

**MINISTRY OF PUBLIC SAFETY AND SOLICITOR GENERAL
CORPORATE POLICY AND PLANNING OFFICE
INFORMATION BRIEFING NOTE**

PURPOSE: For **INFORMATION** for Mike Farnworth,
Minister of Public Safety and Solicitor General

ISSUE: Capping the fees that food delivery service providers can charge restaurants.

SUMMARY:

- In order to comply with Provincial health orders, restaurants have had to reduce seating capacity and incur additional costs for PPE supplies. Many restaurants have expanded their food delivery and takeout options to offset some revenue lost from dine-in customers.
- As a means of providing assistance to the food and beverage sector, the Minister's Mandate Letter includes a commitment to "... *provide help to B.C. restaurants and hospitality businesses through COVID-19 and beyond by delivering a temporary cap on food delivery app fees*" as an immediate way to provide some relief to these struggling businesses.

BACKGROUND:

- Food delivery service companies employ a pricing model that charges restaurants for the food delivery services and use of their ordering platforms, based on a percentage of the total food bill minus taxes, as well as other optional fees that can include marketing on their sites and activation fees. These companies also charge the consumer a fee for the meal delivery. (see Appendix A). Restaurants claim that the fees they must pay can be as high as 30% of the cost of the meal.
- Media reports, however, have indicated that under the existing model pre-COVID food delivery service companies were not operating at a profit. Rather they are operating with the aim of increasing market share over time in order to ultimately become a profitable industry.
- On June 3, 2020 staff from the Ministry of Jobs, Economic Recovery and Innovation (JERI) met separately with representatives of two food delivery service companies (Uber Eats and Skip the Dishes) to discuss the concerns of the food service industry regarding the high fees, particularly in light of the impacts of COVID-19.

DISCUSSION:

- Both Skip the Dishes (Skip) and Uber Eats (Uber) indicate that they have made considerable efforts to support the restaurant industry through the pandemic including temporarily:
 - reducing their regular delivery fees (Skip) and waiving activation charges (Uber);
 - introducing a program allowing consumers to contribute to the Canadian Hospitality Workers Relief Fund (CHWRF), which provides grants to workers in financial need, and matching consumer contributions (Uber); and
 - implementing variable fees allowing restaurants to use their own employees as drivers.
- There is currently an information gap with regards to the current model and fee structure under which the food delivery companies are functioning. The information in this Note is potentially dated, based on the situation in June 2020, and does not include analysis on the fee structure for Door Dash. s.13

- There is a strong interdependent relationship between restaurants and food delivery service companies. Restaurants choose to use delivery companies not only to get their product to the consumer but also to raise the profile of their business in a competitive market. s.13

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- Ministry staff are aware of other jurisdictions that have introduced measures to cap food delivery services fees and restrict other aspects of their operation, including the Province of Ontario and the U.S. cities of New York, Denver and Los Angeles.
- All four jurisdictions have very similar provisions that place all or many of the following temporary restrictions on food delivery companies:
 - Capping fees at 20% (15% on food delivery and 5% on all other fees);
 - The fee cap does not apply to chain restaurants or restaurants that do not provide dine-in service and, in the case of Ontario, only applies to restaurants ordered closed for in-person dining;
 - Exempting smaller food delivery companies;
 - Prohibiting companies from reducing compensation to delivery service drivers;
 - Prohibiting companies from retaining gratuities to delivery service drivers.
 - Requiring food delivery companies to provide consumers with a receipt detailing the price of the meal and a breakdown of all charge and fees paid by the restaurant and consumer

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- Consideration will need to be given to establishing a mechanism to receive complaints and enforce non-compliance.

POTENTIAL OPTIONS:

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OTHER MINISTRIES IMPACTED/CONSULTED

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