

**Testimony of the New York City Department of Consumer Affairs
Before the
New York City Council Committee on Consumer Affairs**

**Hearing on
Introduction 467-A: In relation to the registration of costumed individuals engaged in
solicitation**

May 4th, 2016

Introduction

Good afternoon Chairperson Espinal, Council Member King, and members of the New York City Council Committee on Consumer Affairs. I am Alba Pico, First Deputy Commissioner and Acting Commissioner of the Department of Consumer Affairs (“DCA”) and I am joined by my colleagues, Amit S. Bagga, Deputy Commissioner of External Affairs, and Tamala Boyd, Deputy General Counsel.

Thank you for the opportunity to speak with you today about Intro. 467-A, which would require DCA to register individuals who solicit in public while wearing costumes or face-obscuring make-up. We would like to thank Chairperson Espinal for convening today’s hearing, as well as Council Member King and other members of the committee for your close consideration of this issue.

DCA is the largest municipal consumer protection agency in the country, and it is our mission to empower consumers and businesses alike to ensure a fair and vibrant marketplace. The agency licenses approximately 80,000 businesses across soon-to-be 54 different industries, mediates complaints between consumers and businesses, conducts patrol inspections and legal investigations, educates businesses about laws and rules, and also enforces New York City’s Earned Sick Time Act, commonly known as the “Paid Sick Leave” law. In addition to its licensing, consumer protection, and labor-related work, DCA operates the Office of Financial Empowerment, which connects low-income New Yorkers with valuable financial services and education.

Costumed Individuals

As the number of tourists coming to New York City has continued to grow over recent years, and is expected to reach a record high of nearly 60 million this year, so too has the opportunity to provide tourists with new and varied experiences. Among these experiences is that which affords tourists – mainly in Times Square – the ability to interact and take pictures with individuals dressed in costumes that are designed to look like recognizable characters: from Minnie Mouse to Elmo to Buzz Lightyear, among others.

These costumed individuals have become an indelible part of the urban fabric in New York City and in many instances, interactions between costumed individuals and tourists are safe and

pleasant. Unfortunately, this is not always the case. While many costumed individuals are hard-working New Yorkers attempting to earn a living, there have been many reports of these individuals engaged in troubling, unsafe, and reckless behavior.

As costumed individuals are largely concentrated in tourist-heavy areas, such as Times Square, the resultant competition between individuals for business can lead to congestion problems and conflict between performers. Costumed individuals have been reported to be aggressive toward rival performers,¹ tourists who they feel have failed to tip them sufficiently,² and even the New York City Police Department (“NYPD”).³ The problems caused by congestion and over-concentration tend to become more acute as the weather gets warmer and more people venture out to enjoy New York City’s public spaces.

I will now ask my colleague, Amit S. Bagga, to speak in greater depth about Intro. 467-A.

Intro. 467-A

Intro. 467-A would create a registration for individuals who solicit in public while wearing costumes, masks, accessories, makeup, or other objects that obscure the face beyond recognition. Costumed individuals would be required to conspicuously display their registration while wearing a costume and engaging in solicitation in a public space. The fee for a registration would be \$30 and each registration would be valid for two years from the date of issuance. Costumed individuals who solicit in public without a registration would be subject to a civil penalty of \$25 to \$100 for the first offense and \$100 to \$250 for subsequent offenses.

DCA feedback and challenges

DCA very much shares the Council’s goal of protecting consumers and tourists, ensuring that our public spaces are accessible and inviting, and making it easier for NYPD to respond should problems arise. We believe that Intro. 467-A is an important first step in creating an appropriate and enforceable regulatory framework, which we believe is a goal shared by the Administration and the Council. We seek to work closely with the Council in pursuit of this goal, and it is with this in mind that we offer specific feedback on Intro. 467-A as it is currently written.

We have identified several challenges and concerns in the current bill that may mitigate Intro. 467-A’s ability to address issues involving solicitation by costumed individuals. We hope our feedback will be helpful and look forward to continuing discussions with the Council about how Intro. 467-A could be strengthened.

First, and most importantly, Intro. 467-A does not provide for a method by which DCA can deny, revoke, or refuse to renew registrations. DCA has this ability for all of our existing license

¹ <http://pix11.com/2015/06/05/minnie-mouse-hello-kitty-brawl-in-latest-times-square-mascot-melee/>

² [http://newyork.cbslocal.com/2016/03/27/spider-man-times-square/;](http://newyork.cbslocal.com/2016/03/27/spider-man-times-square/)

³ [http://newyork.cbslocal.com/2016/03/27/spider-man-times-square/;](http://newyork.cbslocal.com/2016/03/27/spider-man-times-square/) [http://nypost.com/2014/07/27/spider-man-allegedly-punches-cop-in-times-square/;](http://nypost.com/2014/07/27/spider-man-allegedly-punches-cop-in-times-square/)

categories. Under the current language, DCA would not be able to withhold registration from an individual who violates the law by engaging in solicitation without registering, engages in fraud or misrepresentation, or is convicted of aggressive solicitation. As the bill is currently written, DCA would be required by law to renew such an individual's registration.

New York City sanctions an individual's activity when it grants a permit, license, or registration. In particular, a DCA license or registration signals to consumers that it is safe to transact business with the holder and that they will have recourse to the agency's consumer protection mechanisms should any problems arise. Creating a DCA registration without giving the agency the power to deny, revoke, or refuse to renew registrations for problematic behavior could mislead consumers about the level of risk in their transactions and undermine confidence in DCA's imprimatur as a consumer protection agency.

In addition, Intro. 467-A provides that registration will be valid for two years from the date of issuance. Typically, all of the licenses in a DCA license category will expire in a set month, rather than on a rolling basis. Applicants can still come in to apply for a license at any time and fees are pro-rated based on how much of a license period has already elapsed. This structure allows DCA to better manage our approximately 80,000 licensees by staggering the expiration periods for the 54 different categories. Instituting a rolling registration for costumed individuals would create operational difficulties by requiring the agency to process and track these registrations differently than all of our other license categories.

Conclusion

DCA appreciates the opportunity to testify before the committee today. While the agency must respectfully decline to support Intro. 467-A in its current form, we appreciate the Council's leadership on this issue and look forward to continued discussions about creative solutions. We hope that our feedback will be helpful to the Council as Intro. 467-A continues through the legislative process. My colleagues and I will be happy to answer any questions you may have.