, I mean, if you're gonna open up a bakery or
12 pizzeria you may speak with your landlord and you
13 want a guarantee in the lease that they're not gonna
14 rent this space right next door to another bakery or
15 a pizzeria. So part of it can happen in the free
16 market, but we need to empower particularly those
17 small business owners to ask the right questions and
18 to insist that, you know, if I'm going to sign this
19 lease because I'm bringing value add to your ghost
20 kitchen that in turn you need to give me something.
21 And that happened outside of the legislative and
22 regulatory process, so it's knowledge which is power.

23 ROBERT BOOKMAN: Two things. I think we
24 need a lot more. I know we've started discussions on
25 city legislation, ah, demanding and requiring

2 transparency at all levels of these transactions so
3 that everybody is on a level playing field. Over the
4 last year since I've been involved in this issue I've
5 literally spoken to a couple hundred, ah, twenty-
6 somethings who live in the city and not one of them
7 was aware that, they thought all this was free and
8 not one of them was aware that the local restaurant
9 that they love is actually potentially going to go
10 out of business if they keep ordering from them
11 rather than directly. So that's number one. And
12 number two is a much more macro view from 30,000 feet
13 is we have to as a city have a plan that we put into
14 effect that makes it easier for small business owners
15 to do business in the City of New York, and we are
16 about to release 20 ideas for 2020, as the
17 Hospitality Alliance, most of which are city ideas,
18 ranging from making it easier to get a sidewalk cafe
19 approved quickly to real estate taxes to, to a
20 variety of other issues and certainly not adding more
21 fines and more labor mandates on us. Because if it's
22 cheaper to do business then they can compete better
23 in this new environment. But when we're the only
24 ones handling all of these issues and dealing with

2 all these restrictions and they're not, it's not a
3 level playing field.

4 CHAIRPERSON GJONAJ: Robert, do any of
5 you have any clients or representing anyone that has
6 a cloud kitchen, a virtual kitchen or a ghost
7 kitchen?

8 ROBERT BOOKMAN: I think have members
9 that are operating in some of the, um, cloud kitchens
10 or ghost kitchens.

11 CHAIRPERSON GJONAJ: Has anyone brought
12 to your attention this, not only the 15% fee that is
13 paid on top of the rent to the ghost kitchen, but
14 potentially if that order comes from a third-party
15 food order app...

16 UNIDENTIFIED: Yes, well that, I'm sorry.

17 CHAIRPERSON GJONAJ: ...that there's an
18 additional 33, 33 on top of the 15, you are on a 6%
19 to 11% profit margin, now you're at below 60% loss.

20 ANDREW RIGIE: Correct. So if you're
21 opening in a ghost kitchen currently you're paying
22 all of those fees, but most of your transactions may
23 be going through Grub Hub, for example, so you are
24 paying their fees as well. So, again, what's
25 happening is we're getting more third parties into

2 each step of our business that are each extracting a
3 fee.

4 ROBERT BOOKMAN: And I think now to the
5 extent that we have any members they're in the early
6 steps of that five step where, ah, the Sarge's, you
7 know, Deli that they were talking about, oh, it's
8 still the honeymoon where I'm now delivering to a
9 part of Manhattan that I never delivered to yet. We
10 haven't gotten to step three and step four, you know,
11 and step five is while they decide what do they need
12 Sarge's at all.

13 CHAIRPERSON GJONAJ: Which ultimately
14 will lead to higher pricing, which means...

15 ROBERT BOOKMAN: Correct.

16 CHAIRPERSON GJONAJ: ...because it's a
17 percentage-based agreement they're still making
18 everybody into [inaudible].

19 MATT NEWBURG: I just want to clarify. I
20 think there may have been a misunderstanding about
21 that 15% and I'm not entirely sure about this, but it
22 sounds like from Jim speaking that he was saying if
23 the order comes from Kitchen United they charge 15%,
24 not on top of the existing fee.

2 CHAIRPERSON GJONAJ: Well, they're paying
3 15% out the door.

4 MATT NEWBURG: They're paying 15%...

5 CHAIRPERSON GJONAJ: United, and at Zuul.

6 MATT NEWBURG: They're paying 15% if they
7 originated the order for them.

8 CHAIRPERSON GJONAJ: Yeah.

9 MATT NEWBURG: So they have ordering
10 kiosks in the front of their house where you can
11 actually walk up to Kitchen United and say I want to
12 order from this tenant and they would charge 15% on
13 that. But if it actually got sold on Uber Eats or
14 Postmates you'd be paying the effective rate on those
15 particular platforms. So it's not 15 plus 33%, it's
16 15% or 33%, or whatever the negotiated rate is for
17 that particular tenant.

18 ROBERT BOOKMAN: But who's doing the
19 delivery at the 15%?

20 MATT NEWBURG: They're, they're not,
21 those are for orders that you would walk into Kitchen
22 United and, and sit down in their...

23 ROBERT BOOKMAN: No delivery?

24 MATT NEWBURG: But they, they will do,
25 their main, their new investor is RXR Realty. They

2 are working with RXR to generate demand from other
3 office properties where, I don't know who's, it's
4 probably going to be someone like Relay, which is a
5 third-party, um, fulfillment API that will basically,
6 you know, do the delivery on behalf of Kitchen United
7 or Zuul or whomever. Those guys actually used to
8 work at Relay.

9 CHAIRPERSON GJONAJ: Thank you,
10 gentleman.

11 UNIDENTIFIED: Thank you.

12 UNIDENTIFIED: Thank you.

13 CHAIRPERSON GJONAJ: Amy Healy from Grub
14 Hub. Ms. Healy, I want to thank you for your
15 patience and I'm so glad that you're here to be a
16 part of this. And I'm glad that you actually were
17 able to stay for the whole duration, as we understand
18 the moving parts, and I'm sure this is gonna help in
19 the testimony you're about to give us as we help shed
20 light on the industry and the business models and
21 address some of the concerns that were brought up.
22 So thank you so much for being here. I'm really
23 grateful to you.

24 AMY HEALY: Thank you, Chairman Gjonaj,
25 and members of the committee. Thank you for having

2 me. Again, my name is Amy Healy. I'm senior
3 director of public affairs for Grub Hub. Um, Grub
4 Hub is a leading online mobile food ordering and
5 delivery marketplace. We have the largest and most
6 comprehensive network of restaurant partners in the
7 US, as well as more than 22 million active diners. I
8 know several of the panelists who spoke before me,
9 um, were concerned about competitors in this space
10 that don't have worry about making a profit. As most
11 people know in this room, Grub Hub is the only
12 publicly traded third-party delivery company in our
13 space, um, and we are the only profitable company in
14 our space. So I want to make sure that that's out
15 there and separates us from our competitors. I'm
16 going to skip some of this testimony that you have
17 since it's been a long day. Um, but I want to, um,
18 definitely point out a few things, and especially I
19 know data analytics and, um, data sharing is an
20 important, um, issue for you, Chairman. Um, but
21 first of all, Grub Hub has been connecting
22 restaurants and diners in New York since 1999. We
23 employ nearly 400 people in Bryant Park. Our
24 employees live, work, eat, and breathe in New York
25 and we've proudly driven billions of dollars in

2 revenue to local restaurants and over a billion
3 dollars in tips to our drivers. It's important also
4 to point out that the products and services that Grub
5 Hub designs are meeting the changing needs of diners
6 and consumers in the United States. So, again, we
7 are following demand, um, and hopefully doing it and
8 we strive to do it better than our competitors.
9 Grub Hub does not own kitchen space, nor do we have
10 any plans to do so. I want to be very clear about
11 that. Nor do we own any virtual restaurants. We are
12 in the business of connecting great restaurants with
13 hungry diners, not real estate or restaurant
14 operations. That said, we have partnered with
15 restaurants and restaurant concepts to market them on
16 Grub Hub and to handle delivery logistics. The
17 larger share of the virtual concepts that we see on
18 our platform are from independent restaurants that
19 choose to open a virtual restaurant from their
20 existing brick-and-mortar location or to expand their
21 customer base and capitalize on untapped demand in
22 their market while driving more value from their
23 fixed costs. For example, we've seen a brick-and-
24 mortar sushi restaurant that also sets up a virtual
25 restaurant specializing in poke bowls to use the same

2 supply of tuna and salmon. As I mentioned earlier,
3 data and analytics are important tools for our
4 restaurant partners. While complying with state and
5 federal privacy laws and our own privacy policy, Grub
6 Hub shares data with restaurants about their business
7 that is essential when they are thinking about
8 virtual restaurants. We provide a data analytics
9 dashboard to restaurants that includes daily and
10 weekly sales, orders, and menu item performance
11 metrics as well as trends. In addition to this
12 dashboard our restaurants' success team works every
13 day to evaluate the performance of the restaurants on
14 our platform and to create customized plans to help
15 our restaurant partners be successful. We regularly
16 share data via email to restaurant partners with
17 suggestions about what dishes and cuisines are
18 trending in their area to consider if they wish to
19 open a virtual restaurant concept. But the choice of
20 whether to open a new concept is always in the hands
21 of the restaurant. Grub Hub has been committed to
22 virtual concepts for the last five years, which is an
23 example of how we're focused on making a difference
24 with innovation that provides real value to our small
25 and medium restaurant partners and diners. Virtual

2 restaurants let our diner and restaurant owners offer
3 more creative menus without the overhead of renting
4 additional kitchen space. Here's a local example.
5 We worked with an independent restaurant operator in
6 Brooklyn to reach two delivery zones with their
7 brick-and-mortar virtual restaurant combo. The owner
8 had operated a brick-and-mortar Mexican grill in Bay
9 Ridge for years. But recently after the owner took
10 over a pizzeria restaurant in Park Slope he decided
11 to use the new location as a virtual Mexican grill as
12 well, adding another delivery zone without all the
13 added oversight hearing. We understand with these
14 new restaurant trends comes new policy and regulatory
15 questions for local lawmakers and government
16 agencies. And Grub Hub applauds the committee for
17 bringing together interested stakeholders at this
18 hearing so we can all better understand the
19 implication these trends have on our local business
20 communities. Grub Hub provides the same benefits to
21 a shared kitchen or virtual restaurant available to
22 our brick-and-mortar restaurant partners. We require
23 the same contract for a virtual restaurant or shared
24 kitchen restaurant as we do for brick-and-mortar
25 restaurants and every one of our business entities we

2 partner with are required to comply with all local
3 licensing rules and legal requirements as part of our
4 agreement with them. Grub Hub is proud of our
5 ability to drive revenue, attract diners, and provide
6 tools to our small and medium size business partners
7 that have traditionally only been available to
8 national brands and chains. We continue to strive to
9 develop products and services to help our restaurant
10 partners adapt to changing diner demand and a
11 changing restaurant marketplace. Again, thank you
12 and I look forward to answering any questions, and I
13 will preface it with today's my one-month anniversary
14 at Grub Hub so I do my best. Um, if I can't answer
15 your questions I'll be happy to take them back and
16 respond at a later time.

17 CHAIRPERSON GJONAJ: Well,
18 congratulations and, again, I'm grateful to you for
19 being here, and I apologize that we left you for
20 last, but understanding the hearing focused solely on
21 ghost kitchens and virtual kitchens this would be a
22 great way to end this hearing.

23 AMY HEALY: Absolutely. Sure.

24 CHAIRPERSON GJONAJ: So thank you for
25 your patience. I know that we have another panel

2 afterwards, so you may want to stick around for that
3 if time allows you to do so. I can't help but begin
4 the first question on something on a hearing that we
5 had some months ago, and maybe you can just help
6 answer. Are you, is Grub Hub still willing to re-
7 examine, um, the new policy on the phone orders and
8 perhaps increase, ah, the number of refunds that
9 should not have, back to the restaurants that should
10 never have yielded a charge?

11 AMY HEALY: Um, I can tell you that Grub
12 Hub continually looks at improving, um, our phone
13 orders, which comprise a very small fraction of our
14 orders. Um, we'd be negligent not to continue to
15 look at how we can make that service better.

16 CHAIRPERSON GJONAJ: Well, great, because
17 I, I'm really stuck on this issue and the more I hear
18 back from those restaurants that, ah, took it on face
19 value that the charges that they were seeing on their
20 bills that were itemized were actual transactions
21 that occurred, and for some of these small businesses
22 those fees over a duration of time were in the tens
23 of thousands of dollars. I am going to be working
24 with you to come up with a solution to those charges
25 that should never have been incurred be refunded back

2 to those small businesses. It would go a long way in
3 them continuing to keep their doors open. Ah,
4 they're struggling. I'm sure you see it out there
5 and the numbers are real. They come to me regularly
6 looking for updates. It would make the world of a
7 difference for some of these very small micro mom and
8 pop shop restaurants. That five or 10 thousand
9 dollars in questionable fees could determine whether
10 or not they stay in business.

11 AMY HEALY: No, and I would encourage you
12 to make sure that we communicate on this and if there
13 are restaurants that are not getting the answer that
14 they need from, from Grub Hub that are going to you
15 then that's why I'm here.

16 CHAIRPERSON GJONAJ: Great. So you
17 heard, thank you for that. You heard some of the
18 testimonies and I didn't pick up on it until later
19 and obviously I got a different answer that perhaps a
20 ghost kitchen or shared kitchen scenario the
21 percentage that they're paying that umbrella
22 organization, ah, could not be a double hit with Grub
23 Hub. Is there an instance where Grub Hub platform,
24 where some of these independent kitchens are using
25 more than just the Zuuls of the world, ah, shared

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2 kitchen concept, but they're also using Grub Hub and
3 other third-party online provide services?

4 AMY HEALY: I'm not sure I understand
5 your question.

6 CHAIRPERSON GJONAJ: So you heard the
7 model of shared kitchens.

8 AMY HEALY: Yep.

9 CHAIRPERSON GJONAJ: Where several
10 kitchens are in one facility.

11 AMY HEALY: Right.

12 CHAIRPERSON GJONAJ: Ah, where they pay
13 rent and in addition they pay a percentage to the,
14 um, the umbrella....

15 AMY HEALY: Like cloud or Zuul or
16 whoever, yeah.

17 CHAIRPERSON GJONAJ: Correct. Are those
18 independent kitchens also working with other third-
19 party providers like Grub Hub?

20 AMY HEALY: We absolutely do deliver for
21 restaurants that are contained in cloud or shared
22 kitchens. Um, I don't know what percent of our
23 business is that, but there are times where they
24 contract with us to provide the delivery.

25

2 CHAIRPERSON GJONAJ: Right. So in
3 addition, and you also offer the same packages of
4 marketing, um?

5 AMY HEALY: Right, so our commissions are
6 based on a sliding scale, depending on the needs of
7 what the restaurant chooses to purchase from us.

8 CHAIRPERSON GJONAJ: Right. And those
9 fees we know could go as high as 33%, which includes
10 delivery and credit card charges on top of that.

11 AMY HEALY: And marketing services.

12 CHAIRPERSON GJONAJ: Correct. Is there
13 any scenario where they could be paying both, up to
14 33% fee to Grub Hub and then on top of that a 15%?

15 AMY HEALY: I don't know what a
16 restaurant is paying to a different third-party
17 provider. I don't personally know. I can see if I
18 can find out. But, um...

19 CHAIRPERSON GJONAJ: So could there be a
20 connection where I'm gonna order through Grub Hub,
21 Grub Hub through Zuul or cloud kitchens, to, um,
22 Reggie's Pizza?

23 AMY HEALY: Is there a connection
24 between?

2 CHAIRPERSON GJONAJ: Could there be a
3 connection?

4 AMY HEALY: I'm sure there could be a
5 connection. But those fees, my understanding from
6 listening to the previous, and I don't want to talk
7 about their business 'cause I, I don't know it...

8 CHAIRPERSON GJONAJ: Oh, no I'm just
9 [inaudible]

10 AMY HEALY: But they're charging the
11 restaurant that, they're not charging the diner.

12 CHAIRPERSON GJONAJ: Correct. So if I
13 went on to Grub Hub's application looking for a
14 restaurant, I purchase through your website, your
15 software, could that software now connect me to any
16 of those other cloud kitchens and shared kitchens and
17 virtual kitchens? Where you now are going through a
18 cloud kitchen, a Zuul, or any of those other kitchen
19 centers?

20 AMY HEALY: Grub Hub does partner with
21 restaurant concepts that are part of cloud kitchens.

22 CHAIRPERSON GJONAJ: Right, not the
23 independent kitchen itself, the provider of the
24 marketing service as well.

2 AMY HEALY: OK, that I'm not sure, I
3 can't answer it for you, but I can find out.

4 CHAIRPERSON GJONAJ: But in your mind the
5 theory could exist?

6 AMY HEALY: The theory could exist. But,
7 again, you know, one month in I'd be, it'd be
8 irresponsible for me to make that claim.

9 CHAIRPERSON GJONAJ: Yep. We know this
10 about small businesses. They don't have the time,
11 you know, they're busy making the donuts, you know,
12 focusing on getting the orders out and their day-to-
13 day tasks. And we, as we know through past
14 experiences they really are not afforded the time and
15 liberty to go back and look at statements at the end
16 of the month. I would hate to see a scenario now,
17 and because of this hearing, that could potentially
18 lead to a double commission, that that small
19 independent operator may not be aware of, using this
20 virtual kitchen, shared kitchen concept, where a
21 percentage is being paid to the operator of the
22 general facility and then on top of that because of a
23 connection through the software platforms and just
24 third-party apps be hit by a second commission.

2 AMY HEALY: Right. My understanding,
3 listening again to the previous panels, is there's a
4 gentleman who might have misstated or overstated the
5 amount of fees that were being charged. Um, so, I
6 mean, we're all for transparency, Councilman.

7 CHAIRPERSON GJONAJ: But that would, but,
8 and just talking it over it could potentially happen.

9 AMY HEALY: Um, I guess it could. Again,
10 I'm not going to speak for the cloud business model.

11 CHAIRPERSON GJONAJ: We'll look into and
12 I'm sure there's gonna be a lot more questions in and
13 around....

14 AMY HEALY: Right.

15 CHAIRPERSON GJONAJ: ...scenario that just
16 came up as of today's hearings. Do you support
17 displaying, ah, Department of Health grades on your
18 app for your clients?

19 AMY HEALY: Um, I'd have to find out. I
20 believe that issue has been talked about and I know
21 there is an issue with space on, on the mobile app
22 for how much you can technically put on their. Um, I
23 know this issue has been talked about for years with
24 Yelp and, and other, you know, online directories
25 that serve the restaurant vertical marketplace. Um,

2 and I'm not sure where the city has landed out
3 previously on that.

4 CHAIRPERSON GJONAJ: We're still working
5 through it, but a single letter I don't think is
6 gonna take up much space on a, whether it be a phone
7 or computer.

8 AMY HEALY: I know. Try, try talking to
9 the engineers about changing, changing things, it's
10 not as easy as it sounds.

11 CHAIRPERSON GJONAJ: I can understand
12 what you're saying. Um, so we're open to that
13 discussion. The concern, especially in hearing
14 today's testimonies where you can have a kitchen
15 operate a virtual kitchen and bypass the grading that
16 so many New Yorkers rely on to determine whether or
17 not they'll patronize an establishment. You heard
18 some of the examples.

19 AMY HEALY: Right.

20 CHAIRPERSON GJONAJ: You know, where a
21 restaurant, ah, as a bistro is offering six other,
22 ah, under six other entities serving a multitude of
23 foods, including something as concerning as seafood.
24 Um, the grade that we have, the system that currently
25 exists, would be extremely beneficial for the end

2 consumer when determining what location or
3 establishment they're going to purchase from. That's
4 the purpose of the question to you.

5 AMY HEALY: Right, no, no, and I, as I
6 think about this issue and as I was preparing for
7 this hearing, um, you know, as public policy
8 professional I see the, the new, challenging
9 landscape for restaurants that the city's gonna
10 continue to address, and, you know, we're happy to be
11 part of that conversation. Again, Grub Hub doesn't
12 own the restaurants, we don't own the space, we don't
13 own commissary kitchens, and we are a third-party
14 marketing and delivery and processing app.

15 CHAIRPERSON GJONAJ: So this leads us to
16 the next question. Um, how do you inform consumers
17 that they're ordering from a virtual restaurant? How
18 you would perceive that?

19 AMY HEALY: I don't believe there's any
20 difference, um, when someone's ordering from a
21 virtual restaurant, um, but I'd have to confirm that.

22 CHAIRPERSON GJONAJ: Are you concerned
23 about these ghost kitchens and shared, ah, kitchen
24 centers and the impact it could have on your very
25 industry based on what you've heard today, whereas,

2 um, I think the number was from one location a
3 hundred-plus restaurants in name are offering
4 products of multi, of 2700 restaurants offering over
5 a hundred options of specialty foods? Would that
6 undermine your very existence as well if this became
7 a new trend?

8 AMY HEALY: Grub Hub is there to serve,
9 you know, diners that want variety, a complete list
10 of restaurants, um, and convenience. So if, you
11 know, we have to adapt, too, to the changing
12 marketplace, you know, and I'm confident that, that
13 we can do that. Um, so I wouldn't use the word
14 concerned. Are we paying attention to it?
15 Absolutely. Um, are we trying to help our small
16 business partners that are interested in virtual
17 reality, excuse me, virtual restaurants, um, with
18 advice and data and tools? Absolutely. Um, so this,
19 this is a new space for us and it's one we've chosen
20 not to get into on the level that some of our
21 competitors that you've mentioned and others have
22 mentioned today.

23 CHAIRPERSON GJONAJ: And the numbers are,
24 in one facility of 11,000 square feet, 27 kitchens
25 offering 115 restaurant entities.

2 AMY HEALY: That's, that's challenging.

3 CHAIRPERSON GJONAJ: That would take over
4 a whole market in a rural area, I would imagine, as
5 they market and brand themselves. That would also
6 impact you and other third-party food order apps
7 across the board, if they can control that type of a
8 footprint.

9 AMY HEALY: Right, well, I mean, we do
10 really well in, in smaller towns. You know, our
11 business relies on a healthy thriving SMB restaurant
12 space, no doubt about it. The vast majority of our
13 customers of restaurants are small businesses. Um, a
14 very small percentage are your large national chains.

15 CHAIRPERSON GJONAJ: Um, and when it
16 comes to data, as you heard so often come up and
17 small businesses, particularly these mom and pop
18 shops that may not have realized the importance of
19 data, um, and how relevant it was to their very
20 existence, their concerns are obvious that that data
21 that was obtained through their establishments, I
22 mean, they created the food, they created the market,
23 they created the concepts, they've, um, built a
24 reputation in and around the specific food, to find
25 an app that, ah, such as yours, that comes in

2 offering a new marketplace can now, not only are you
3 paying up to 33%, depending on the services that
4 you're giving them, but that that data could perhaps
5 be used against their business model and, um, be
6 given to another competitor, and I know that you said
7 that you don't open kitchens, that you're not opening
8 up other restaurants, you're not getting into that
9 business, but as you help an existing client
10 understand how to better succeed, ah, and improve
11 their bottom lines you were actually, that's based on
12 data that you may have obtained from a competitor,
13 going back to a simple scenario if you've got, I'm
14 sure you have a multiple number of pizzerias that are
15 using Grub Hub services. Based on the information
16 and the markup and the profit of garlic knots, ah, in
17 one location do you sit down with that other client
18 and say, hey, if you want to, we're gonna help you
19 increase sales. We're gonna help you, show how to
20 make more money on something that's gonna be as
21 simple as putting garlic knots on your menu, where
22 the rate of return is gonna be tremendous. Is that
23 viable under your existing, ah?

24 AMY HEALY: I'm not familiar enough with
25 our sales and marketing team to understand how

2 they're using the competitive intelligence in that
3 way. I do know, um, that if we see that there's, you
4 know, a dearth of a certain type of food in an area
5 we might communicate to our restaurant partners and
6 say there's, you know, there's a need here that's not
7 being met and if that's an opportunity for them
8 absolutely we'll help them. Our job is to help them,
9 ah, take advantage of opportunities in the
10 marketplace to drive and grow their business.

11 CHAIRPERSON GJONAJ: And that's the
12 concern. So, yes, maybe there's a restaurant or a
13 concept that exists outside of the delivery radius
14 and the amount of time it actually takes to deliver
15 that food to that specific location, by giving that
16 information to another client will probably yield in
17 a loss of sales to the business that that data...

18 AMY HEALY: Like I said, Councilman, I'm
19 not sure that the situation you're describing is how
20 we operate at Grub Hub. So, you know, I'm not gonna,
21 I'm not gonna comment on that.

22 CHAIRPERSON GJONAJ: I'm just looking at
23 scenarios and so these are very complicated
24 scenarios. These are very complicated industry and
25 marketplace.

2 AMY HEALY: Right, the business of data
3 and how you use it and provide it to your customers,
4 not just in our business, but in every business,
5 you've said the challenges of technology today and so
6 much of that is due to the type of data, right? The
7 comparison of Amazon and how Amazon knew the people
8 were ordering certain products so they decided to
9 come up and, you know, brand their own products. Um,
10 certainly data is a very valuable thing for small
11 businesses, and some of the products we've launched
12 for them have only been available to the national
13 chains before. Um, the way that we're able to
14 provide an analytics dashboard for a mom and pop,
15 that type of thing was only available to national
16 brands. We've just launched a point of sale
17 dedicated to small businesses, a point of sale kiosk.
18 Those types of services were only available to your
19 Paneras and things like that. So we absolutely will
20 use data analytics and technology to help mom and
21 pops that have been left out of, of that wave and
22 that's something that we're really proud of.

23 CHAIRPERSON GJONAJ: Thank you. My last
24 question for you, have we come up with any data that
25 shows your platform is increasing sales, ah, to those

2 restaurants based on the concerns of profit 6% to
3 11%, if they're paying as high as 33% with delivery
4 and credit card changes, um, that it is sustainable,
5 meaning that you're bringing that, you're offering
6 the sales approaches that we're gonna bring more
7 customers to your location. The data I've seen all
8 along has shown that this is a cannibalization of
9 existing customers, that there is no real customer
10 base that's so impactful that warrants those fees
11 being paid because of the increase in business sales.
12 I haven't seen anything thus far that substantiates
13 the, ah, thought that we're bringing new customers to
14 you, that warrant these high fees.

15 AMY HEALY: I'm, I'm, we're a public
16 company, you know, our books are open and, um, our
17 CEO just issued a big shareholder yesterday.
18 Earnings came out yesterday. So, you know, I can go
19 and find out. Again, we support transparency. But
20 the bottom line is, you know, our customers renew
21 with us because we're helping drive their business
22 and they tell us so. Um, you know, we believe that
23 they're, nobody knows their business better than they
24 do and they choose to us third-party partners, with
25 vendors on all levels because they believe it's good

2 for them. If we're not a good partner they can walk
3 away.

4 CHAIRPERSON GJONAJ: OK. I think they've
5 also realized that without an online presence they're
6 not able to stay open. But the fees and the
7 commissions that they're paying, as you may have
8 heard, and we get a slew, restaurants and whether
9 through their partners or umbrella, ah, associations
10 shows that each sale is a net loss, and it's not just
11 one particular third-party app. This is across the
12 board based on the percentages, that they come back
13 and they now say without, we know that without an
14 online presence we are certain to fail. With an
15 online presence under these third-party apps it's a
16 slow death.

17 AMY HEALY: Are those orders that are,
18 um, just online orders or delivery too? Because Grub
19 Hub, unlike our competitors the vast majority of our
20 orders, um, through the app or online are delivered
21 by the restaurant themselves.

22 CHAIRPERSON GJONAJ: I believe it was a
23 mixture of both.

24 AMY HEALY: Mixture of both.

25

2 CHAIRPERSON GJONAJ: Yeah. Which we'll
3 stay in touch. I just...

4 AMY HEALY: So, I mean, it's a, it's a
5 complicated industry, right? I know there's no easy
6 answers, which is why we're gonna continue to have
7 these conversations.

8 CHAIRPERSON GJONAJ: Just using basic
9 math, if we know it's 6% to 11% profit paying up to
10 33% in a few has to yield in a net loss for that
11 particular transaction. Can't see profit there.

12 AMY HEALY: I mean, you know, you're,
13 you're putting the numbers out. I, I haven't seen
14 the numbers that you're seeing.

15 CHAIRPERSON GJONAJ: We'll continue to
16 work on this.

17 AMY HEALY: Absolutely.

18 CHAIRPERSON GJONAJ: Again, I want to
19 thank you for your time and your patience, and we'll
20 continue to figure out how we're going to shape the
21 future, ah, of this industry and this marketplace
22 together.

23 AMY HEALY: Thank you.

24 CHAIRPERSON GJONAJ: Thank you.

25 AMY HEALY: Have a good day.

2 CHAIRPERSON GJONAJ: Next is Robert
3 Gornero and Kathleen Reilly.

4 UNIDENTIFIED: Robert left.

5 CHAIRPERSON GJONAJ: OK, and Kathleen.

6 OK, Ms. Reilly, we left you for cleanup. Whenever.

7 KATHLEEN REILLY: All right. Well, after
8 almost four hours of testimony I'll do my best not to
9 repeat anybody. Um, good afternoon. As you know, my
10 name is Kathleen Reilly. I'm the New York City
11 government affairs coordinator for the New York State
12 Restaurant Association. We're a trade association
13 for New York city and state food and beverage. Um,
14 we've been representing our members for over 80 years
15 and as has been discussed in this setting the
16 restaurant industry is one of the last strongholds
17 for brick-and-mortar and New York City is contending
18 with a transformative impact of e-commerce and
19 changing consumer behavior. We think it's very
20 important to ensure the continued viability of the
21 restaurant industry in New York City. Today we're
22 very appreciative that the council has taken the
23 opportunity to discuss ghost kitchens and that you
24 have taken the opportunity to listen to all this
25 testimony and get this conversation started. They're

2 growing in popularity around the country and New York
3 City, and we really appreciate you being on the,
4 having your finger on the pulse of this as an
5 emerging and trend and getting stakeholder insight.
6 In a ghost kitchen, as we have all established, it's
7 a commercial kitchen that's for delivery only. Some
8 may be associated with existing storefronts and
9 others may have their own independent concepts. From
10 our perspective ghost kitchens are reacting to the
11 difficult business environment that has been created
12 in New York City. As a business model they allow for
13 renting less expensive space, focusing solely on a
14 kitchen footprint and eliminating customer-facing
15 staff. In a city where rent and property tax pose a
16 major burden, labor is ever-more expensive and
17 regulations are consistently handed down from the
18 city and state. Our legislators have incentivized a
19 business model like this. So for just to give a
20 couple examples, if you don't have to have customer-
21 facing space you don't need to worry about your
22 tables, how many tables do you have, do you need a
23 public restroom. Um, you don't have worry about
24 commercial music licensing. You don't need to
25 entertain anybody in their. You don't have to worry

2 about the customer-facing posters to warn people
3 about various different risks. You don't have to
4 worry about is your trash area intuitive enough that
5 your customers will source separate their things
6 properly after they've received them from you. You
7 don't have a physical storefront, OK, well you don't
8 have to worry about your signs and awnings and A
9 frames and following all of those rules correctly.
10 You don't have to consider potentially do I want to
11 expand to a sidewalk cafe and jump through all of
12 those hoops. You don't have to worry about if your
13 building edifice requires scaffolding on it is your
14 sales going to plummet because you're not visible
15 anymore. You don't have a storefront. You don't
16 have to worry about it. The point is with that in
17 mind our stance on ghost kitchens themselves is
18 simply that they need to be held to the same
19 regulatory and inspection standards as restaurant
20 counterparts to ensure a level playing field. And
21 there have been a lot of suggestions that people have
22 given about different specific ways that level
23 playing fields can be accomplished. I think the
24 point that you mentioned around, um, lack of
25 visibility for grading, the health department grading

2 when you're ordering online, honestly from ghost
3 kitchens or not, when you're ordering online you
4 don't have the same visibility as you would if you
5 were going somewhere in person, and as, ah, I think
6 Matthew mentioned, almost no one is going to take the
7 time to go to the Department of Health website and
8 look up the grading to a place they've never been to
9 before just for the sake of due diligence. It's,
10 people aren't going to do that. So we're looking to
11 see a level playing field. We don't necessarily take
12 specific issue with ghost kitchens existing because,
13 as you've mentioned, it's a free market economy.
14 People are reacting to the realities of the business
15 landscape. Ah, functionally ghost kitchens are
16 basically one step away from a business that serves
17 food from a takeout counter. Just no counter,
18 otherwise more or less the same idea. More
19 importantly, we see ghost kitchens as a symptom of a
20 very difficult business environment in New York City
21 and they're part of a trend. The trend is towards
22 quick service, delivery-oriented businesses, takeout-
23 oriented businesses, the idea that you want to
24 minimize floor space and staffing, and you're, and
25 maximize your efficiency so that you can try to stay

2 afloat in New York City. So the question that we
3 want to leave, I would say you all, you, Council
4 Member, with today is what do we imagine for the
5 future of dining in New York City? Our city has been
6 a proud culinary capital of the world and as a voice
7 for the restaurant industry, and we hope everyone in
8 attendance would agree with us, we believe in the
9 importance of brick-and-mortar restaurants as a place
10 to share food and traditions and culture with both
11 New Yorkers and visitors from near and far. We also
12 know for a fact, of course, that the restaurant
13 industry employs hundreds of thousands of New
14 Yorkers. So if 10 years from now the dining
15 landscape is dominated by takeout and delivery
16 options with only a few true full-service experiences
17 left, is that an outcome that we're proud of? And if
18 not, what are we prepared to do to protect and
19 preserve the viability of restaurants in the city?
20 So, just sort of to wrap up, we are so appreciative
21 that you've started this conversation, we look
22 forward to being part of the discussion as it
23 develops, as any new questions about the role of
24 ghost kitchens arise we want to be part of the
25 conversation. And we urge the council, this

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2 committee, to continue to remember the importance of
3 restaurants in the future of New York City dining and
4 to encourage legislators to consider various means of
5 supporting these businesses. Thank you for the
6 conversation, and I have enjoyed listening to what
7 everyone had to say this afternoon.

8 CHAIRPERSON GJONAJ: Kathleen, I want to
9 thank you for your input today and throughout the
10 year, um, the industry that you represent, um, you've
11 been a strong advocate for them and you, and together
12 I hope they realize how we've made things better for
13 them and we're not done yet. So I want to thank you
14 again. The door is always open. Unless there is
15 someone else here that is going to testify today, I
16 think this is the time that we close the hearing.
17 Thank you so much for being here. [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 March 12, 2020