

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

**Before the Committee on
Small Business**

**Hearing on
Introductions 2233 and 2234: Civil Penalties, Cures, and Waivers**

March 1, 2021

Introduction

Good afternoon Chair Gjonaj and members of the Committee on Small Business. I am Lorelei Salas, Commissioner of the Department of Consumer and Worker Protection, or DCWP. I am joined by Michael Tiger, our Deputy General Counsel, and Steven Ettannani, our Executive Director of External Affairs. Thank you for the opportunity to testify today before the Committee.

I agree with and echo my colleague, Commissioner Doris, and his testimony in support of the intent of both the introductions under consideration. However, we are adamantly opposed to the proposal's dilution of DCWP's foundational law, the Consumer Protection Law, also known as the CPL.

Diluting the CPL, and not improving its protections, will have tremendously negative consequences for the most vulnerable of our city's constituents and stifle our agency's mission during a time of extreme crisis. In fact, we look forward to working with the Council to strengthen the protections of the CPL.

Small Business Support

To be clear, there is no question that the Administration and DCWP supports small business relief. We have prioritized giving small businesses the tools they need for compliance and worked with Council to cut red tape for licensees and other businesses.

Prior to the pandemic, our agency instituted robust language access and educational collateral to serve our small businesses. We established the "Visiting Inspector Program" to educate licensees about the laws and rules applicable to their businesses with one-on-one personal visits where we provide businesses with plain language checklists, so they know exactly what we will be looking for in the future. We have eliminated redundant license categories, saved businesses up to \$9.8 million through 31,000 cure-eligible violations issued since 2014 and have proactively approached the Council with new cure-eligible violations we believe should be implemented.

At the onset of the COVID-19 crisis, we partnered with Council to refund \$12 million in consent fees to restaurants, and extended license and renewal periods for more than 50,000 licensees. We also suspended patrol inspections at the start of the state of emergency, and our team has actively

been on the ground, educating more than 3,500 small businesses and counting, door to door, on safe reopening guidance.

NYC's Consumer Protection Law

This is all to say that the goals of these bills are broadly in-step with our own efforts to support our city's small businesses. However, we can achieve the goals of providing relief to small brick and mortar businesses without abandoning our most vulnerable consumers. Likewise, we do not believe that businesses who egregiously decided to price gouge consumers on goods used to treat, prevent and limit the spread of COVID-19 should have their civil penalties returned to them.

Since 1969, the CPL has been an essential component of our city government's obligations to protect our constituents from harm, including from the minority of businesses or corporations that would seek to deceive our consumers. Significantly, before the Council's consideration is Introduction 1622, which modernizes the CPL to reflect the Council's commitment to guard New Yorkers from deceptive online transactions, require documents be translated in a consumer's language of preference, and provide penalties that are effective deterrents of predation. That bill has the support of Councilmember Ayala, Chair of the Consumer Affairs and Business Licensing Committee, along with the majority of members of that committee.

In 1969, the cost of bread for a consumer was 20 cents. Since that time, the CPL's penalties have remained unchanged. Now, they are among the lowest consumer protection penalties in the entire country and are not an adequate deterrent for businesses. Fair penalties that protect New Yorkers from real harm make sense, much like the civil penalties in Council's recently passed legislation to protect our small businesses from unreasonable fees from online delivery apps, to require small businesses to disclose their collection of biometric data, or to require hotels to report their service disruptions.

Looking out upon our communities, the CPL enjoys broad support from labor, immigrant, legal advocates, and economic development organizations. These organizations, made up of everyday New Yorkers, know the impact of the CPL on our lives. They know it is the shield that deters "notarios" from preying on our immigrant New Yorkers, who much like I was, are in search of the American Dream. It is the safeguard that allows us to pursue cell phone companies who deceive consumers into buying used phones marketed as new, or for-profit schools who deceive students into taking grants that convert to private loans without the students' knowledge. In sum, the CPL gives the agency standing to pursue predatory practices citywide.

Take, for example, price gouging. This is work that we pioneered after public outcry from more than 12,000 New Yorkers. Businesses that used the darkest hours of the pandemic to exploit their consumers should not be given a reprieve from those acts. We, as a city, should strengthen the CPL's protections, and are concerned by measures to reduce them or forgive past penalties issued under its authority.

Conclusion

DCWP supports the intent and efforts to help our small businesses but are strongly opposed to weakening the nation's first ever municipal consumer protection law. DCWP at its core is dedicated to protecting our consumers and workers and diluting this law would go against this very mission. Intrinsicly tied to this, is the work we have done to protect our city from endemic price gouging that arose during the pandemic.

We encourage the Council to include Introduction 1622 or its core provisions with this legislative package. An update to the Consumer Protection Law is needed now more than ever. Thank you for the opportunity to testify and I look forward to any questions you may have.