



Fiscal Year 2016 Preliminary Budget Hearing

Testimony of Julie Menin
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New York City Council
Committee on Consumer Affairs
Committee on Finance
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Introduction

Good morning Chairman Espinal, Chairwoman Ferreras, and members of the Consumer Affairs and Finance Committees. I am Julie Menin, Commissioner of the New York City Department of Consumer Affairs (“DCA”). I am joined at the table by Alba Pico, First Deputy Commissioner, Carla Van de Walle, Chief of Staff and Deputy Commissioner of Finance and Administration, Matt Petric, Executive Director of Data Analysis and Strategic Planning, as well as Amit Bagga, Deputy Commissioner of External Affairs.

I am pleased to have the opportunity to offer testimony on DCA’s work this year to advance the Mayor’s vision of a more equitable New York by ensuring fairer and more consistent enforcement of the City’s consumer protection laws, by reducing the onerous burdens placed on small businesses, by extending paid sick leave to hundreds of thousands of employees and helping consumers make informed choices and build assets. DCA’s efforts are always informed by a mandate to be innovative, effective, transparent and connected closely to the people we serve.

I am pleased to have the opportunity to offer testimony on DCA’s work this year and highlight the many new initiatives that advance Mayor de Blasio’s vision to ensure the fair and equitable enforcement of New York City’s consumer protection laws, to reduce onerous burdens faced by small businesses, to extend key protections to hundreds of thousands of employees in our City, as well as to educate and empower consumers to make informed choices and build their assets.

DCA licenses approximately 80,000 businesses across 55 different industries, mediates complaints between consumers and businesses, conducts patrol inspections and legal investigations, educates businesses about laws and rules, and also enforces key labor laws, such as New York City’s Earned Sick Time Act, Living Wage Executive Order, and, beginning in January 2016, the new “transit benefits” law.

In addition to its licensing, consumer protection, and labor-related work, DCA also houses the Office of Financial Empowerment (“OFE”), which is the first municipal government initiative in the country with the specific mission to educate, empower, and protect New Yorkers with low incomes.

I will begin my testimony with some of the core functions of DCA, Licensing, Enforcement and Investigations.

Licensing, Enforcement, and Investigations

Licensing

This year, DCA has made its licensing functions significantly more user friendly. For many years, DCA operated its Licensing Center on the fifth floor of 42 Broadway in lower Manhattan. Last year, more than 100,000 business owners visited our center to apply for or renew licenses, and to obtain key information about new policies and procedures.

To accommodate demand and improve efficient service delivery, DCA opened a new Licensing Center in the lobby of 42 Broadway in December 2014. The 12,700-square-foot space was constructed in six months and provides additional needed space.

To minimize wait and processing times, the new center features 12 service counters equipped with cameras to streamline license processing. For the first time ever, all 12 counters feature Language Line access, allowing our visitors to conduct their business in their language of choice so business owners are no longer forced to bring a translator. Testing rooms also feature new computers and there are seven kiosks with iPads to help businesses download inspection checklists, submit online license applications, and easily pay fines on the spot.

Improvements in our procedures have more than halved the average wait time at our center to just eight minutes in FY 2015, as compared to 19 minutes FY 2014.

Enforcement: Reforms and Reporting

In addition to licensing businesses, DCA engages in patrol and investigatory enforcement of State and City consumer protection laws. In the past, this enforcement often resulted in our City's small businesses being over-burdened by multiple inspections and onerous fines that often severely affected their ability to remain viable.

To meet Mayor de Blasio's goal of bringing much-needed relief to the City's small businesses, DCA enacted a package of approximately two dozen reforms in July 2014 which have resulted in a reduction of fines collected by approximately \$5 million.

Under the new reform package, the number of "counts" per type of violation has been significantly reduced, which in turn reduces the overall amount of an assessed fine. For example, in the past, if five cans of a particular food product were missing price tags, a fine would be assessed for each can, resulting in five counts – even though the type of the violation is exactly the same. Our reforms would now assess all counts of a particular type of violation – an item pricing in this example – as one count. This change has been particularly helpful to small businesses – bodegas, local grocery retailers, etc. – which often do not have resources to cover the costs of large and onerous fines.

DCA has also undertaken other major steps to serve the needs of small business owners. Patrol inspections are now conducted on the spot in an owner's language of choice by using Language Line. This important service helps to eliminate fear and confusion on the part of business owners, and also helps increase access to information and facilitates compliance with the law.

Additionally, DCA now offers reduced settlement amounts to businesses, and notably, now issues warnings instead of violations for minor infractions observed for the first time. DCA's implementation of the Cure Law has also offered the agency the opportunity to allow business owners to "cure" a variety of first-time violations before fines are assessed. Since the beginning of FY 2015, DCA has issued 1,765 curable violations, of which 74 percent have been cured.

In FY 2015 to date, DCA collected \$5.3 million in fines, a 42 percent reduction from the \$9.2 million collected in the same time period in FY 2014. We are also collecting our fines in a way that is much more efficient and effective than the past. In FY 2015, DCA is projected to collect 70 percent of the value of the fines it has assessed, whereas last year DCA only collected less than half the value of fines assessed.

DCA has also made significant strides in ensuring that the City's businesses are inspected in a way that is more equitable than methods used in the past. Formerly, businesses in certain areas of the City were more commonly subjected to inspections compared to businesses in other areas. DCA is now using an online mapping tool that compares block by block neighborhood by neighborhood where inspections have been conducted to achieve geographic equity.

Educating businesses about compliance with the law is one of DCA's top priorities. In the past, when business owners asked questions during an inspection, they were often told to read the law, an unsatisfactory answer at best. The agency has now expanded its business education tools, posting 41 of our most commonly-used inspection checklists on our website in plain language. To serve the needs of immigrant business owners, many of these checklists are available in eight additional languages, and we will be translating even more this calendar year.

As a former small business owner, I know how important it is to obtain clear, consistent information from the City about laws and rules. To further Mayor de Blasio's vision of reducing burdens on small business owners, DCA introduced a new Legal Ombudsman in October 2014. This ombudsman is dedicated to answering questions that businesses have about the laws that DCA enforces. Our legal ombudsman has also conducted dozens of presentations across the City on a variety of topics, often assisted by translators, who have delivered these presentations in Spanish, Korean, Mandarin, Cantonese, and several other languages.

DCA also offers the City's first and only online "live chat" service, which gives business owners the ability to easily ask questions during business hours without having to visit DCA's licensing center or take additional time away from their customers to call in a question.

These reforms reflect DCA's commitment to realizing the Mayor's vision of New York City as a place for small businesses to thrive and where consumers' rights are protected. Our continued emphasis on balancing enforcement and consumer protection is borne by the numbers: In FY 2015 to date, DCA has inspected 35,328 businesses, just 15 percent fewer than we did in the same time period in FY 2014 (41,828). During this same time, our inspectors issued 6,380 violations, which is less than half the number of violations issued in FY 2014 (13,589).

Investigations

In addition to our enforcement division, the agency's legal team investigates and prosecutes businesses for violations of the City's Licensing and Consumer Protection Laws.

As part of DCA's mission to empower consumers and protect their financial health, DCA carefully monitors the actions of the debt collection industry, one that often engages in predatory business practices. I am proud to announce that as part of this work, DCA settled the largest debt collection case in the agency's history. In December 2014, National Credit Adjusters was required to pay nearly \$1 million to 4,600 New Yorkers as restitution for illegal collection of payday loans. In addition, a fine of \$350,000 was levied against the company.¹ In FY 2014 and 2015 to date, DCA has entered into settlements with an additional 37 licensed debt collection agencies, collecting fines totaling nearly \$900,000.

Another industry that often preys on vulnerable populations – particularly the unemployed and immigrants – is the employment agency industry. To protect job seekers, especially low-wage workers, from predatory employment agency practices that lure consumers with the promise of jobs, charge fees, and then fail to deliver jobs or provide refunds, DCA issued subpoenas to 115 licensed employment agencies in FY 2014. Most of these employment agencies had previously entered into settlement agreements with DCA and needed additional monitoring.

DCA has also been engaging in a large-scale investigation into the practices of second-hand auto dealers, an industry the agency licenses. As the members of the committees aware, more cars were recalled in calendar year 2014 than any other year on record. In an effort to protect unsuspecting New Yorkers from purchasing unrepaired recalled cars that could be dangerous to themselves and others, DCA issued subpoenas to more than 200 second-hand auto dealers.

We have also focused our investigation on predatory financing in the second-hand auto industry. DCA has been looking into car loans arranged by auto dealerships and underwritten by two related firms in particular - Santander Consumer USA and Santander Consumer Funding 3 LLC – to whom we have sent subpoenas. In addition to such large-scale investigations that often result in major settlements benefitting New Yorkers, DCA also mediates complaints between

¹ NCA has paid \$125,000. The agreement provides that NCA will pay DCA an additional \$250,000 if that amount is unclaimed by consumers who may be entitled to a refund.

consumers and businesses, a core function of the agency, through its Consumer Services division.

Consumer Services

The tens of thousands of consumer requests we receive each year include the mediation of consumer complaints. This year DCA has made it a priority to secure restitution for New Yorkers who have been harmed by businesses. It is therefore with great pride that we share that in FY 2015 to date DCA has already secured nearly \$3.5 million in restitution for New York City's consumers. This amounts to a 70 percent increase over what we were able to secure in FY 2014. We have been able to achieve these results by focusing on mediation, which is faster and more effective as compared to legal action, which can delay the process and ultimately, restitution.

As the Chair and members of the committees are aware, DCA's consumer protection work goes far beyond our enforcement, investigations, and mediations. Our Office of Financial Empowerment ("OFE"), through its services, programs, and advocacy, ensures that New Yorkers with low incomes have the guidance and support to make crucial financial decisions and have access to safe and affordable financial products.

Office of Financial Empowerment

To achieve its goals, OFE employs several financial empowerment strategies that are based on groundbreaking research. These strategies include: providing high-quality financial education and professional one-on-one financial counseling; improving access to income-boosting tax credits and other asset building opportunities; and engaging in public outreach and legislative advocacy.

OFE runs a network of nearly 30 Financial Empowerment Centers ("FECs"), which provide free, confidential, one-on-one financial counseling in sites across all five boroughs. These sessions involve conducting a full financial health assessment with clients and enrolling clients in one or more service plans that can help clients become more financially secure in areas such as banking, savings, credit, debt, or budgeting.

Since 2008, OFE has worked with more than 35,000 clients in 57,000 counseling sessions, helping them reduce nearly \$26 million in debt and build nearly \$3.4 million in assets. In December 2014, contracts with OFE's existing providers were renewed for an additional three years through 2017, and we anticipate serving an additional 25,000 New Yorkers during that time.

Though OFE boasted many successes in its initial years, in order to more effectively and efficiently serve New Yorkers, OFE's financial counseling model required revisiting. The original model of mandating hour-long initial sessions with clients at FECs, for example, was

creating a backlog of appointments and New Yorkers facing financial trouble – many of whom might be reluctant to wait weeks to see a counselor – were unable to simply walk into most of our centers. Additionally, while having been a leader in the field for some time, OFE was otherwise not particularly well-known outside of certain advocacy and service delivery networks.

Our initial changes to OFE’s model were simple and effective. In the first few months of FY 2015, we reduced the mandated initial counseling session to 30 minutes, freeing counselors to see many more clients, and we required that most of our centers become “walk-in” centers, so that clients could enjoy more immediate service. Additionally, we have done extensive outreach to spread the word about OFE, by meeting with dozens of elected officials, other government agencies, community boards, civic and clergy groups, labor groups, and others.

One of OFE’s key successes this year was a significant expansion of the City’s Earned Income Tax Credit (“EITC”) campaign, where we decided to invest a 20-fold increase in resources (\$3 million dollars) compared to years past. Despite the fact that EITC and related credits – which can be worth up to \$10,000 in a year – are some of the most effective tools available to fight poverty, one in five eligible New Yorkers fail to claim these credits every year. I would now like to take this opportunity to discuss our EITC campaign as well as our paid sick leave campaign, both of which have been geared towards Mayor de Blasio’s chief goals of reducing income inequality.

Community Engagement and Public Awareness: EITC and Paid Sick Leave

DCA has adopted a new strategic and dynamic approach to community engagement; an approach that lets all New Yorkers – regardless of the language they speak or the borough they live in – understand how they can benefit from existing programs, such as EITC, and from new laws, like paid sick leave. Essentially, we are bringing resources and outreach to the public, as opposed to having them come to us.

Between our EITC and paid sick leave campaigns, DCA has partnered with more than 1,000 nonprofits and community groups, more than 150 elected officials, including you here today, all 59 community boards, the majority of City agencies, dozens of business groups and clergy leaders, major firms such as Citi, Verizon, and AT&T, and most important, more than 3,000 volunteers across the City. This type of “grassroots” engagement, using a broad and diverse array of networks, has enabled us to reach millions of New Yorkers from all backgrounds.

Two key examples of our new approach to community engagement are the EITC and paid sick leave “Days of Action” that we held this past year. In January 2015, DCA mounted the first-ever EITC Day of Action, an extensive trilingual day of outreach where more than 2,000 volunteers called hundreds of thousands of EITC-eligible New Yorkers to encourage them to file their taxes for free and claim refund-boosting tax credits. As part of the 20-fold increase in our EITC investment, the City is for the first time funding free tax preparation partners and for the first

time ever we have 200 sites available all of which are documented on our new on line tax preparation site map.

In addition to our EITC efforts, we have extensive ongoing community engagement initiatives and advertising about paid sick leave. As I have had the opportunity to testify before the Consumer Affairs Committee in great detail about our efforts on paid sick leave, I will provide a brief overview of some our accomplishments to date. When the law was first being implemented, DCA mounted a major, multilingual advertising campaign that included transit, outdoor, print, radio, and television advertising. We ran additional advertising in December 2014 and are planning on engaging in advertising in the coming months, as well.

To date, DCA has distributed more than 1.8 million pieces of paid sick leave literature, presented at over 750 events targeted at both employees and employers. 219 of these have been conducted in languages other than English. More than 500 of these events have taken place in boroughs outside Manhattan and our multilingual outreach team, whose members can speak Spanish, Bengali, Haitian Creole, and Mandarin, among other languages, have paid direct visits to nearly 1,500 businesses across the five boroughs. In recognition of the great diversity of our City's employers and employees, DCA went above and beyond publishing our main paid sick leave-related documents in the seven mandated languages by translating them into 26 languages.

In mid-July 2014, two weeks before employees could begin using accrued sick time, DCA held its Paid Sick Leave Day of Action. I'd like to thank members of the committees for supporting and participating in our Day of Action, during which 1,400 volunteers, including business owners, workers, unions, City employee, and everyday New Yorkers distributed more than 350,000 brochures in just four hours at over 140 subway stops and transit hubs throughout New York City. Our efforts were so successful that "#paysickleave" was a top trend on Twitter in New York City that day.

We believe the new outreach methods our agency is employing reflect the importance of city agencies listening to the needs of every day New Yorkers and engaging in direct dialogue with communities across the city. Just this past week, we convened the first meeting of the Paid Sick Leave Advisory Council where we brought advocates, chambers of commerce, elected officials and businesses together to solicit feedback on the implementation of the law.

Labor Laws Enforcement and Implementation

Paid Sick Leave Enforcement

From April 1, 2014, until March 5, 2015, DCA has received 7,947 paid sick leave-related inquiries, including 7,354 requests for information, 29 requests for outreach, and 434 docketed complaints. We focus on mediation as our first course of action as it provides the fastest, most cost effective relief for employees and avoids the need of legal action for employers. Of the complaints we've received, 30 have resulted in on-site investigations, 278 are being investigated

and/or mediated, 49 have been administratively closed, 92 have been resolved through pre-investigation mediation, 10 were not substantiated, and five notices of violation have been issued. Currently, the average time to resolve a complaint is 30 days, and DCA has secured \$9,245 in restitution to 31 employees to date.

In addition to paid sick leave, DCA has taken on the enforcement of a variety of new labor-related laws and initiatives, namely transit benefits and living wage. DCA is currently in the process of preparing for the imminent implementation of these laws, which I will briefly discuss now.

Transit Benefits

DCA will be tasked with implementing and enforcing the new pre-tax transit benefits law, which requires New York City companies with 20 or more full-time employees to offer this benefit. The law takes effect in January 2016. To allow businesses adequate time to adjust to the law, employers will not be subject to penalties that take place before July 1, 2016. DCA looks forward to working with the City Council, businesses, and advocates to implement the law in the most effective way possible.

Living Wage

In 2014, Mayor de Blasio issued Executive Order No. 7, which significantly broadened the scope and impact of the Living Wage Law by, among other things, limiting exemptions and increasing the dollar amount of the living wage floor.

DCA has been assigned joint authority with the Office of the Comptroller to enforce the Living Wage Executive Order. Our agency is currently working with the Law Department and other relevant agencies to finalize our enforcement policies and procedures; enforcement will begin later this calendar year.

Budget

I will now focus on the proposed Fiscal Year 2016 preliminary budget for the agency.

The Department's revenue projection has decreased from \$33,269,058 in the FY2015 adopted budget to \$31,819,905 for the fiscal year 2016 preliminary budget. This approximately \$1.5 million decrease can be attributed to a reduction in projected fines and licensing fees, which coincide with the Administration's commitment to the needs and priorities of small business owners.

In an effort to improve Licensing regulations and to implement the work of Small Business First, DCA will be looking into the elimination of unnecessary licenses and the consolidation of overlapping licenses from the City Administrative Code and Rules. These changes in regulatory requirements, paired with regular cyclical fluctuations in licensing fees based on scheduled

license renewal periods, are expected to reduce licensing fees collections by \$227,000 in fiscal year 2016.

Additionally, DCA anticipates fine revenue to decrease by at least \$1.2 million in fiscal year 2015 and out years.

Most significant drops will be seen in industries like grocery retail, misc non-food retail (e.g. 99 cent shops), secondhand dealers, salons and barbershops. This largely reflects the agency's preference for educating businesses through warnings on "picayune" violations like signage and receipts, as well as the implementation of the Cure Law, which allows businesses to correct many first-time violations before paying fines.

On the expense side, the fiscal year 2016 preliminary budget is \$39,856,485 which includes \$26,259,170 in personnel spending and \$13,597,315 in other than personnel spending. The budget is up \$4,308,716 and headcount is up by 43 full-time positions from the FY 2015 adopted budget. 16 of these positions reflect a technical adjustment to convert existing full-time equivalent per-diem employees to full-time status. The remaining 27 positions consist of new need positions received to enforce the Transit Benefits law, implement Small Business First, and support the agency's thriving Office of Financial Empowerment.

We look forward to continuing to work with the City Council, businesses, associations, and other community stakeholders to protect consumers while promoting a vibrant environment for businesses.

Thank you again for the opportunity to testify today. I will be happy to answer any questions.