

Congress of the United States
Washington, DC 20515

June 1, 2022

Dara Khosrowshahi
Chief Executive Officer
Uber Technologies, Inc.
1515 3rd Street
San Francisco, CA 94158

Dear Mr. Khosrowshahi,

We write concerning the health and safety of Uber’s app-based delivery workers. Every day, ride-share drivers repeatedly interact with strangers, leaving them vulnerable to violent assault and even death. Yet Uber’s business model both penalizes those drivers for turning down rides that may be dangerous and incentivizes them to take risks in picking up passengers, all the while denying them basic employment benefits. Uber further refuses to release comprehensive data on the dangers its drivers face on the job, transparency that is sorely needed for drivers, the public, and Congress to understand the unique risks these workers face. These policies are unacceptable. We urge you to promptly change direction and start making your workers’ health and safety a top priority.

App-based delivery work can pose significant dangers for drivers. During a single day, a ride-share driver may pick up dozens of strangers and travel to remote and unfamiliar locations. Delivery drivers transport goods to strangers at their homes and elsewhere, and the Uber app often directs drivers to take specific routes that pass through dangerous areas to meet strict timeliness requirements. While workers have long complained about these risks, the dangers of app-based delivery work became particularly clear after sixteen Uber drivers were murdered in Brazil in 2016,¹ leaving companies like Uber with no excuse for failing to implement new safety features to protect their workers.

Unfortunately, a recent report reveals that Uber has still failed to adequately protect its workers. According to a recent report by Gig Workers Rising, since 2017, at least fifty app-based delivery workers have been killed on the job in the United States, including twenty-five Uber drivers.² The true toll, however, is almost certainly higher – because of a lack of systematic information, the report researchers relied solely on publicly available data such as news articles, company press releases, and even postings from deceased workers’ family members on

¹ See Mike Isaac, *How Uber Got Lost*, N.Y. TIMES (Aug. 23, 2019), <https://www.nytimes.com/2019/08/23/business/how-uber-got-lost.html>.

² See Gig Workers Rising, *Death and Corporate Irresponsibility in the Gig Economy: An Urgent Safety Crisis* (Apr. 6, 2022), https://www.gigsafetynow.com/files/ugd/af5398_e1b49d831a0149a08df4be57c612ae88.pdf (hereinafter “Gig Worker Rising Report”).

crowdfunding websites like GoFundMe.³ Notably, the report found that these safety risks disproportionately impact marginalized communities: 63 percent of the app-based delivery workers killed in the last five years were people of color.⁴ The report also excludes deaths of app-based delivery workers from traffic fatalities. Even with this limited information, the evidence is clear: App-based delivery work can be dangerous and potentially fatal.

Uber's business model only increases the danger. Uber is known to have tracked its drivers' cancellation and acceptance rates, and penalized drivers for cancelling or not accepting rides.⁵ Consider Adebayo Adeyemo, known as Bayo, a Black Uber driver who was shot by a passenger after the passenger had made comments about his race.⁶ Bayo later said he continued driving the passenger, despite the racial comments, because he was concerned that Uber would penalize him for cancelling the ride. No driver should face punishment for legitimately declining a ride or delivery they believe would place them in a dangerous situation. Higher pay would also reduce the pressure on drivers to accept rides they deem unsafe.

Furthermore, because Uber misclassifies its workers as independent contractors, they do not receive the safety and health benefits of traditional employees, including workers' compensation and disability insurance. Taxi drivers, for example, typically have access to workers' compensation and other benefits when they suffer an occupational injury.⁷ By contrast, as recent research reveals, app-based delivery workers and their families often receive nothing from the company when they are harmed on the job.⁸ Although Uber drivers can purchase "Optional Injury Protection" from Uber, the program is priced at \$0.03/mile, costing workers who drive more than 33,333 annually over \$1,000 each year.⁹ DoorDash, by comparison, automatically enrolls all its app-based delivery workers in a similar occupational injury protection program for free, although even its injury protection program provides lower benefits than similar worker's compensation programs.¹⁰ Uber thus leaves its workers both highly vulnerable and lacking adequate company support (such as overtime pay, unemployment

³ See *id.* at 10-11.

⁴ *Id.* at 5; see also Veena Dubal, *The New Racial Wage Code*, HARV. L. & POL'Y REV. (May 28, 2021), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3855094.

⁵ See, e.g., James Cook, *Uber's internal chart shows how its driver-rating system actually works*, INSIDER (Feb. 11, 2015), <https://www.businessinsider.com/leaked-charts-show-how-ubers-driver-rating-system-works-2015-2> (reporting on an internal Uber report documenting that Uber tells drivers to keep their acceptance rate above 80% but "the closer to 100% the better"). Uber's website now states, "As of August 21, 2017 Uber is no longer tracking acceptance rate or cancellation rate against Quest promotions. Once the trip tier is completed you will receive the amount offered and be able to cash out these earnings." Uber, *Uber Help*, <https://help.uber.com/driving-and-delivering/article/tracking-acceptance-and-cancellation-rates?nodeId=41d29702-a232-4d28-9ec1-a9b085080883>. But this changes does not preclude Uber from tracking and using the acceptance rate to determine which drivers in the queue receive rides or to kick them off the platform altogether.

⁶ Gig Worker Rising Report, *supra* note 2, at 13-14.

⁷ New York State Workers' Compensation Board, *Worker's Compensation Coverage: Taxi/Livery*, <http://www.wcb.ny.gov/content/main/coverage-requirements-wc/taxi-cabs.jsp>.

⁸ Gig Worker Rising Report *supra* note 2, at 14.

⁹ Uber, *Optional Injury Protection*, <https://www.uber.com/us/en/drive/insurance/injury-protection/>.

¹⁰ DoorDash, *Occupational Accident Policy FAQ*, <https://help.doordash.com/dashers/s/article/Occupational-Accident-Policy-FAQ>.

insurance, protection from discrimination or retaliation, the right to organize a union, or any state-based paid sick leave or paid family leave).

Uber has also failed to disclose sufficient information about attacks on its workers. In December 2019, Uber released its first safety report, which included data from the preceding two years on motor vehicle fatalities, fatal physical assaults, and sexual assaults involving Uber-related rides. Notably, the report found that Uber drivers suffered sexual and physical assaults at nearly the same rate as passengers.¹¹ Although publishing this report was a positive step, it did not go far enough. The report excluded statistics on non-fatal physical assaults and robberies against drivers, and the statistics omitted safety incidents that occurred while the driver was active on the Uber app but waiting to be matched with a passenger. Uber has apparently not yet released a successive report despite promising to do so every two years. The limited safety data that Uber has made public is now three years out of date.

Uber also requires drivers to sign mandatory arbitration agreements, with an exception for sexual assault and harassment claims.¹² As Uber's Deputy General Counsel recently wrote, Uber eliminated the mandatory arbitration clauses for sexual assault and harassment claims "to empower survivors to maintain control of how they pursue their claims and feel free to share their stories however they see fit."¹³ By the same reasoning, Uber should eliminate mandatory arbitration clauses for claims in which passengers and drivers are victims of other violent assaults.

The root problem of Uber's deficient health and safety policies is its exploitative business model. Make no mistake: App-based delivery workers are employees, and it is unacceptable to subject your employees to these occupational risks with such limited protections. These employees are the reason that Uber, like other app-based delivery companies, collects billions of dollars each year in revenue and is able to serve millions of American customers.¹⁴ Uber's failure to properly categorize its app-based delivery workers as employees means that app-based delivery workers are essentially left on their own. Instead, your drivers and delivery workers should have access to key benefits, including workers' compensation, disability insurance, and the right to unionize.

Given Uber's poor health and safety record, we request a written response to the following questions by June 22, 2022. Please provide separate answers for each question for Uber and Postmates:

1. Please identify how and when your company classifies an app-based delivery worker as working. For example, does your company classify an app-based delivery worker as working when the app-based delivery worker has not yet been assigned to a specific

¹¹ Uber, *US Safety Report* 10 (Dec. 2019), <https://www.uber.com/us/en/about/reports/us-safety-report/>.

¹² Uber, *U.S. Terms of Use* (Apr. 4, 2022), <https://www.uber.com/legal/en/document/?name=general-terms-of-use>.

¹³ Katie Waitzman, *Embracing ESG: Uber Counsel Talks Safety Standards*, LAW360 (Apr. 20, 2022), https://www.law360.com/massachusetts/articles/1484320/embracing-esg-uber-counsel-talks-safety-standards?nl_pk=577b076a-a54a-4597-99d7-4fac0272e66b.

¹⁴ Uber, Inc., Annual Report (From 10-K), at 54 (Feb. 9, 2022) (revenue of \$17.5 billion in 2021).

passenger or delivery but is actively looking or waiting for an assignment? If not, why not?

2. Please provide the following safety incident information, including breakdowns of each answer by the race and gender of drivers:
 - a. In each of the past five years, how many app-based delivery workers have died from injury or assault on the job while working for your company? For each year, please categorize the cause of each death (e.g., physical assault, motor vehicle accident).
 - b. In each of the past five years, how many app-based delivery workers have suffered a non-fatal physical assault on the job while working for your company?
 - c. In each of the past five years, how many app-based delivery workers have been sexually assaulted on the job while working for your company?
 - d. In each of the past five years, how many app-based delivery workers have been robbed on the job while working for your company?
 - e. In each of the past five years, how many app-based delivery workers have had their cars, bikes, or other means of transportation stolen on the job while working for your company?
 - f. Will you commit to regularly publishing, on a publicly accessible website, data and other information on fatal physical assaults, non-fatal-physical assaults, sexual assaults, and robberies against your company's app-based delivery workers?
3. Does your company notify app-based delivery workers of ongoing on-the-job emergencies or dangerous situations that could affect their health or safety?
 - a. If so, please provide a detailed description of the mechanisms by which your company notifies app-based delivery workers of such emergencies or dangerous situations.
 - b. If not, why not?
4. Does your company notify the family members or next of kin of an app-based delivery worker who dies on the job while working for your company?
 - a. If so, please describe your policy, practice, and procedure for such notification.
 - b. If not, why not?
 - c. Will your company commit to notifying its app-based delivery workers' family and next of kin in the event of their death on the job? If not, why not?
5. Has your company paid any compensation to, or has a company insurer paid any claim on behalf of, an app-based delivery worker or their family for injury to or death of the worker on the job while working for your company?
 - a. If so, for each of the past five years, please identify the payments and their source, categorized by the amount paid and the nature of the injury or cause of death (e.g., fatal physical assault, motor vehicle accident).
 - b. If not, why not?

6. Does your company offer a form of occupational injury protection or accident protection to your app-based delivery workers?
 - a. If so, please provide a detailed description of the protection program, including the explanation of coverage. If the program is available only to app-based delivery workers in California, please state so.
 - b. Is the program free for app-based delivery workers? If not, will your company commit to making the program free?
 - c. Does the program cover occupational injuries that occur while the driver is waiting for the next ride or delivery? If not, will your company commit to covering injuries that occur while the driver is waiting for the next ride or delivery?
 - d. If your company does not offer an occupational injury or accident protection program, will your company commit to offering a free program for your app-based delivery workers? If not, why not?

7. Are your app-based delivery workers required to sign an arbitration agreement to work for your company?
 - a. If so, what claims does your company require its app-based delivery workers to address through arbitration?
 - b. Will your company commit to eliminating arbitration agreements from its contracts with your app-based delivery workers? If not, why not?

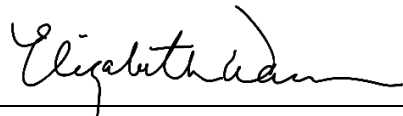
App-based delivery workers are some of the most vulnerable workers in our economy, but Uber has not sufficiently protected and supported them in the face of a global pandemic, increasing violence, and economic instability. Your refusal to grant them basic insurance and benefits, even in the face of death on the job, and despite their key role in your business, is unacceptable. Going forward, we strongly urge you to prioritize the health and safety of your employees.

Thank you in advance for your attention to this important matter.

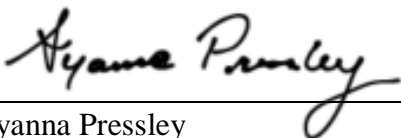
Sincerely,



Edward J. Markey
United States Senator



Elizabeth Warren
United States Senator



Ayanna Pressley
Member of Congress



Richard Blumenthal
United States Senator



Sherrod Brown
United States Senator



Bernard Sanders
United States Senator



Stephen F. Lynch
Member of Congress



Seth Moulton
Member of Congress

Congress of the United States
Washington, DC 20515

June 1, 2022

Tony Xu
Chief Executive Officer
DoorDash, Inc.
303 2nd Street, South Tower, 8th Floor
San Francisco, CA 94107

Dear Mr. Xu,

We write concerning the health and safety of DoorDash’s app-based delivery workers. Every day, ride-share drivers repeatedly interact with strangers, leaving them vulnerable to violent assault and even death. Yet DoorDash’s business model both penalizes those drivers for turning down rides that may be dangerous and incentivizes them to take risks in picking up passengers, all the while denying them basic employment benefits. DoorDash further refuses to release comprehensive data on the dangers its drivers face on the job, transparency that is sorely needed for drivers, the public, and Congress to understand the unique risks these workers face. These policies are unacceptable. We urge you to promptly change direction and start making your workers’ health and safety a top priority.

App-based delivery work can pose significant dangers for drivers. During a single day, a ride-share driver may pick up dozens of strangers and travel to remote and unfamiliar locations. Delivery drivers transport goods to strangers at their homes and elsewhere, and the DoorDash app often directs drivers to take specific routes that pass through dangerous areas to meet strict timeliness requirements. While workers have long complained about these risks, the dangers of app-based delivery work became particularly clear after sixteen Uber drivers were murdered in Brazil in 2016,¹ leaving companies like DoorDash with no excuse for failing to implement new safety features to protect their workers.

Unfortunately, a recent report reveals that DoorDash has still failed to adequately protect its workers. According to a recent report by Gig Workers Rising, since 2017, at least fifty app-based delivery workers have been killed on the job in the United States, including eight DoorDash workers.² The true toll, however, is almost certainly higher – because of a lack of systematic information, the report researchers relied solely on publicly available data such as news articles, company press releases, and even postings from deceased workers’ family

¹ See Mike Isaac, *How Uber Got Lost*, N.Y. TIMES (Aug. 23, 2019), <https://www.nytimes.com/2019/08/23/business/how-uber-got-lost.html>.

² See Gig Workers Rising, *Death and Corporate Irresponsibility in the Gig Economy: An Urgent Safety Crisis* (Apr. 6, 2022), https://www.gigsafetynow.com/files/ugd/af5398_e1b49d831a0149a08df4be57c612ae88.pdf (hereinafter “Gig Worker Rising Report”).

members on crowdfunding websites like GoFundMe.³ Notably, the report found that these safety risks disproportionately impact marginalized communities: 63 percent of the app-based delivery workers killed in the last five years were people of color.⁴ The report also excludes deaths of app-based delivery workers from traffic fatalities. Even with this limited information, the evidence is clear: App-based delivery work can be dangerous and potentially fatal.

DoorDash's business model only increases the danger. DoorDash is known to have tracked its drivers' cancellation and acceptance rates, and penalized drivers for cancelling or not accepting rides.⁵ No driver should face punishment for legitimately declining a ride or delivery they believe would place them in a dangerous situation. Higher pay would also reduce the pressure on drivers to accept rides they deem unsafe.

Furthermore, because DoorDash misclassifies its workers as independent contractors, they do not receive the safety and health benefits of traditional employees, including workers' compensation and disability insurance. Taxi drivers, for example, typically have access to workers' compensation and other benefits when they suffer an occupational injury.⁶ By contrast, as recent research reveals, app-based delivery workers and their families often receive nothing from the company when they are harmed on the job.⁷ While DoorDash offers occupational injury insurance to its workers,⁸ the program still provides lower benefits than similar workers' compensation programs.⁹ DoorDash thus leaves its workers both highly vulnerable and lacking adequate company support (such as overtime pay, unemployment insurance, protection from discrimination or retaliation, the right to organize a union, or any state-based paid sick leave or paid family leave).

DoorDash has also failed to disclose sufficient information about attacks on its workers. Unlike Uber and Lyft,¹⁰ DoorDash has apparently not released *any* information about injuries and deaths of workers on the job. Given the size of your company, this informational gap is unacceptable.

The root problem of DoorDash's deficient health and safety policies is its exploitative business model. Make no mistake: App-based delivery workers are employees, and it is unacceptable to subject your employees to these occupational risks with such limited protections.

³ See *id.* at 10-11.

⁴ *Id.* at 5; see also Veena Dubal, *The New Racial Wage Code*, HARV. L. & POL'Y REV. (May 28, 2021), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3855094.

⁵ *Top Dasher*, DoorDash, <https://help.doordash.com/dashers/s/article/Top-Dasher>, (requiring drivers to have an acceptance rate of at least 70% to qualify for the Top Dasher Program and its specific benefits).

⁶ New York State Workers' Compensation Board, *Worker's Compensation Coverage: Taxi/Livery*, <http://www.wcb.ny.gov/content/main/coverage-requirements-wc/taxi-cabs.jsp>.

⁷ Gig Worker Rising Report *supra* note 2, at 14.

⁸ See Uber, *Optional Injury Protection*, <https://www.uber.com/us/en/drive/insurance/injury-protection/>; DoorDash, *Occupational Accident Policy FAQ*, <https://help.doordash.com/dashers/s/article/Occupational-Accident-Policy-FAQ>.

⁹ Gig Workers Rising Report *supra* note 2, at 15.

¹⁰ See Uber, *U.S. Safety Report 2017-2018* (Dec. 5, 2019), <https://www.uber.com/us/en/about/reports/us-safety-report/>; Lyft, *Community Safety Report* (Oct. 21, 2021), https://assets.ctfassets.net/q8mvene1wzq4/4jxkFTH5YCQK8T96STULMd/4269e14dbcb8578ff64da45df08b8147/Community_Safety_Report.pdf.

These employees are the reason that DoorDash, like other app-based delivery companies, collects billions of dollars each year in revenue and is able to serve millions of American customers.¹¹ DoorDash's failure to properly categorize its app-based delivery workers as employees means that app-based delivery workers are essentially left on their own. Instead, your drivers and delivery workers should have access to key benefits, including workers' compensation, disability insurance, and the right to unionize.

Given DoorDash's poor health and safety record, we request a written response to the following questions by June 22, 2022:

1. Please identify how and when your company classifies an app-based delivery worker as working. For example, does your company classify an app-based delivery worker as working when the app-based delivery worker has not yet been assigned to a specific passenger or delivery but is actively looking or waiting for an assignment? If not, why not?
2. Please provide the following safety incident information, including breakdowns of each answer by the race and gender of drivers:
 - a. In each of the past five years, how many app-based delivery workers have died from injury or assault on the job while working for your company? For each year, please categorize the cause of each death (e.g., physical assault, motor vehicle accident).
 - b. In each of the past five years, how many app-based delivery workers have suffered a non-fatal physical assault on the job while working for your company?
 - c. In each of the past five years, how many app-based delivery workers have been sexually assaulted on the job while working for your company?
 - d. In each of the past five years, how many app-based delivery workers have been robbed on the job while working for your company?
 - e. In each of the past five years, how many app-based delivery workers have had their cars, bikes, or other means of transportation stolen on the job while working for your company?
 - f. Will you commit to regularly publishing, on a publicly accessible website, data and other information on fatal physical assaults, non-fatal-physical assaults, sexual assaults, and robberies against your company's app-based delivery workers?
3. Does your company notify app-based delivery workers of ongoing on-the-job emergencies or dangerous situations that could affect their health or safety?
 - a. If so, please provide a detailed description of the mechanisms by which your company notifies app-based delivery workers of such emergencies or dangerous situations.
 - b. If not, why not?

¹¹ DoorDash, Inc., Annual Report (From 10-K), at 69 (Mar. 1, 2022) (revenue of \$4.9 billion in 2021).

4. Does your company notify the family members or next of kin of an app-based delivery worker who dies on the job while working for your company?
 - a. If so, please describe your policy, practice, and procedure for such notification.
 - b. If not, why not?
 - c. Will your company commit to notifying its app-based delivery workers' family and next of kin in the event of their death on the job? If not, why not?

5. Has your company paid any compensation to, or has a company insurer paid any claim on behalf of, an app-based delivery worker or their family for injury to or death of the worker on the job while working for your company?
 - a. If so, for each of the past five years, please identify the payments and their source, categorized by the amount paid and the nature of the injury or cause of death (e.g., fatal physical assault, motor vehicle accident).
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6. Does your company offer a form of occupational injury protection or accident protection to your app-based delivery workers?
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 - b. Is the program free for app-based delivery workers? If not, will your company commit to making the program free?
 - c. Does the program cover occupational injuries that occur while the driver is waiting for the next ride or delivery? If not, will your company commit to covering injuries that occur while the driver is waiting for the next ride or delivery?
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7. Are your app-based delivery workers required to sign an arbitration agreement to work for your company?
 - a. If so, what claims does your company require its app-based delivery workers to address through arbitration?
 - b. Will your company commit to eliminating arbitration agreements from its contracts with your app-based delivery workers? If not, why not?

App-based delivery workers are some of the most vulnerable workers in our economy, but DoorDash has not sufficiently protected and supported them in the face of a global pandemic, increasing violence, and economic instability. Your refusal to grant them basic insurance and benefits, even in the face of death on the job, and despite their key role in your business, is unacceptable. Going forward, we strongly urge you to prioritize the health and safety of your employees.

Thank you in advance for your attention to this important matter.

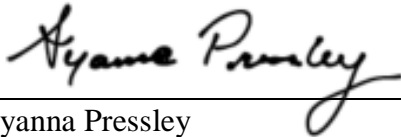
Sincerely,



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Bernard Sanders
United States Senator



Stephen F. Lynch
Member of Congress



Seth Moulton
Member of Congress

Congress of the United States
Washington, DC 20515

June 1, 2022

Logan Green
Chief Executive Officer
Lyft, Inc.
185 Berry St., Ste. #5000
San Francisco, CA 94107

Dear Mr. Green,

We write concerning the health and safety of Lyft’s app-based delivery workers. Every day, ride-share drivers repeatedly interact with strangers, leaving them vulnerable to violent assault and even death. Yet Lyft’s business model both penalizes those drivers for turning down rides that may be dangerous and incentivizes them to take risks in picking up passengers, all the while denying them basic employment benefits. Lyft further refuses to release comprehensive data on the dangers its drivers face on the job, transparency that is sorely needed for drivers, the public, and Congress to understand the unique risks these workers face. These policies are unacceptable. We urge you to promptly change direction and start making your workers’ health and safety a top priority.

App-based delivery work can pose significant dangers for drivers. During a single day, a ride-share driver may pick up dozens of strangers and travel to remote and unfamiliar locations. Delivery drivers transport goods to strangers at their homes and elsewhere, and the Lyft app often directs drivers to take specific routes that pass through dangerous areas to meet strict timeliness requirements. While workers have long complained about these risks, the dangers of app-based delivery work became particularly clear after sixteen Uber drivers were murdered in Brazil in 2016,¹ leaving companies like Lyft with no excuse for failing to implement new safety features to protect their workers.

Unfortunately, a recent report reveals that Lyft has still failed to adequately protect its workers. According to a recent report by Gig Workers Rising, since 2017, at least fifty app-based delivery workers have been killed on the job in the United States, including sixteen Lyft drivers.² The true toll, however, is almost certainly higher – because of a lack of systematic information, the report researchers relied solely on publicly available data such as news articles, company press releases, and even postings from deceased workers’ family members on crowdfunding

¹ See Mike Isaac, *How Uber Got Lost*, N.Y. TIMES (Aug. 23, 2019), <https://www.nytimes.com/2019/08/23/business/how-uber-got-lost.html>.

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Lyft's business model only increases the danger. Lyft is known to have tracked its drivers' cancellation and acceptance rates, and penalized drivers for cancelling or not accepting rides.⁵ No driver should face punishment for legitimately declining a ride or delivery they believe would place them in a dangerous situation. Higher pay would also reduce the pressure on drivers to accept rides they deem unsafe.

Furthermore, because Lyft misclassifies its workers as independent contractors, they do not receive the safety and health benefits of traditional employees, including workers' compensation and disability insurance. Taxi drivers, for example, typically have access to workers' compensation and other benefits when they suffer an occupational injury.⁶ By contrast, as recent research reveals, app-based delivery workers and their families often receive nothing from the company when they are harmed on the job.⁷ Moreover, while Uber and DoorDash offer limited occupational injury insurance to their workers,⁸ Lyft does not appear to offer a similar program. Lyft thus leaves its workers both highly vulnerable and lacking adequate company support (such as overtime pay, unemployment insurance, protection from discrimination or retaliation, the right to organize a union, or any state-based paid sick leave or paid family leave).

Lyft has also failed to disclose sufficient information about attacks on its workers. In October 2021, Lyft released its first safety report, which included data from the preceding three years on motor vehicle fatalities, fatal physical assaults, and sexual assaults involving Lyft-related rides. Although publishing this report was a positive step, it did not go far enough. Unlike Uber's safety report, the Lyft report did not break down the injury and assault data by drivers and passengers, an important omission given that the Uber report showed that Uber drivers suffered sexual and physical assaults at nearly the same rate as passengers.⁹ The report also excluded statistics on non-fatal physical assaults and robberies against drivers, and the statistics omitted safety incidents that occurred while the driver was active on the Lyft app but waiting to be matched with a passenger.

³ See *id.* at 10-11.

⁴ *Id.* at 5; see also Veena Dubal, *The New Racial Wage Code*, HARV. L. & POL'Y REV. (May 28, 2021), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3855094.

⁵ Lyft, *Acceptance Rates*, <https://help.lyft.com/hc/e/articles/115013077708-Acceptance-rate> ("Lyft uses acceptance rates to determine eligibility for certain features, except in California.").

⁶ New York State Workers' Compensation Board, *Worker's Compensation Coverage: Taxi/Livery*, <http://www.wcb.ny.gov/content/main/coverage-requirements-wc/taxi-cabs.jsp>.

⁷ Gig Worker Rising Report *supra* note 2, at 14.

⁸ See Uber, *Optional Injury Protection*, <https://www.uber.com/us/en/drive/insurance/injury-protection/>; DoorDash, *Occupational Accident Policy FAQ*, <https://help.doordash.com/dashers/s/article/Occupational-Accident-Policy-FAQ>.

⁹ Uber, *US Safety Report* 10 (Dec. 2019), <https://www.uber.com/us/en/about/reports/us-safety-report/>.

Lyft also requires drivers to sign mandatory arbitration agreements, with an exception for sexual assault claims.¹⁰ When Lyft eliminated the mandatory arbitration clause for sexual assault claims in 2018, a spokesperson said the company made the change “so that [passengers, drivers, and Lyft employees] can choose which venue is best for them.”¹¹ By the same reasoning, Lyft should eliminate mandatory arbitration clauses for claims in which passengers and drivers are victims of other violent assaults.

The root problem of Lyft’s deficient health and safety policies is its exploitative business model. Make no mistake: App-based delivery workers are employees, and it is unacceptable to subject your employees to these occupational risks with such limited protections. These employees are the reason that Lyft, like other app-based delivery companies, collects billions of dollars each year in revenue and is able to serve millions of American customers.¹² Lyft’s failure to properly categorize its app-based delivery workers as employees means that app-based delivery workers are essentially left on their own. Instead, your drivers and delivery workers should have access to key benefits, including workers’ compensation, disability insurance, and the right to unionize.

Given Lyft’s poor health and safety record, we request a written response to the following questions by June 22, 2022:

1. Please identify how and when your company classifies an app-based delivery worker as working. For example, does your company classify an app-based delivery worker as working when the app-based delivery worker has not yet been assigned to a specific passenger or delivery but is actively looking or waiting for an assignment? If not, why not?
2. Please provide the following safety incident information, including breakdowns of each answer by the race and gender of drivers:
 - a. In each of the past five years, how many app-based delivery workers have died from injury or assault on the job while working for your company? For each year, please categorize the cause of each death (e.g., physical assault, motor vehicle accident).
 - b. In each of the past five years, how many app-based delivery workers have suffered a non-fatal physical assault on the job while working for your company?
 - c. In each of the past five years, how many app-based delivery workers have been sexually assaulted on the job while working for your company?
 - d. In each of the past five years, how many app-based delivery workers have been robbed on the job while working for your company?
 - e. In each of the past five years, how many app-based delivery workers have had their cars, bikes, or other means of transportation stolen on the job while working for your company?

¹⁰ Lyft, *Lyft Terms of Service*, (Apr. 1, 2021), <https://www.lyft.com/terms>.

¹¹ See Kia Kokalitcheva, *Lyft follows Uber, removes mandatory sexual assault arbitration*, AXIOS (May 25, 2018), <https://www.axios.com/lyft-uber-mandatory-arbitration-sexual-assault-harassment-3713ecec-65e7-4a91-a5cc-da8032977f72.html>.

¹² Lyft, Inc., Annual Report (From 10-K), at 63 (Feb. 28, 2022) (revenue of \$3.2 billion in 2021).

- f. Will you commit to regularly publishing, on a publicly accessible website, data and other information on fatal physical assaults, non-fatal-physical assaults, sexual assaults, and robberies against your company's app-based delivery workers?
3. Does your company notify app-based delivery workers of ongoing on-the-job emergencies or dangerous situations that could affect their health or safety?
 - a. If so, please provide a detailed description of the mechanisms by which your company notifies app-based delivery workers of such emergencies or dangerous situations.
 - b. If not, why not?
4. Does your company notify the family members or next of kin of an app-based delivery worker who dies on the job while working for your company?
 - a. If so, please describe your policy, practice, and procedure for such notification.
 - b. If not, why not?
 - c. Will your company commit to notifying its app-based delivery workers' family and next of kin in the event of their death on the job? If not, why not?
5. Has your company paid any compensation to, or has a company insurer paid any claim on behalf of, an app-based delivery worker or their family for injury to or death of the worker on the job while working for your company?
 - a. If so, for each of the past five years, please identify the payments and their source, categorized by the amount paid and the nature of the injury or cause of death (e.g., fatal physical assault, motor vehicle accident).
 - b. If not, why not?
6. Does your company offer a form of occupational injury protection or accident protection to your app-based delivery workers?
 - a. If so, please provide a detailed description of the protection program, including the explanation of coverage. If the program is available only to app-based delivery workers in California, please state so.
 - b. Is the program free for app-based delivery workers? If not, will your company commit to making the program free?
 - c. Does the program cover occupational injuries that occur while the driver is waiting for the next ride or delivery? If not, will your company commit to covering injuries that occur while the driver is waiting for the next ride or delivery?
 - d. If your company does not offer an occupational injury or accident protection program, will your company commit to offering a free program for your app-based delivery workers? If not, why not?
7. Are your app-based delivery workers required to sign an arbitration agreement to work for your company?

- a. If so, what claims does your company require its app-based delivery workers to address through arbitration?
- b. Will your company commit to eliminating arbitration agreements from its contracts with your app-based delivery workers? If not, why not?

App-based delivery workers are some of the most vulnerable workers in our economy, but Lyft has not sufficiently protected and supported them in the face of a global pandemic, increasing violence, and economic instability. Your refusal to grant them basic insurance and benefits, even in the face of death on the job, and despite their key role in your business, is unacceptable. Going forward, we strongly urge you to prioritize the health and safety of your employees.

Thank you in advance for your attention to this important matter.

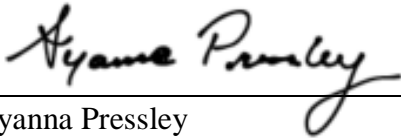
Sincerely,



Edward J. Markey
United States Senator



Elizabeth Warren
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Bernard Sanders
United States Senator



Stephen F. Lynch
Member of Congress



Seth Moulton
Member of Congress

Congress of the United States
Washington, DC 20515

June 1, 2022

Fidji Simo
Chief Executive Officer
Instacart, Inc.
50 Beale Street, Suite 600
San Francisco, CA 94105

Dear Ms. Simo,

We write concerning the health and safety of Instacart’s app-based delivery workers. Every day, ride-share drivers repeatedly interact with strangers, leaving them vulnerable to violent assault and even death. Yet the app-based delivery business model both penalizes those drivers for turning down rides that may be dangerous and incentivizes them to take risks in picking up passengers, all the while denying them basic employment benefits. Instacart further refuses to release comprehensive data on the dangers its drivers face on the job, transparency that is sorely needed for drivers, the public, and Congress to understand the unique risks these workers face. These policies are unacceptable. We urge you to promptly change direction and start making your workers’ health and safety a top priority.

App-based delivery work can pose significant dangers for drivers. During a single day, a ride-share driver may pick up dozens of strangers and travel to remote and unfamiliar locations. Delivery drivers transport goods to strangers at their homes and elsewhere, and the Instacart app often directs drivers to take specific routes that pass through dangerous areas to meet strict timeliness requirements. While workers have long complained about these risks, the dangers of app-based delivery work became particularly clear after sixteen Uber drivers were murdered in Brazil in 2016,¹ leaving companies like Instacart with no excuse for failing to implement new safety features to protect their workers.

Unfortunately, a recent report reveals that many app-based delivery companies have still failed to adequately protect their workers. According to a recent report by Gig Workers Rising, since 2017, at least fifty app-based delivery workers have been killed on the job in the United States, including one death at Instacart.² The true toll, however, is almost certainly higher – because of a lack of systematic information, the report researchers relied solely on publicly available data such as news articles, company press releases, and even postings from deceased

¹ See Mike Isaac, *How Uber Got Lost*, N.Y. TIMES (Aug. 23, 2019), <https://www.nytimes.com/2019/08/23/business/how-uber-got-lost.html>.

² See Gig Workers Rising, *Death and Corporate Irresponsibility in the Gig Economy: An Urgent Safety Crisis* (Apr. 6, 2022), https://www.gigsafetynow.com/files/ugd/af5398_e1b49d831a0149a08df4be57c612ae88.pdf (hereinafter “Gig Worker Rising Report”).

workers' family members on crowdfunding websites like GoFundMe.³ Notably, the report found that these safety risks disproportionately impact marginalized communities: 63 percent of the app-based delivery workers killed in the last five years were people of color.⁴ The report also excludes deaths of app-based delivery workers from traffic fatalities. Even with this limited information, the evidence is clear: App-based delivery work can be dangerous and potentially fatal.

The app-based delivery business model increases the danger. Many app-based delivery companies are known to have tracked their drivers' cancellation and acceptance rates, and penalized drivers for cancelling or not accepting rides. No driver should face punishment for legitimately declining a ride or delivery they believe would place them in a dangerous situation. Higher pay would also reduce the pressure on drivers to accept rides they deem unsafe.

Furthermore, because Instacart misclassifies its workers as independent contractors, they do not receive the safety and health benefits of traditional employees, including workers' compensation and disability insurance. Taxi drivers, for example, typically have access to workers' compensation and other benefits when they suffer an occupational injury.⁵ By contrast, as recent research reveals, app-based delivery workers and their families often receive nothing from the company when they are harmed on the job.⁶ Moreover, while Uber and DoorDash offer limited occupational injury insurance to their workers,⁷ Instacart does not appear to offer a similar program. Instacart thus leaves its workers both highly vulnerable and lacking adequate company support (such as overtime pay, unemployment insurance, protection from discrimination or retaliation, the right to organize a union, or any state-based paid sick leave or paid family leave).

Instacart has also failed to disclose sufficient information about attacks on its workers. Unlike Uber and Lyft,⁸ Instacart has apparently not released *any* information about injuries and deaths of workers on the job. Given the size of your company, this informational gap is unacceptable.

The root problem of Instacart's deficient health and safety policies is its exploitative business model. Make no mistake: App-based delivery workers are employees, and it is unacceptable to subject your employees to these occupational risks with such limited protections. These employees are the reason that Instacart, like other app-based delivery companies, collects

³ See *id.* at 10-11.

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⁵ New York State Workers' Compensation Board, *Worker's Compensation Coverage: Taxi/Livery*, <http://www.wcb.ny.gov/content/main/coverage-requirements-wc/taxi-cabs.jsp>.

⁶ Gig Worker Rising Report *supra* note 2, at 14.

⁷ See Uber, *Optional Injury Protection*, <https://www.uber.com/us/en/drive/insurance/injury-protection/>; DoorDash, *Occupational Accident Policy FAQ*, <https://help.doordash.com/dashers/s/article/Occupational-Accident-Policy-FAQ>.

⁸ See Uber, *U.S. Safety Report 2017-2018* (Dec. 5, 2019), <https://www.uber.com/us/en/about/reports/us-safety-report/>; Lyft, *Community Safety Report* (Oct. 21, 2021), https://assets.ctfassets.net/q8mvene1wzq4/4jxkFTH5YCQK8T96STULMd/4269e14dbcb8578ff64da45df08b8147/Community_Safety_Report.pdf.

more than a billion dollars each year in revenue and is able to serve millions of American customers.⁹ Instacart's failure to properly categorize its app-based delivery workers as employees means that app-based delivery workers are essentially left on their own. Instead, your drivers and delivery workers should have access to key benefits, including workers' compensation, disability insurance, and the right to unionize.

Given the importance of this issue, we request a written response to the following questions by June 22, 2022:

1. Please identify how and when your company classifies an app-based delivery worker as working. For example, does your company classify an app-based delivery worker as working when the app-based delivery worker has not yet been assigned to a specific passenger or delivery but is actively looking or waiting for an assignment? If not, why not?
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 - b. If not, why not?

⁹ Eric J. Savitz, *Instacart Slashed Its Estimated Valuation. The Tech-Stock Slide Brought the Pain.*, BARRON'S (Mar. 25, 2022), <https://www.barrons.com/articles/instacart-valuation-stock-51648229323> (reporting that Instacart's 2021 revenue was \$1.8 billion).

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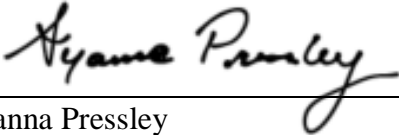
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Bernard Sanders
United States Senator



Stephen F. Lynch
Member of Congress



Seth Moulton
Member of Congress

Congress of the United States
Washington, DC 20515

June 1, 2022

Adam DeWitt
Chief Executive Officer
Grubhub, Inc.
111 W Washington St.
Chicago, IL 60602

Dear Mr. Dewitt,

We write concerning the health and safety of Grubhub’s app-based delivery workers. Every day, ride-share drivers repeatedly interact with strangers, leaving them vulnerable to violent assault and even death. Yet the app-based delivery business model both penalizes those drivers for turning down rides that may be dangerous and incentivizes them to take risks in picking up passengers, all the while denying them basic employment benefits. Grubhub further refuses to release comprehensive data on the dangers its drivers face on the job, transparency that is sorely needed for drivers, the public, and Congress to understand the unique risks these workers face. These policies are unacceptable. We urge you to promptly change direction and start making your workers’ health and safety a top priority.

App-based delivery work can pose significant dangers for drivers. During a single day, a ride-share driver may pick up dozens of strangers and travel to remote and unfamiliar locations. Delivery drivers transport goods to strangers at their homes and elsewhere, and the Grubhub app often directs drivers to take specific routes that pass through dangerous areas to meet strict timeliness requirements. While workers have long complained about these risks, the dangers of app-based delivery work became particularly clear after sixteen Uber drivers were murdered in Brazil in 2016,¹ leaving companies like Grubhub with no excuse for failing to implement new safety features to protect their workers.

Unfortunately, a recent report reveals that many app-based delivery companies have still failed to adequately protect their workers. According to a recent report by Gig Workers Rising, since 2017, at least fifty app-based delivery workers have been killed on the job in the United States, including one death at Grubhub.² The true toll, however, is almost certainly higher – because of a lack of systematic information, the report researchers relied solely on publicly available data such as news articles, company press releases, and even postings from deceased

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The app-based delivery business model increases the danger. Many app-based delivery companies are known to have tracked their drivers' cancellation and acceptance rates, and penalized drivers for cancelling or not accepting rides. No driver should face punishment for legitimately declining a ride or delivery they believe would place them in a dangerous situation. Higher pay would also reduce the pressure on drivers to accept rides they deem unsafe.

Furthermore, because Grubhub misclassifies its workers as independent contractors, they do not receive the safety and health benefits of traditional employees, including workers' compensation and disability insurance. Taxi drivers, for example, typically have access to workers' compensation and other benefits when they suffer an occupational injury.⁵ By contrast, as recent research reveals, app-based delivery workers and their families often receive nothing from the company when they are harmed on the job.⁶ Moreover, while Uber and DoorDash offer limited occupational injury insurance to their workers,⁷ Grubhub does not appear to offer a similar program. Grubhub thus leaves its workers both highly vulnerable and lacking adequate company support (such as overtime pay, unemployment insurance, protection from discrimination or retaliation, the right to organize a union, or any state-based paid sick leave or paid family leave).

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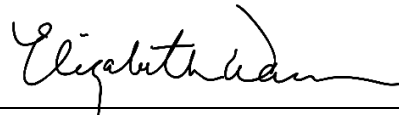
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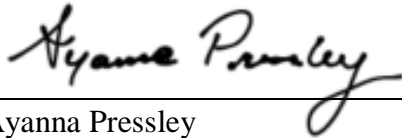
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