

**Testimony of Commissioner Lorelei Salas  
New York City Department of Consumer and Worker Protection**

**Before the  
Committee on Consumer Affairs and Business Licensing**

**Hearing on  
Fiscal Year 2021 Preliminary Budget**

**March 6, 2020**

**Introduction**

Good afternoon Chair Cohen and members of the Committee on Consumer Affairs and Business Licensing. My name is Lorelei Salas and I am the Commissioner of the Department of Consumer and Worker Protection (DCWP). I would like to thank the committee for the opportunity to testify today about the Agency's budget for Fiscal Year 2021.

Before I begin Mr. Chairman, I'd like to congratulate you again on your appointment to lead this committee and I look forward to working with you and your colleagues, including new members of the committee, on what I believe to be among the most important policy and programmatic work before the entire City Council.

Since its founding in 1969 to today, DCWP has transformed from an Agency singularly focused on enforcing the City's consumer protection laws to a dynamic resource for consumers and workers alike. Presently, DCWP licenses more than 75,000 businesses and individuals in more than 50 industries and enforces key consumer protection, licensing, and workplace laws that apply to countless more.

In my preliminary budget testimony last year, I reflected on Agency successes and previewed strategic priorities heading into the 50th anniversary of our founding. Today, I will share more on how the Agency is building on its successes. Equally as important, I will highlight our legislative priorities and why they are necessary for DCWP to adapt to the modern marketplace and comprehensively fulfill its mission to protect and enhance the daily economic lives of New Yorkers.

**Tackling the Student Debt Crisis in New York City**

Last year, I briefed the committee on the Agency's strategic priority to assess and help mitigate the student loan debt crisis in the City. DCWP's Office of Financial Empowerment penned first-of-its-kind research to more accurately identify and quantify outstanding debt owed by New Yorkers and the factors that contributed to delinquency and default.

Last Spring, DCWP utilized that research to launch a multilingual public awareness campaign entitled "Be Real about Student Loans." Because our research and outreach suggested a need for reliable information about payment options for prospective students, the campaign sought to

inform New Yorkers about their rights and responsibilities. The campaign ran in the City's subway cars, bus shelters, as well as in print, radio, and online in targeted neighborhoods most affected by delinquency and default.

Today, our student loan debt education efforts continue. Building on our research and outreach, DCWP held a training on student loan debt relief resources for the counselors at our Financial Empowerment Centers. The counselors then staffed a series of student loan debt clinics in 2019, and continue to provide guidance to New Yorkers year-round. Of course, we continue to evaluate other interventions that would help us address the City's student loan debt crisis, including the expansion of key initiatives to encourage child savings accounts and we look forward to partnering with the Council on these potential solutions. Moreover, the Agency is overseeing an expansion of Financial Empowerment Centers citywide from 26 to 35 centers, all of which are open to anyone over the age of 18 who lives or works in New York. In addition to student debt relief, these Centers will continue to offer New Yorkers resources on budgeting, how to improve credit, reduce debt and much more. Since their creation in 2008, these centers have helped clients reduce debt by over \$73 million and increase savings by nearly \$6 million

### **Reducing Penalties on Businesses and Promoting a Culture of Compliance**

A priority of mine at DCWP has been to reduce burdens on small business owners. This mandate continues to be realized with an increasing focus on business education and dedicating resources to programs I have championed such as the Visiting Inspector Program (VIP) which has provided free educational inspections for more than 6,000 new brick and mortar licensees.

In calendar year 2019, the Agency partnered with elected officials to double the number of Business Education Days it held in 2018 from 14 to 28. These educational walks and other business-focused roundtables accounted for interactions with upwards of 1,500 businesses alone.

Since 2014, we have issued nearly 28,000 cure-eligible violations, which potentially saved businesses up to \$8.8 million in penalties. Currently, there are more than 40 cure-eligible DCWP violations and recently, at Mayor De Blasio's State of the City, the administration announced an expansion of cure-eligible violations across multiple City agencies, including DCWP. We look forward to working with Council to continue supporting small businesses and reducing fines. Overall, DCWP reported another consecutive year of decreased fines on businesses – a decrease of over \$200,000 compared to calendar year 2018.

Most recently, DCWP worked with Council to successfully repeal the outdated Home Improvement Salesperson (HIS) license category. Established in 1969, an internal review of the HIS license category had shown that it was redundant of our Home Improvement Contractor license. With the license set for repeal, home improvement businesses will no longer be subjected to two sets of fees and licenses for the same area of work. Moreover, the Agency will be able to streamline processes to ensure expedited service. We hope to work with Council to identify further opportunities to streamline licenses, compliance and regulation.

Finally, the Agency recently conducted a penalty mitigation analysis and is in the process of promulgating rules to have certain civil penalties waived if businesses make their restrooms

available to the public. When finalized, this program will be another resource available to small business owners in lieu of a financial penalty.

### **Empowering Workers and Holding Employers Accountable**

With the implementation of the Paid Sick Leave law in 2014, DCWP took on the role of implementing and enforcing private sector municipal workplace laws in the City. Today, DCWP is a focal point for labor issues and a dedicated voice in City government for private sector workers across the five boroughs. As such, complaints received by the Agency have steadily increased over the last three calendar years – totaling over 1,100 by 2019.

The City is now regularly leading, or among national leaders, in protecting workers' rights. The City's expanded Paid Safe and Sick Leave Law made New York the first City in the nation to extend safe leave to survivors of human trafficking and domestic violence. The City's protections for freelance workers are the first of its kind in the country and remain a unique protection for freelance workers. Similarly, the City was among the first to adopt Fair Workweek legislation for fast food and retail workers, and has been far out in front on enforcing its fair scheduling laws.

DCWP is continuing to build on its successes enforcing these critical laws. In calendar year 2019, DCWP obtained resolutions of approximately \$3.2 million on behalf of workers, about a half a million more than what was obtained in 2018.

These numbers are in large part a result of our strategic affirmative enforcement. DCWP uses its proactive enforcement authority to maximize worker recoveries for past violations and future compliance for entire workplaces. In 2019, for example, DCWP obtained resolutions totaling \$571,000 in combined restitution and penalties and future reporting and compliance measures as a result of proactive investigations and litigation into 13 home health care agencies employing more than 13,000 workers. These settlements were part of a broader affirmative enforcement initiative covering 42 home care agencies across the five boroughs that collectively employed more than 50,000 workers.

In addition, DCWP regularly conducts large-scale workplace wide enforcement actions against major national brands. In November, DCWP announced a settlement with a McDonald's franchise operator in Queens for violations of Fair Workweek and Paid Safe and Sick Leave laws. In total, \$155,000 in restitution was awarded to 280 workers. Similarly, DCWP announced a settlement with Starbucks stipulating that they create a \$150,000 restitution fund for current and former employees for violations of the City's Paid Safe and Sick Leave law. Starbucks will also be required to display an educational poster in a public space about Paid Safe and Sick Leave in all its New York City locations.

DCWP is currently in litigation with Chipotle over alleged violations of fair workweek and paid safe and sick leave laws.

### **Ensuring Integrity in New York's Marketplace**

DCWP also remains committed to ensuring integrity in the marketplace. Deceptive and unfair trade practices have no place in the City and our Agency remains committed to exercising its authority to investigate and prosecute instances of unlawful behavior.

One such instance includes our ongoing commitment to combatting immigration service provider fraud, sometimes known as notario fraud. Following noncompliance with a previous settlement agreement, DCWP filed new charges against Buitron Offices and associated defendants for using deceptive advertising and marketing to lure immigrant New Yorkers and then defraud them of tens of thousands of dollars. Buitron's deceptive acts included misrepresenting himself as a lawyer and lying to consumers about how they could obtain citizenship.

Another case involving our Consumer Protection Law was filed in September against T-Mobile and MetroPCS NY for alleged violations that included selling used phones as new, deceiving customers as it relates to refund policies and overcharging customers. The charges brought forward were the culmination of a lengthy investigation spurred by over 100 consumer complaints.

As noted earlier, DCWP licenses over 75,000 businesses and individuals citywide. During the review of renewal applications for tow companies, DCWP uncovered irregularities in insurance documents they are required to submit to the Agency. Further investigation, including subpoenas issued to dozens of insurance companies and brokers, confirmed that numerous licensees had submitted insurance documents altered to appear as though the company had the legally required insurance when it did not. The Agency will be making final determinations on these licenses in the coming weeks.

### **A Golden Anniversary with Silver-Standard Tools**

As I mentioned earlier, DCWP celebrated its 50th, or golden, anniversary this past April. Our investigative, enforcement and programmatic work detail tangible successes for New Yorkers and responsible stewardship of taxpayer resources. To be frank, however, these successes are despite ambiguities in our laws that require clarification to reflect the Council's legislative intent. Without legislative updates, the consequence may very well be an Agency in its golden year, but with silver-standard tools at its disposal.

Our Agency's founding is rooted in the City's Consumer Protection Law – a landmark municipal protection intended to deter businesses from engaging in unfair trade practices and to empower consumers to seek recourse.

We can all agree that the City has changed a great deal over the past 50 years. For example, business advertising and solicitation via the Internet is an increasingly popular means of consumer communication. However, the 1969 Consumer Protection Law is silent on the scope of its protections in this space since it did not envision a marketplace in the digital age. And, in a City of over 8 million people, including more than 3 million immigrants, over 200 languages are spoken every day. A modernized Consumer Protection Law should enshrine protections for New Yorkers who negotiate a transaction in one language and are then asked to sign a contract in English, even if they do not speak that language.

The City's most vulnerable communities, including low-income, immigrant, veteran and aging New Yorkers benefit from DCWP's protections. These protections, however, are only as effective as the laws and rules behind them. For example, further amendments to the City's Charter and Administrative Code are needed to clarify that DCWP can seek and secure restitution and equitable relief across all its laws and rules. In 2017, our Agency brought charges at the Office of Administrative Trials and Hearing (OATH) against a business for preying on immigrant New Yorkers and falsely advertising identification cards to protect these consumers from Immigration and Customs Enforcement (ICE). While the administrative law judge ultimately ruled in our favor and awarded penalties, the ruling also held that the Agency did not have the authority to secure restitution from businesses that are not licensed by DCWP, even if a business has harmed a consumer or worker. Restitution is a cornerstone protection that further holds unscrupulous individuals financially accountable and, importantly, provides victims with compensation to cover their losses. Additionally, an amendment is necessary to clarify our authority to inspect businesses onsite for workplace violations, a common compliance tool for labor enforcement agencies

I am immensely grateful to the committee for holding a hearing on both Introductions 1609 and 1622, which will each address these concerns and I hope that you will join me in pushing for full consideration and final passage of these commonsense bills as soon as possible.

### **Conclusion**

Now in my fourth year as DCWP's commissioner, I am privileged to witness the hard work of the dedicated public servants employed by the Agency. Perhaps even more so, I am humbled by their results-driven work that, with the Council's support, has sought to address the most pressing challenges of our time. As an immigrant New Yorker, I have experienced many of these challenges firsthand – challenges such as student loan distress, unpredictable scheduling, unpaid leave, and deceptive marketing. Legislation before the Council, such as Paid Personal Time, will enact critical protections for New Yorkers to address these issues, and I continue to be thankful to work with my colleagues in government in search of solutions. Thank you and I'm happy to answer any questions you may have.