

United States Senate
WASHINGTON, DC 20510

May 20, 2020

The Honorable Makan Delrahim
Assistant Attorney General, Antitrust Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

The Honorable Joseph Simons
Chairman
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Assistant Attorney General Delrahim and Chairman Simons:

We write to you in response to recent reports that Uber Technologies, Inc., which operates Uber Eats, is in negotiations to purchase its rival Grubhub, Inc.¹ As our country grapples with the many health and safety challenges brought about by the coronavirus (COVID-19) pandemic, many consumers have turned to food delivery apps to order meals online, and many restaurants have come to rely on the business they get through these apps to stay afloat.² A merger of Uber Eats and Grubhub would combine two of the three largest food delivery application providers and raise serious competition issues in many markets around the country. We urge the Department of Justice and the Federal Trade Commission to closely monitor the negotiations of this potential transaction and to initiate an investigation if the parties reach an agreement to merge.

Online food delivery is dominated by three providers. On a national basis, Uber Eats, Grubhub, and DoorDash account for 20 percent, 28 percent, and 42 percent of online app-based food delivery sales, respectively.³ The merger under negotiation would create a sector in which the top two players control 90 percent of sales. At the local level, the competitive effects of the merger would be felt most intensely. For example, a combined Uber Eats/Grubhub would control 51 percent of the market in Atlanta, 68 percent in Boston, 60 percent in Chicago, 65 percent in Miami, and 79 percent in New York City.⁴ These market shares are staggering, particularly in

¹ See e.g., Greg Roumeliotis et al., “Uber approaches Grubhub with acquisition offer: sources,” REUTERS (May 12, 2020), <https://www.reuters.com/article/us-grubhub-m-a-uber/uber-approaches-grubhub-with-acquisition-offer-sources-idUSKBN22O2BD>.

² See Dion Rabouin, “More Americans are ordering food delivery amid coronavirus crisis,” AXIOS (May 13, 2020), <https://www.axios.com/food-delivery-coronavirus-a55e0bf2-a75e-47bc-839b-470a6220d305.html>.

³ Katheryn Roethel Rieck, “Which company is winning the food delivery war?” SECOND MEASURE (Apr 21, 2020), <https://secondmeasure.com/datapoints/food-delivery-services-grubhub-uber-eats-doordash-postmates/>.

⁴ See Katheryn Roethel Rieck, “Which company is winning the food delivery war?” SECOND MEASURE (Apr 21, 2020), <https://secondmeasure.com/datapoints/food-delivery-services-grubhub-uber-eats-doordash-postmates/>.

light of the leverage that these online delivery companies already wield over restaurants, delivery workers, and consumers, especially during this pandemic.

We have been hearing about the exorbitant fees that these online delivery app companies charge to restaurants, which are then forced to pass these excessive costs on to consumers. Some cities have even taken action to cap the fees charged to restaurants by these apps,⁵ which in some cases have exceeded 30 percent of the cost of the food ordered. It is particularly troubling that this merger is being contemplated during a pandemic, when consumer demand has increased and when restaurants are more desperate for revenue than ever.

Even after COVID-19 is behind us, combining Uber Eats and Grubhub would create an effective duopoly that would likely threaten competition and consumer welfare. That could mean higher fees, reduced services quality, fewer choices, and less innovation for consumers and the restaurants that serve them.

Online food delivery markets are still evolving and finding new ways to connect customers with restaurants. Consumers should be able to look forward to a future in which online food delivery is more efficient, more innovative, and less expensive. A merger of two of the three biggest rivals in an already concentrated market risks depriving consumers of that outcome by potentially eliminating competition between the existing market participants.

We urge you to keep track of this potential acquisition and initiate an investigation if the parties reach a merger agreement to ensure that competition is preserved.

Thank you for your attention to this matter.

Sincerely,



Amy Klobuchar
United States Senator



Patrick Leahy
United States Senator



Richard Blumenthal
United States Senator



Cory A. Booker
United States Senator

⁵ See “Uber’s Bid For Grubhub Triggers Delivery Fee Fears,” PYMNTS (May 14, 2020), <https://www.pymnts.com/news/partnerships-acquisitions/2020/uber-bid-for-grubhub-triggers-delivery-fee-fears/>.