NYC | HOSPITALITY ALLIANCE

Testimony of
the New York City Hospitality Alliance
Before New York State Legislature
May 13, 2020

The New York City Hospitality Alliance ("The Alliance") is a not-for-profit trade association representing restaurant and nightlife establishments throughout the five boroughs. We thank Senators Anna Kaplan, Liz Krueger, Jennifer Metzger, James Sanders, Neil Breslin and Assemblymembers Al Stirpe, Helene E. Weinstein, Donna A. Lupardo, Thomas J. Abinanti, Kevin A. Cahill, Nily Rozic and Michaelle C. Solages for the opportunity you are giving us to testify.

Small businesses have been hit hard by the COVID-19 pandemic, but perhaps none more severely damaged than the hospitality industry. In most states, bars and nightclubs were first ordered closed by government mandate, followed soon after by restaurants. These businesses will likely be the last allowed to fully reopen when this pandemic is contained—and even then, there may be restrictions in place.

From food capitals like New York, Washington, D.C., New Orleans and Los Angeles, restaurant and bar owners were particularly excited for the federal government's small business relief bills, hoping for a lifeline. Unfortunately, the excitement died when the bill's guidelines made clear that the hospitality industry is expressly prohibited from exacting benefits equal to other industries.

The centerpiece of the stimulus package, dubbed the CARES Act, is the Paycheck Protection Program or the PPP. The hospitality industry had great hopes for this program because while the PPP is initially a loan, it can be converted into a grant. Restaurants desperately need cash grants, not more loan debt. But to obtain the full benefits of the PPP (i.e. a grant as opposed to a low-interest loan) a businesses' employee headcount has to be approximately the same two months after the loan is originated, as it was before the pandemic hit.

Under these guidelines, a restaurant or bar forced to close by government mandate in March and furlough their employees must retain or hire back their employees at a staffing level on par with staffing levels previous the pandemic, and, do that by the end of June. This poses a significant challenge because restaurants and bars do not even know if they will be permitted to reopen in June, let alone be open long enough to know what our staffing levels will be.

There are too many variables that will impact staffing in the hospitality industry beyond when we may fully reopen. It's unlikely that sales will immediately be anywhere near pre-virus levels. There will also be significant associated costs to get the physical sites open and ready to serve guests again. Millions of Americans lost their jobs and will not have the same disposable income immediately. People and companies may be hesitant to host parties and private events and gather in large groups. None of us know what consumer behavior will be in the post pandemic era.

The PPP loan to grant program isn't tailored for restaurants and bars because many will not be prepared, or even permitted, to reopen in June and will not require pre-pandemic staffing levels once they do. The PPP must be amended for the hospitality industry to have a much longer period of time to staff up - eight weeks after the loan is originated, is insufficient. It's therefor recommended that the loan still converts to a grant at least six months after the industry is permitted to fully reopen.

Another problem with the PPP that's unique to major metropolitan areas is the high rent. Because the PPP requires that 75% of a business's loan be allocated to labor costs for it to be converted into a grant, that leaves only 25% for the rent and related utility costs. While that may be sufficient in places where commercial rents are lower, the remaining 25% will not cover a restaurant, bar or club's largest fixed cost in New York City, which is their rent. In New York City where commercial rents are high, the 25% will do little to help restaurants pay back rent (and other expenses) during the mandatory business closures, especially if the industry is shut down for multiple months. Therefore, the PPP also needs to be amended to allow hospitality businesses greater flexibility in how they use loan-to-grant funds.

The House of Representatives has introduced new legislation that aims at changing the structure of the PPP. Some of the changes are very good and include extending the deadline to rehire employees for loan forgiveness until the end of the year, instead of the end of June; extending loan terms from the current 2 year payback period to 5 years; eliminating the 75/25 rule on use of loan proceeds for non-payroll expenses like rent, to name a few. We need the final version of the federal legislation to retain these fixes so that small business owners can keep their businesses afloat and rehire and support employees. We respectfully urge this body to support this federal legislation.

We also believe the State of New York can enact policies to help our local restaurant and nightlife industry and we'd be happy to engage in further conversations about such polices of which we have many critically important suggestions. A couple of polices include, compelling insurance companies to pay business interruption claims to businesses for which they are currently denying coverage, supporting polices that will permit restaurants to use public space (streets, pedestrian plazas, etc) to serve food and beverage outdoors to help offset loss of sales when they reopen under reduced occupancy requirements and to give customers peace of mind being in open air spaces, and more.

Our state's economy will not recover if the restaurant and nightlife industry is not at the core of the recovery. We thank the New York State Legislature for your time and consideration and look forward to working with you in support of our hospitality industry's future. If you have any questions please contact our executive director Andrew Rigie at arigie@thenycalliance.org

Respectfully submitted,

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